

112TH CONGRESS
2D SESSION

H. R. 5930

To amend the Internal Revenue Code of 1986 to increase the rehabilitation credit for commercial buildings and to provide a rehabilitation credit for principal residences.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2012

Mr. MCKINLEY (for himself, Mr. GRIMM, Mr. CARSON of Indiana, and Mr. KILDEE) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to increase the rehabilitation credit for commercial buildings and to provide a rehabilitation credit for principal residences.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preserving America’s
5 Downtowns and Heritage Act of 2012”.

6 **SEC. 2. INCREASED REHABILITATION CREDIT FOR COM-**
7 **MERCIAL BUILDINGS.**

8 (a) BUILDINGS OTHER THAN CERTIFIED HISTORIC
9 STRUCTURES.—Paragraph (1) of section 47(a) of the In-

1 ternal Revenue Code of 1986 (relating to rehabilitation
2 credit) is amended by striking “10 percent” and inserting
3 “12.5 percent”.

4 (b) CERTIFIED HISTORIC STRUCTURES.—Paragraph
5 (2) of such section is amended by striking “20 percent”
6 and inserting “25 percent”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to rehabilitations the
9 physical work on which begins after the date of enactment
10 of this Act.

11 **SEC. 3. REHABILITATION CREDIT FOR HISTORIC PRIN-**
12 **CIPAL RESIDENCES.**

13 (a) IN GENERAL.—Subpart A of part IV of sub-
14 chapter A of chapter 1 of the Internal Revenue Code of
15 1986 (relating to nonrefundable personal credits) is
16 amended by inserting after section 25D the following new
17 section:

18 **“SEC. 25E. REHABILITATION OF HISTORIC PRINCIPAL RESI-**
19 **DENCES.**

20 “(a) GENERAL RULE.—In the case of an individual,
21 there shall be allowed as a credit against the tax imposed
22 by this chapter for the taxable year an amount equal to
23 20 percent of the qualified rehabilitation expenditures
24 made by the taxpayer with respect to a qualified historic
25 home.

1 “(b) QUALIFIED REHABILITATION EXPENDITURE.—

2 For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified reha-
4 bilitation expenditure’ means any amount properly
5 chargeable to capital account—

6 “(A) in connection with the certified reha-
7 bilitation of a qualified historic home, and

8 “(B) for property for which depreciation
9 would be allowable under section 168 if the
10 qualified historic home were used in a trade or
11 business.

12 “(2) CERTAIN EXPENDITURES NOT IN-
13 CLUDED.—Rules similar to the rules of clauses (ii)
14 and (iii) of section 47(c)(2)(B) shall apply.

15 “(3) MIXED USE OR MULTIFAMILY BUILDING.—
16 If only a portion of a building is used as the prin-
17 cipal residence of the taxpayer, only qualified reha-
18 bilitation expenditures which are properly allocable
19 to such portion shall be taken into account under
20 this section.

21 “(c) CERTIFIED REHABILITATION.—For purposes of
22 this section—

23 “(1) IN GENERAL.—The term ‘certified reha-
24 bilitation’ has the meaning given such term by sec-
25 tion 47(c)(2)(C).

1 “(2) APPROVED STATE PROGRAM.—The term
2 ‘certified rehabilitation’ includes a certification made
3 by—

4 “(A) a State Historic Preservation Officer
5 who administers a State Historic Preservation
6 Program approved by the Secretary of the Inte-
7 rior pursuant to section 101(b)(1) of the Na-
8 tional Historic Preservation Act, or

9 “(B) a local government, certified pursuant
10 to section 101(c)(1) of the National Historic
11 Preservation Act and authorized by a State
12 Historic Preservation Officer, or the Secretary
13 of the Interior where there is no approved State
14 program, subject to such terms and conditions
15 as may be specified by the Secretary of the In-
16 terior for the rehabilitation of buildings within
17 the jurisdiction of such officer (or local govern-
18 ment) for purposes of this section.

19 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
20 poses of this section—

21 “(1) QUALIFIED HISTORIC HOME.—The term
22 ‘qualified historic home’ means a certified historic
23 structure—

24 “(A) which has been substantially rehabili-
25 tated, and

1 “(B) which (or any portion of which)—
2 “(i) is owned by the taxpayer, and
3 “(ii) is used (or will, within a reason-
4 able period, be used) by such taxpayer as
5 his principal residence.

6 “(2) SUBSTANTIALLY REHABILITATED.—The
7 term ‘substantially rehabilitated’ has the meaning
8 given such term by section 47(c)(1)(C).

9 “(3) PRINCIPAL RESIDENCE.—The term ‘prin-
10 cipal residence’ has the same meaning as when used
11 in section 121.

12 “(4) CERTIFIED HISTORIC STRUCTURE.—

13 “(A) IN GENERAL.—The term ‘certified
14 historic structure’ means any building (and its
15 structural components) which—

16 “(i) is listed in the National Register,
17 or

18 “(ii) is located in a registered historic
19 district (as defined in section 47(c)(3)(B))
20 and is certified by the Secretary of the In-
21 terior as being of historic significance to
22 the district.

23 “(5) REHABILITATION NOT COMPLETE BEFORE
24 CERTIFICATION.—A rehabilitation shall not be treat-

1 ed as complete before the date of the certification re-
2 ferred to in subsection (c).

3 “(6) TENANT-STOCKHOLDER IN COOPERATIVE
4 HOUSING CORPORATION.—If the taxpayer holds
5 stock as a tenant-stockholder (as defined in section
6 216) in a cooperative housing corporation (as de-
7 fined in such section), such stockholder shall be
8 treated as owning the house or apartment which the
9 taxpayer is entitled to occupy as such stockholder.

10 “(e) LIMITATION BASED ON AMOUNT OF TAX.—

11 “(1) IN GENERAL.—In the case of a taxable
12 year to which section 26(a)(2) does not apply, the
13 credit allowed under subsection (a) for the taxable
14 year shall not exceed the excess of—

15 “(A) the sum of the regular tax liability
16 (as defined in section 26(b)) plus the tax im-
17 posed by section 55, over

18 “(B) the sum of the credits allowable
19 under subpart A (other than this section and
20 section 25D) and section 27 for the taxable
21 year.

22 “(2) CARRYFORWARD OF UNUSED CREDIT.—

23 “(A) IN GENERAL.—If the credit allowable
24 under subsection (a) for any taxable year ex-
25 ceeds the applicable tax limit for such taxable

1 year, such excess shall be a carryforward to
2 each of the 5 succeeding taxable years and, sub-
3 ject to the limitations of subparagraph (B),
4 shall be added to the credit allowable by sub-
5 section (a) for such succeeding taxable year.

6 “(B) AMOUNT CARRIED TO EACH YEAR.—
7 Rules similar to the rules of section 39(a)(2)
8 shall apply for purposes of this paragraph.

9 “(C) LIMITATION.—The amount of the un-
10 used credit which may be taken into account
11 under subparagraph (A) for any taxable year
12 shall not exceed the amount (if any) by which
13 the applicable tax limit for such taxable year
14 exceeds the sum of—

15 “(i) the credit allowable under sub-
16 section (a) for such taxable year deter-
17 mined without regard to this paragraph,
18 and

19 “(ii) the amounts which, by reason of
20 this paragraph, are carried to such taxable
21 year and are attributable to taxable years
22 before the unused credit year.

23 “(3) APPLICABLE TAX LIMIT.—For purposes of
24 this paragraph, the term ‘applicable tax limit’
25 means—

1 “(A) in the case of a taxable year to which
2 section 26(a)(2) applies, the limitation imposed
3 by section 26(a)(2) for the taxable year reduced
4 by the sum of the credits allowable under this
5 subpart (other than this section and section
6 25D), and

7 “(B) in the case of a taxable year to which
8 section 26(a)(2) does not apply, the limitation
9 imposed by section 26(a)(1) for the taxable year
10 reduced by the sum of the credits allowable
11 under this subpart (other than this section and
12 sections 24, 25A(i), 25B, 25D, 30, 30B, 30D).

13 “(f) WHEN EXPENDITURES TAKEN INTO AC-
14 COUNT.—Qualified rehabilitation expenditures shall be
15 treated for purposes of this section as made—

16 “(1) on the date the rehabilitation is completed,
17 or

18 “(2) to the extent provided by the Secretary by
19 regulation, when such expenditures are properly
20 chargeable to capital account.

21 Regulations under paragraph (2) shall include a rule simi-
22 lar to the rule under section 50(a)(2) (relating to recap-
23 ture if property ceases to qualify for progress expendi-
24 tures).

25 “(g) RECAPTURE.—

1 “(1) IN GENERAL.—If, before the end of the 5-
2 year period beginning on the date on which the reha-
3 bilitation of the building is completed—

4 “(A) the taxpayer disposes of such tax-
5 payer’s interest in such building, or

6 “(B) such building ceases to be used as the
7 principal residence of the taxpayer or ceases to
8 be a certified historic structure,

9 the taxpayer’s tax imposed by this chapter for the
10 taxable year in which such disposition or cessation
11 occurs shall be increased by the recapture percent-
12 age of the credit allowed under this section for all
13 prior taxable years with respect to such rehabilita-
14 tion.

15 “(2) RECAPTURE PERCENTAGE.—For purposes
16 of paragraph (1), the recapture percentage shall be
17 determined in accordance with the table under sec-
18 tion 50(a)(1)(B), deeming such table to be amend-
19 ed—

20 “(A) by striking ‘If the property ceases to
21 be investment credit property within—’ and in-
22 serting ‘If the disposition or cessation occurs
23 within—’, and

24 “(B) in clause (i) by striking ‘One full year
25 after placed in service’ and inserting ‘One full

1 year after the taxpayer becomes entitled to the
2 credit’.

3 “(3) TRANSFER BETWEEN SPOUSES OR INCI-
4 DENT TO DIVORCE.—In the case of any transfer de-
5 scribed in subsection (a) of section 1041 (relating to
6 transfers between spouses or incident to divorce)—

7 “(A) the foregoing provisions of this sub-
8 section shall not apply, and

9 “(B) the same tax treatment under this
10 subsection with respect to the transferred prop-
11 erty shall apply to the transferee as would have
12 applied to the transferor.

13 “(h) BASIS ADJUSTMENTS.—For purposes of this
14 subtitle, if a credit is allowed under this section for any
15 expenditure with respect to any property, the increase in
16 the basis of such property which would (but for this sub-
17 section) result from such expenditure shall be reduced by
18 the amount of the credit so allowed.

19 “(i) PROCESSING FEES.—Any State may impose a
20 fee for the processing of applications for the certification
21 of any rehabilitation under this section provided that the
22 amount of such fee is used only to defray expenses associ-
23 ated with the processing of such applications.

1 “(j) DENIAL OF DOUBLE BENEFIT.—No credit shall
2 be allowed under this section for any amount for which
3 credit is allowed under section 47.

4 “(k) REGULATIONS.—The Secretary shall prescribe
5 such regulations as may be appropriate to carry out the
6 purposes of this section, including regulations where less
7 than all of a building is used as a principal residence and
8 where more than 1 taxpayer use the same dwelling unit
9 as their principal residence.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Sections 24(b)(3)(C), 25(e)(1)(C),
12 25B(g)(2), 26(a)(1), 30B(g)(2)(B)(ii), and
13 1400C(d)(2) of such Code are each amended by in-
14 serting “25E,” after “25D,”.

15 (2) Sections 25A(i)(5)(A) and 30(c)(2)(B) of
16 such Code are each amended by inserting “, 25E,”
17 after “25D”.

18 (3) Sections 30D(c)(2)(B)(ii) and 1400C(d)(1)
19 of such Code are each amended by striking “section
20 25D” and inserting “sections 25D and 25E”.

21 (4) Paragraph (1) of section 1400C(d) of such
22 Code is amended by striking “section 25D” and in-
23 serting “sections 25D and 25E”.

24 (5) Subsection (a) of section 1016 of such Code
25 is amended by striking “and” at the end of para-

1 graph (36), by striking the period at the end of
2 paragraph (37) and inserting “, and”, and by add-
3 ing at the end the following new item:

4 “(38) to the extent provided in section
5 25E(h).”.

6 (c) CLERICAL AMENDMENT.—The table of sections
7 for subpart A of part IV of subchapter A of chapter 1
8 of such Code is amended by inserting after the item relat-
9 ing to section 25D the following new item:

“Sec. 25E. Rehabilitation of historic principal residences.”.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to rehabilitations the
12 physical work on which begins after the date of enactment
13 of this Act.

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