

118TH CONGRESS
1ST SESSION

H. R. 1785

To amend the Internal Revenue Code of 1986 to modify the rehabilitation credit for certain small projects, to eliminate the requirement that the taxpayer's basis in a building be reduced by the amount of the rehabilitation credit determined with respect to such building, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2023

Mr. LAHOOD (for himself, Mr. BLUMENAUER, Mr. KELLY of Pennsylvania, Ms. SEWELL, Mr. TURNER, and Mr. HIGGINS of New York) 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 modify the rehabilitation credit for certain small projects, to eliminate the requirement that the taxpayer's basis in a building be reduced by the amount of the rehabilitation credit determined with respect to such building, and for other purposes.

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 “Historic Tax Credit
5 Growth and Opportunity Act of 2023”.

1 **SEC. 2. INCREASE IN REHABILITATION CREDIT.**

2 (a) IN GENERAL.—Section 47(a) of the Internal Rev-
3 enue Code of 1986 is amended by adding at the end the
4 following new paragraph:

5 “(3) INCREASED PERCENTAGE FOR QUALIFIED
6 REHABILITATION EXPENDITURES BEFORE 2028.—

7 “(A) IN GENERAL.—In the case of any
8 qualified rehabilitated building with respect to
9 which there are qualified rehabilitation expendi-
10 tures paid or incurred in any taxable year be-
11 ginning after December 31, 2020, and before
12 January 1, 2028—

13 “(i) paragraph (2) shall be applied by
14 substituting ‘the applicable percentage’ for
15 ‘20 percent’ with respect to such expendi-
16 tures, and

17 “(ii) the ratable share of such expend-
18 itures shall be determined separately under
19 paragraph (2) by applying the applicable
20 percentage for each such taxable year to
21 the expenditures for each such taxable
22 year.

23 “(B) APPLICABLE PERCENTAGE.—For
24 purposes of this paragraph, the term ‘applicable
25 percentage’ means the percentage determined in
26 accordance with the following table:

“In the case of a taxable year beginning in:	The applicable percentage is—
2020 through 2025	30
2026	26
2027	23
2028 and thereafter	20”.

1 (b) **EFFECTIVE DATE.**—The amendments made by
2 this section shall apply to property placed in service after
3 December 31, 2023.

4 **SEC. 3. INCREASE IN THE REHABILITATION CREDIT FOR**
5 **CERTAIN SMALL PROJECTS.**

6 (a) **IN GENERAL.**—Section 47 is amended by adding
7 at the end the following new subsection:

8 “(e) **SPECIAL RULE REGARDING CERTAIN SMALL**
9 **PROJECTS.**—

10 “(1) **IN GENERAL.**—In the case of any small
11 project—

12 “(A) the percentage under subsection
13 (a)(2) shall be 30 percent, and

14 “(B) the qualified rehabilitation expendi-
15 tures taken into account under this section with
16 respect to such project shall not exceed
17 \$2,500,000.

18 “(2) **SMALL PROJECT.**—For purposes of this
19 subsection, the term ‘small project’ means the reha-
20 bilitation of any qualified rehabilitated building if—

21 “(A) the qualified rehabilitation expendi-
22 tures taken into account under this section (or

1 which would be so taken into account but for
2 paragraph (1)(B)) with respect to such rehabili-
3 tation do not exceed \$3,750,000,

4 “(B) no credit was allowed under this sec-
5 tion with respect to such building to any tax-
6 payer for either of the 2 taxable years imme-
7 diately preceding the first taxable year in which
8 expenditures described in subparagraph (A)
9 were paid or incurred, and

10 “(C) the taxpayer elects (at such time and
11 manner as the Secretary may provide) to have
12 this subsection apply with respect to such reha-
13 bilitation.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2023.

17 **SEC. 4. MODIFICATION OF DEFINITION OF SUBSTANTIALLY**
18 **REHABILITATED.**

19 (a) IN GENERAL.—Section 47(c)(1)(B)(i)(I) is
20 amended by inserting “50 percent of” before “the ad-
21 justed basis”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to determinations with respect
24 to 24-month periods (referred to in clause (i) of section
25 47(c)(1)(B) of the Internal Revenue Code of 1986) and

1 60-month periods (referred to in clause (ii) of such sec-
 2 tion) which begin after the date of the enactment of this
 3 Act.

4 **SEC. 5. ELIMINATION OF REHABILITATION CREDIT BASIS**
 5 **ADJUSTMENT.**

6 (a) IN GENERAL.—Section 50(c) is amended by add-
 7 ing at the end the following new paragraph:

8 “(6) EXCEPTION FOR REHABILITATION CRED-
 9 IT.—In the case of the rehabilitation credit, para-
 10 graph (1) shall not apply.”.

11 (b) TREATMENT IN CASE OF CREDIT ALLOWED TO
 12 LESSEE.—Section 50(d) is amended by adding at the end
 13 the following: “In the case of the rehabilitation credit,
 14 paragraph (5)(B) of the section 48(d) referred to in para-
 15 graph (5) of this subsection shall not apply.”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to property placed in service after
 18 the date of the enactment of this Act.

19 **SEC. 6. MODIFICATIONS REGARDING CERTAIN TAX-EXEMPT**
 20 **USE PROPERTY.**

21 (a) IN GENERAL.—Section 47(c)(2)(B)(v) is amend-
 22 ed by adding at the end the following new subclause:

23 “(III) DISQUALIFIED LEASE
 24 RULES TO APPLY ONLY IN CASE OF
 25 GOVERNMENT ENTITY.—For purposes

1 of subclause (I), except in the case of
2 a tax-exempt entity described in sec-
3 tion 168(h)(2)(A)(i) (determined with-
4 out regard to the last sentence of sec-
5 tion 168(h)(2)(A)), the determination
6 of whether property is tax-exempt use
7 property shall be made under section
8 168(h) without regard to whether the
9 property is leased in a disqualified
10 lease (as defined in section
11 168(h)(1)(B)(ii)).”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to leases entered into after the date
14 of the enactment of this Act.

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