Date of Hearing: May 5, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 1265 (Haney) – As Amended April 10, 2025

Majority vote. Tax levy. Fiscal committee.

SUBJECT: Income taxes: credits: rehabilitation of certified historic structures

SUMMARY: Extends the sunset date for the state historic tax credit (HTC) from January 1, 2027, to January 1, 2031, and revises the eligible expenditures. Specifically, **this bill**:

1) Provides, for taxable years beginning on or after January 1, 2027, that the HTC is equal to 30% of the qualified rehabilitation expenditures for a certified historic structure if the structure meets either of the following criteria:

   a) The rehabilitated structure includes improvements to preserve existing affordable housing for lower income households, as defined; or,

   b) The structure is adaptively reused for housing with no less than 50% of the existing floor area used for housing.

2) Extends the $50 million cap on the tax credit from 2027 to 2031 for the uses described above.

3) Extends, from January 1, 2027, to January 1, 2031, the requirement for the Legislative Analyst's Office (LAO) to collaborate with the California Tax Credit Allocation Committee (CTCAC) to review the effectiveness of the tax credit program. The review shall include, but is not limited to, an analysis of all of the following:

   a) The demand for the tax credit;

   b) The amount of jobs created by the use of the tax credit;

   c) The types of projects receiving the tax credit; and,

   d) The economic impact of the tax credit.

4) Takes immediate effect as a tax levy.

5) States the intent of the Legislature to comply with Revenue and Taxation Code (R&TC) Section 41.

EXISTING LAW:

1) Allows a credit, under both the Personal Income Tax (PIT) Law and the Corporation Tax (CT) Law, for qualified costs paid or incurred by a taxpayer when rehabilitating a certified

historic structure for taxable years beginning on or after January 1, 2021, and before January 1, 2027 (R&TC Sections 17053.91 and 23691).

2) Provides that the tax credit shall remain in effect even if Congress repeals the federal credit.

3) Provides that the credit is equal to 20% of the qualified rehabilitation expenditures with respect to a certified historic structure. The credit increases the applicable percentage to 25% in the case of a certified historic structure that meets one of the following criteria as defined in existing law:

   a) The structure is located on federal, state, or local surplus property;

   b) The rehabilitated structure includes affordable housing for lower-income households;

   c) The structure is located in a designated census tract;

   d) The structure is part of a military base reuse authority; or,

   e) The structure is a transit-oriented development that is a higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

4) Defines "certified historic structure" as a structure located in California that appears on the California Register of Historic Places.

5) Provides that the HTC is available for qualified rehabilitation expenditures related to a taxpayer's qualified principal residence if:

   a) The expenses are determined to rehabilitate the historic character and improve the integrity of the residence;

   b) The taxpayer has adjusted gross income of $200,000 or less and uses the structure as their principal residence; and,

   c) The credit amount is equal to more than $5,000 but does not exceed $25,000.

6) Requires the Office of Historic Preservation (OHP) to adopt regulations to implement the HTC.

7) Requires the OHP, in connection with CTCAC, to establish a written application, which requires the applicant to include a summary of the expected economic benefits of the project. The economic benefits shall include, but are also not limited to, all of the following:

   a) The number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure;

   b) The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increased wages and property taxes;

   c) Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments; and,

d) Findings of a public benefit in the case of the rehabilitation of a qualified residence.

8) Requires the OHP to establish a process to approve, or reject, all tax credit applications.

9) Requires the CTCAC to allocate the credit on a first-come-first-served basis.

10) Caps the credit at an aggregate annual amount of $50 million, with any unallocated credits carried forward to subsequent years.

11) Requires the CTCAC to set aside $10 million in tax credits each calendar year to allocate as follows:

a) $8 million for taxpayers with qualified rehabilitation expenditures of less than $1 million for any certified historic building that is not a qualified residence. To the extent this amount is unused, the unused portion shall become available for taxpayers with larger projects; and,

b) $2 million for taxpayers with qualified rehabilitation expenditures for a certified historic structure that is a qualified residence. To the extent this amount is unused, the unused portion shall become available in subsequent years for taxpayers with certified historic structures that are qualified residences.

12) Allows the taxpayer to carry forward the tax credit for up to eight years or until the credit is exhausted.

13) Allows the credit to reduce the taxpayer's tax liability below the tentative minimum tax.

14) Requires the OHP to establish in regulations the time period that a taxpayer who receives a tax credit must commence rehabilitation. If rehabilitation is not commenced within that time period, the tax credit is forfeited.

15) Allows the CTCAC and the OHP to adopt a reasonable fee to cover its expenses directly related to administering the program.

16) Requires the CTCAC to provide the Franchise Tax Board (FTB) with an annual list of taxpayers that received a credit.

17) Requires the LAO, beginning January 1, 2021, and annually thereafter, to collaborate with the CTCAC and the OHP to review the effectiveness of the tax credit program. The review must include an analysis of all of the following:

a) The demand for the tax credit;

b) The amount of jobs created by the use of the tax credit;

c) The types of projects receiving the tax credit; and,

d) The economic impact of the tax credit.

18) Sets the total credit amount allowed at $0, unless otherwise specified in any bill providing for appropriations related to the Budget Act.

FISCAL EFFECT: The FTB estimates General Fund (GF) revenue losses of $4.3 million in the 2027-28 fiscal year.

COMMENTS:

1) The author has provided the following statement in support of this bill:

> California's historic buildings are invaluable economic and cultural assets, yet many remain underutilized due to the high cost of rehabilitation. The California Historic Tax Credit is a proven tool that supports job creation, economic growth, and affordable housing—while preserving our state's unique character. AB 1265 ensures that this incentive remains available, providing certainty to investors and directing resources toward projects that contribute to our housing goals. By extending the credit and refining its focus, we can maximize its benefits and ensure that historic preservation is a catalyst for sustainable development across California.

2) In support of this bill, the California Preservation Foundation notes, in part:

> AB 1265 is also a housing solution. More than 38% of federal historic tax credit projects in California have created or improved existing housing units—over half of which were affordable. Historic buildings are an untapped resource for housing production, and this bill provides the financial incentives to make their transformation a reality. Beyond economic and housing benefits, this bill is a win for sustainability and climate resilience. Historic rehabilitation reduces demolition waste, curbs urban sprawl, and strengthens the fabric of our communities. Reinvesting in our historic structures ensures they remain safe and resilient for future generations.

3) In opposition to this bill, the California Teachers Association notes, in part:

> According to the Department of Finance, the state provided over $91.5 billion in General Fund tax expenditures in 2024-25 (including income, sales and use, corporate and other taxes). This number continues to grow each year. This revenue would have otherwise gone to the General Fund, of which, approximately 39 percent would have gone toward Proposition 98 for K-14 education. Due to existing tax expenditures, approximately $35 billion is redirected away from schools and community colleges each year. While we understand these bills are well intended, CTA does not support this approach, as it would reduce overall funding for education. CTA believes Proposition 98 should be protected from reductions through the creation of new or expanding existing tax expenditures or cuts to tax rates.

4) Committee Staff Comments:

   a) *Double-referred*: This bill was also referred to the Assembly Committee on Housing and Community Development, which passed this bill on April 9, 2025 unanimously.

   b) *What is a "tax expenditure"*? Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S. Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each (in the form of foregone revenues).

As the Department of Finance notes in its annual Tax Expenditure Report, there are several key differences between tax expenditures and direct expenditures. First, tax expenditures are typically reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it should also be noted that, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by majority vote, but cannot be rescinded, irrespective of their efficacy or cost, without a supermajority vote.

c) *Federal Historic Tax Credit (HTC)*: The Federal Historic Preservation Tax Incentives Program, created in 1976, is administered by the National Park Service in partnership with the OHP. The goal of the program is to promote community revitalization and encourage private investment through historic building rehabilitation. Over 42,293 projects to rehabilitate historic buildings have been undertaken since the first project using the historic tax incentives was completed in 1977.[1]

Housing has been the single most important use for rehabilitated historic buildings under the program. The Federal HTC in California (2001-2023) funded 235 projects, with total development costs of over $4.2 billion, and generated an estimated 58,644 jobs. Thirty-one percent of these projects created or maintained housing. When adding the number of housing units created or maintained as mixed-use projects, the percentage exceeds 40%.

To qualify for the HTC, a project must satisfy the requirements of Internal Revenue Code Section 47 and related regulations, as well as architectural standards regulated by the National Parks Service. Certification of Historic Significance is the first step in establishing eligibility for the HTC. A building must be individually listed in the national Register of Historic Places or be certified as contributing to a registered historic district in order to qualify for the 20% credit (the 10% tax credit for the rehabilitation of non-historic buildings placed in service before 1936 is no longer available). A developer must submit an application detailing the plans and specifications for the rehabilitation. The plans must satisfy the Secretary of Interior Standards for Rehabilitation. Once the project is completed, a request for certification of completion is submitted. If the request is granted, the rehabilitation is considered a "certified rehabilitation." A certification of a completed project is issued only when all work has been finished on the certified historic building. Generally, the HTC must be claimed in the tax year in which the rehabilitated building is placed in service.

d) *California enacts an HTC*: SB 451 (Atkins), Chapter 703, Statutes of 2019, authorized a new tax credit, under both the PIT and CT laws, for qualified costs paid or incurred by a taxpayer when rehabilitating a certified historic structure. The credits are equal to 20% of the qualified rehabilitation expenditures with respect to a certified historic structure, defined as a structure located in California that appears on the California Register of

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[1] *Federal Tax Incentives for Rehabilitating Historic Buildings*, U.S. Department of the Interior, National Park Service, Statistical Report and Analysis for Fiscal Year 2016.

Historic Places. The credits increase the applicable percentage to 25% in the case of a certified historic structure that meets one of the following criteria as defined in existing law:

- The structure is located on federal, state, or local surplus property;
- The rehabilitated structure includes affordable housing for lower-income households;
- The structure is located in a designated census tract;
- The structure is part of a military base reuse authority; or,
- The structure is a transit-oriented development that is a higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

The credits are also available for qualified rehabilitation expenditures related to a taxpayer's qualified principal residence, so long as the taxpayer has gross income of $200,000 or less, uses the structure as his or her principal residence, and the structure has a public benefit. For projects relating to a qualified principal residence, the credit amount must be equal to or more than $5,000, and less than $25,000.

SB 451 required the CTCAC, in connection with the OHP, to establish an application process, as well as to allocate and certify the tax credits using the following criteria:

- The number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure;
- The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increased wages and property taxes;
- Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments; and,
- Findings of a public benefit in the case of the rehabilitation of a qualified residence.

The credit amount is subject to a $50 million aggregate annual cap, with any unallocated credits carried forward to subsequent years. The CTCAC must set aside $10 million in tax credits each calendar year for taxpayers with qualified expenditures of less than $1 million. To the extent this amount is unused, the unused portion shall become available for taxpayers with larger projects.

SB 451 allows the taxpayer to carry forward the tax credit for up to eight years or until the credit is exhausted and disallows a business expense deduction for any expenses incurred for which the tax credit is used. The taxpayer must also reduce their basis of the property by the amount of the credit, and the credit can reduce the taxpayer's tax liability below the tentative minimum tax.

SB 451 provided the CTCAC authority to recapture the tax credit if the taxpayer does not start the rehabilitation project within 18 months or if the taxpayer sells the property within five years. The CTCAC may adopt a reasonable fee to cover its expenses directly related to administering the program. This bill also requires the CTCAC to provide the FTB with an annual list of taxpayers that received a credit.

e) *Too early to tell*? Although the tax credit was created in 2019, the OHP did not promulgate regulations until the end of 2024 and applications were made available and due in January 2025. The CTCAC made awards at their April 8, 2025 meeting, as follows:

HTC Category	Total Allocation	Project Applications	Approved Applications	Remaining Balance[2]
Qualified rehabilitation expenditures of $1,000,000 or more	$40,000,000	8	2	$0
Qualified rehabilitation expenditures of less than $1,000,000	$8,000,000	4	2	$7,800,000
Qualified principal residence	$2,000,000	13	6	$1,890,940

The two projects with qualified rehabilitation expenditures of $1 million or more that were approved by the CTCAC are the Hearst Building located in San Francisco, which is being converted from an office building into a hotel and is estimated to receive $29.6 million in HTC credit, and Building 8 at the Alameda Naval Air Station, which is being converted into commercial and residential space and is estimated to receive $10.4 million in HTC credits. The two projects with qualified rehabilitation expenditures of less than $1 million that were approved by the CTCAC were the Crescent Store and Crescent Hotel, both located in Crescent Mills within Plumas County. Both of these projects will continue to be used for their original purposes and do not include new housing.

This bill would reauthorize the tax credit for another five years and narrow the use of the funds to rehabilitating historic buildings to preserve existing affordable housing for lower income households or the structure is adaptively reused for housing where at least 50% of the existing floor area is used for housing. This bill would also increase the amount of the credit from 20% to 30% of the qualified rehabilitation expenditures. Because the tax credits were available on a first-come, first-served basis, of the 35 qualified projects under the "commercial projects over $1 million" category that applied for the HTC, only two were recommended for approval, and all funds were exhausted by those two projects. Applying a cap to the total amount of credits a project would receive could help to avoid

[2] CTCAC 2025 Preliminary Recommendations for State Historic Rehabilitation Tax Credits – REVISED, California State Treasurer -- California Tax Credit Allocation Committee (April 8, 2025). https://www.treasurer.ca.gov/ctcac/programreg/State-Historic-Rehabilitation-Tax-Credit-Preliminary-Recommendations.pdf.

this outcome in the future. Additionally, the Committee may wish to consider whether an alternative allocation process – such as scoring project applicants on various important criteria and then ranking them – would ensure greater fairness and transparency.

f) *Committee's tax expenditure policy*: Both R&TC Section 41 and Committee policy require any tax expenditure bill to outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. A tax expenditure bill will not be eligible for a Committee vote unless it has complied with these requirements.

In its current form, this bill states the intent of the Legislature to comply with R&TC Section 41 and extends the existing requirement for the LAO to collaborate with CTCAC and OHP to review the effectiveness of the credit on an annual basis until January 1, 2031. The review must include, but is not limited to, an analysis of the demand for the tax credit, the types and uses of projects receiving the tax credit, the jobs created by the use of the tax credits, and the economic impact of the tax credits.

In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote. According to this policy, an "appropriate sunset provision" means five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" means ten years. This bill, as currently drafted, complies with the Committee's policy on sunset dates.

g) *Prior legislation*: SB 451 (Atkins), Chapter 703, Statutes of 2019, authorized the HTC, under both the PIT and CT laws, for qualified costs paid or incurred by a taxpayer when rehabilitating a certified historic structure.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Cities - Orange County (ACC-OC)
California Preservation Foundation
California Association for Local Economic Development (CALED)
City of Los Alamitos
Housing Action Coalition

Opposition

California Teachers Association

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