

116TH CONGRESS  
1ST SESSION

# H. R. 2825

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.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2019

Mr. BLUMENAUER (for himself, Mr. KELLY of Pennsylvania, Ms. SEWELL of Alabama, Mr. LAHOOD, Mr. HIGGINS of New York, and Mr. TURNER) introduced the following bill; which was referred to the Committee on Ways and Means

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## 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 2019”.

1 **SEC. 2. INCREASE IN THE REHABILITATION CREDIT FOR**  
2 **CERTAIN SMALL PROJECTS.**

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

6 “(e) SPECIAL RULE REGARDING CERTAIN SMALLER  
7 PROJECTS.—

8 “(1) IN GENERAL.—In the case of any qualified  
9 rehabilitated building or portion thereof—

10 “(A) which is placed in service after the  
11 date of the enactment of this subsection, and

12 “(B) which is a smaller project,  
13 subsection (a)(2) shall be applied by substituting ‘30  
14 percent’ for ‘20 percent’.

15 “(2) MAXIMUM CREDIT.—The credit deter-  
16 mined under this subsection with respect to any  
17 smaller project for all taxable years shall not exceed  
18 \$750,000.

19 “(3) SMALLER PROJECT DEFINED.—

20 “(A) IN GENERAL.—For purposes of this  
21 subsection, the term ‘smaller project’ means  
22 any qualified rehabilitated building or portion  
23 thereof if—

24 “(i) the qualified rehabilitation ex-  
25 penditures taken into account for purposes  
26 of this section (or would have been so

1 taken into account if this subsection had  
2 been in effect for all prior periods) with re-  
3 spect to the rehabilitation are not over  
4 \$3,750,000, and

5 “(ii) no credit was allowed under this  
6 section for either of the 2 prior taxable  
7 years with respect to such building.

8 “(B) PROGRESS EXPENDITURES.—Credit  
9 allowable by reason of subsection (d) shall not  
10 be taken into account under subparagraph  
11 (A)(ii).”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to periods after the date of the  
14 enactment of this Act, under rules similar to the rules of  
15 section 48(m) of the Internal Revenue Code of 1986 (as  
16 in effect on the day before the date of the enactment of  
17 the Revenue Reconciliation Act of 1990).

18 **SEC. 3. ALLOWANCE FOR THE TRANSFER OF CREDITS FOR**  
19 **CERTAIN SMALL PROJECTS.**

20 (a) IN GENERAL.—Section 47(e) of the Internal Rev-  
21 enue Code of 1986, as amended by section 2, is amended  
22 by adding at the end the following new subsection:

23 “(4) TRANSFER OF SMALLER PROJECT CRED-  
24 IT.—

1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (B) and such regulations or other guid-  
3 ance as the Secretary may provide, the taxpayer  
4 may transfer all or a portion of the credit allow-  
5 able to the taxpayer under subsection (a) for a  
6 smaller project.

7           “(B) CERTIFICATION.—

8           “(i) IN GENERAL.—A transfer under  
9 subparagraph (A) shall be accompanied by  
10 a certificate which includes—

11                   “(I) the certification for the cer-  
12 tified historic structure referred to in  
13 subsection (c)(3),

14                   “(II) the taxpayer’s name, ad-  
15 dress, tax identification number, date  
16 of project completion, and the amount  
17 of credit being transferred,

18                   “(III) the transferee’s name, ad-  
19 dress, tax identification number, and  
20 the amount of credit being trans-  
21 ferred, and

22                   “(IV) such other information as  
23 may be required by the Secretary.

24           “(ii) TRANSFERABILITY OF CERTIFI-  
25 CATE.—A certificate issued under this sec-

1           tion to a taxpayer shall be transferable to  
2           any other taxpayer.

3           “(C) TAX TREATMENT RELATING TO CER-  
4           TIFICATE.—

5           “(i) DISALLOWANCE OF DEDUC-  
6           TION.—No deduction shall be allowed for  
7           the amount of consideration paid or in-  
8           curred by the transferee.

9           “(ii) ALLOWANCE OF CREDIT.—The  
10          amount of credit transferred under sub-  
11          paragraph (A)—

12                 “(I) shall not be allowed to the  
13                 transferor for any taxable year, and

14                 “(II) shall be allowable to the  
15                 transferee as a credit under this sec-  
16                 tion for the taxable year of the trans-  
17                 feree in which such credit is trans-  
18                 ferred.

19           “(iii) EXCLUSION.—Gross income  
20          shall not include any amount received in  
21          connection with the transfer of the certifi-  
22          cate.

23          “(D) RECAPTURE AND OTHER SPECIAL  
24          RULES.—The taxpayer who claims a credit  
25          under this section by reason of a transfer of an

1 amount of credit under subparagraph (A) with  
2 respect to a smaller project shall be treated as  
3 the taxpayer with respect to the smaller project  
4 for purposes of section 50.

5 “(E) INFORMATION REPORTING.—The  
6 transferor and the transferee shall each make  
7 such reports regarding the transfer of an  
8 amount of credit under paragraph (A) and con-  
9 taining such information as the Secretary may  
10 require. The reports required by this subsection  
11 shall be filed at such time and in such manner  
12 as may be required by the Secretary.

13 “(F) REGULATIONS.—The Secretary shall  
14 prescribe regulations or other guidance to carry  
15 out this paragraph.”.

16 (b) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to periods after the date of the  
18 enactment of this Act.

19 **SEC. 4. INCREASING THE TYPE OF BUILDINGS ELIGIBLE**  
20 **FOR REHABILITATION.**

21 (a) IN GENERAL.—Section 47(c)(1)(B)(i)(I) of the  
22 Internal Revenue Code of 1986 is amended by inserting  
23 “50 percent of” before “the adjusted basis”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

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

6 (a) IN GENERAL.—Section 50(c) of the Internal Rev-  
7 enue Code of 1986 is amended by adding at the end the  
8 following new paragraph:

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

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

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

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

22 (a) IN GENERAL.—Section 47(c)(2)(B)(v) of the In-  
23 ternal Revenue Code of 1986 is amended by adding at the  
24 end the following new subclause:

1                   “(III) DISQUALIFIED LEASE  
2                   RULES TO APPLY ONLY IN CASE OF  
3                   GOVERNMENT ENTITY.—For purposes  
4                   of subclause (I), except in the case of  
5                   a tax-exempt entity described in sec-  
6                   tion 168(h)(2)(A)(i), the determina-  
7                   tion of whether property is tax-exempt  
8                   use property shall be made under sec-  
9                   tion 168(h) without regard to whether  
10                  the property is leased in a disqualified  
11                  lease (as defined in section  
12                  168(h)(1)(B)(ii)).”.

13           (b) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to property placed in service after  
15 the date of the enactment of this Act.

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