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4 **House Bill No. 2948**

5  
6 By Committee on Taxation

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8 2-14

9  
10 AN ACT relating to income taxation; concerning the historic structure  
11 rehabilitation expenditure credit therefrom; amending K.S.A. 2001  
12 Supp. 79-32,211 and repealing the existing section.

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14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2001 Supp. 79-32,211 is hereby amended to read  
16 as follows: 79-32,211. (a) For all taxable years commencing after Decem-  
17 ber 31, ~~2000~~ 2001, there shall be allowed a tax credit against the income,  
18 **privilege or premium** tax liability imposed upon a taxpayer pursuant to  
19 the Kansas income tax act, *the privilege tax imposed upon any national*  
20 *banking association, state bank, trust company or savings and loan as-*  
21 *sociation pursuant to article 11 of chapter 79 of the Kansas Statutes An-*  
22 *notated, or the premiums tax and privilege fees imposed upon an insur-*  
23 *ance company pursuant to K.S.A. 40-252, and amendments thereto*, in an  
24 amount equal to 25% of qualified expenditures incurred in the restoration  
25 and preservation of a qualified historic structure pursuant to a qualified  
26 rehabilitation plan by a qualified taxpayer if the total amount of such  
27 expenditures equal \$5,000 or more. If the amount of such tax credit ex-  
28 ceeds the qualified taxpayer's income, **privilege or premium** tax liability  
29 for the year in which ~~such costs and expenses were incurred~~, **the qual-**  
30 **ified rehabilitation plan was placed in service, as defined by section**  
31 **47(b)(1) of the federal internal revenue code and federal regula-**  
32 **tion section 1.48-12(f)(2)**, such excess amount may be carried over for  
33 deduction from such taxpayer's income, **privilege or premium** tax lia-  
34 bility in the next succeeding year or years until the total amount of the  
35 credit has been deducted from tax liability, except that no such credit  
36 shall be carried over for deduction after the 10th taxable year succeeding  
37 the taxable year in which the qualified ~~expenditures were incurred~~ **re-**  
38 **habilitation plan was placed in service.**

39 (b) As used in this section, unless the context clearly indicates  
40 otherwise:

41 (1) "Qualified expenditures" means the costs and expenses incurred  
42 by a qualified taxpayer in the restoration and preservation of a qualified  
43 historic structure pursuant to a qualified rehabilitation plan which are

1 defined as a qualified rehabilitation expenditure by section 47 (c)(2) of  
2 the federal internal revenue code;

3 (2) “qualified historic structure” means any building, whether or not  
4 income producing, which is defined as a certified historic structure by  
5 section 47 (c)(3) of the federal internal revenue code, is individually listed  
6 on the register of Kansas historic places, or is located and contributes to  
7 a district listed on the register ~~or~~ of Kansas historic places;

8 (3) “qualified rehabilitation plan” means a project which is approved  
9 by the cultural resources division of the state historical society, or by a  
10 local government certified by the division to so approve, as being consis-  
11 tent with the standards for rehabilitation and guidelines for rehabilitation  
12 of historic buildings as adopted by the federal secretary of interior and in  
13 effect on the effective date of this act. The society shall adopt rules and  
14 regulations providing application and approval procedures necessary to  
15 effectively and efficiently provide compliance with this act, and may col-  
16 lect fees in order to defray its approval costs in accordance with rules and  
17 regulations adopted therefor; and

18 (4) “qualified taxpayer” means the owner of the qualified historic  
19 structure or any other person who may qualify for the federal rehabili-  
20 tation credit allowed by section 47 of the federal internal revenue code.

21 **If the taxpayer is a corporation having an election in effect under**  
22 **subchapter S of the federal internal revenue code, a partnership**  
23 **or a limited liability company, the credit provided by this section**  
24 **shall be claimed by the shareholders of such corporation, the part-**  
25 **ners of such partnership or the members of such limited liability**  
26 **company in the same manner as such shareholders, partners or**  
27 **members account for their proportionate shares of the income or**  
28 **loss of the corporation, partnership or limited liability company,**  
29 **or as the corporation, partnership or limited liability company mu-**  
30 **tually agree as provided in the by-laws or other executed agree-**  
31 **ment. Credits granted to a partnership, a limited liability company**  
32 **taxed as a partnership or other multiple owners of property shall**  
33 **be passed through to the partners, members or owners respec-**  
34 **tively pro rata or pursuant to an executed agreement among the**  
35 **partners, members or owners documenting any alternate distri-**  
36 **bution method.**

37 *(c) Any person not subject to Kansas income, privilege or premiums*  
38 *tax, hereinafter designated the assignor, may sell, assign, convey or oth-*  
39 *erwise transfer tax credits allowed and earned pursuant to subsection (a);*  
40 *for an amount not less than 50% of the value of any such credit. Such*  
41 *credits shall be deemed to be allowed and earned by any such person*  
42 *which is only disqualified therefrom by reason of not being subject to such*  
43 *Kansas taxes. The taxpayer acquiring earned credits, hereinafter desig-*

1 nated the assignee, may use the amount of the acquired credits to offset  
2 up to 100% of its income, privilege or premiums tax liability for **either**  
3 **the taxable year in which the qualified rehabilitation plan was first**  
4 **placed into service or the taxable year in which such acquisition was**  
5 ~~made. Only the full credit amount for any one contribution may be trans-~~  
6 ~~ferred and such credit may be transferred one time. Unused credit~~  
7 ~~amounts claimed by the assignee may be carried forward for up to five~~  
8 ~~years, except that all such amounts shall be claimed within 10 years fol-~~  
9 ~~lowing the tax year in which the contribution was made~~ **qualified re-**  
10 **habilitation plan was first placed into service.** The assignor shall enter  
11 into a written agreement with the assignee establishing the terms and  
12 conditions of the agreement and shall perfect such transfer by notifying  
13 the cultural resources division of the state historical society in writing  
14 within ~~30~~ **90** calendar days following the effective date of the transfer and  
15 shall provide any information as may be required by such division to  
16 administer and carry out the provisions of this section. The amount re-  
17 ceived by the assignor of such tax credit shall be taxable as income of the  
18 assignor, and the excess of the value of such credit over the amount paid  
19 by the assignee for such credit shall be taxable as income of the assignee.

20 Sec. 2. K.S.A. 2001 Supp. 79-32,211 is hereby repealed.

21 Sec. 3. This act shall take effect and be in force from and after its  
22 publication in the statute book.

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