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1 **HOUSE BILL NO. 1363**

2 Offered January 11, 2018

3 A *BILL to amend and reenact § 58.1-339.2 of the Code of Virginia, relating to historic rehabilitation*
4 *tax credit; expands availability of credit for projects rehabilitating schools.*

5 Patron—Miyares

6 Referred to Committee on Finance

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 58.1-339.2 of the Code of Virginia is amended and reenacted as follows:**9 **§ 58.1-339.2. Historic rehabilitation tax credit.**10 A. Effective for taxable years beginning on and after January 1, 1997, any individual, trust or estate,
11 or corporation incurring eligible expenses in the rehabilitation of a certified historic structure shall be
12 entitled to a credit against the tax imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.) and
13 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of
14 Chapter 25; and Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in accordance with the following
15 schedule:

16 Year	17 % of Eligible Expenses
18 1997	19 10%
19 1998	20 15%
20 1999	21 20%
21 2000 and thereafter	22 25%

23 If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount that
24 exceeds the tax liability may be carried over for credit against the taxes of such taxpayer in the next ten
25 10 taxable years or until the full credit is used, whichever occurs first. Credits granted to a partnership
26 or electing small business corporation (S corporation) shall be passed through to the partners or
27 shareholders, respectively. Credits granted to a partnership or electing small business corporation (S
28 corporation) shall be allocated among all partners or shareholders, respectively, either in proportion to
29 their ownership interest in such entity or as the partners or shareholders mutually agree as provided in
30 an executed document, the form of which shall be prescribed by the Director of the Department of
31 Historic Resources.32 B. Effective for taxable years beginning on and after January 1, 2000, any individual, trust, estate, or
33 corporation resident in Virginia that incurs eligible expenses in the rehabilitation of a certified historic
34 structure in any other state that has in effect a reciprocal historic structure rehabilitation tax credit
35 program and agreement for residents of that state who rehabilitate historic structures in Virginia shall be
36 entitled to a credit to the same extent as provided in subsection A and other applicable provisions of
37 law; however, no eligible party shall receive any credit authorized under this subsection prior to taxable
38 years beginning on and after January 1, 2002.39 C. 1. To claim the credit authorized under this section, the taxpayer shall apply to the Virginia
40 Department of Historic Resources, which shall determine the amount of eligible rehabilitation expenses
41 and issue a certificate thereof to the taxpayer. The taxpayer shall attach the certificate to the Virginia tax
42 return on which the credit is claimed.43 2. For taxable years beginning on and after January 1, 2017, but before January 1, 2019, the amount
44 of the credit that may be claimed by each taxpayer, including amounts carried over from prior taxable
45 years, shall not exceed \$5 million in any taxable year.

46 D. When used in this section:

47 "Certified historic structure" means a property listed individually on the Virginia Landmarks Register,
48 or certified by the Director of the Virginia Department of Historic Resources as contributing to the
49 historic significance of a historic district that is listed on the Virginia Landmarks Register or certified by
50 the Director of the Virginia Department of Historic Resources as meeting the criteria for listing on the
51 Virginia Landmarks Register. *Certified historic structure includes any public school in a school division*
52 *in which at least half of the schools receive funding pursuant to Title I, Part A of the Elementary and*
53 *Secondary Education Act of 1965, P.L. 89-10, as amended.*54 "Eligible rehabilitation expenses" means, *for all projects other than rehabilitation of a school or*
55 *structure to be used as a school, expenses incurred in the material rehabilitation of a certified historic*
56 *structure and added to the property's capital account. For rehabilitation of a school or structure to be*
57 *used as a school, "eligible rehabilitation expenses" means expenses incurred in the material*
58 *rehabilitation of a certified historic structure regardless of whether the person who incurs such expenses*

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59 *owns such structure.*

60 "Material rehabilitation" means improvements or reconstruction consistent with "The Secretary of the
61 Interior's Standards for Rehabilitation," (codified at 36 C.F.R. § 67.7), the cost of which amounts to (i)
62 *generally*, at least ~~50~~ 50 percent of the assessed value of such building for local real estate tax
63 purposes for the year prior to the initial expenditure of any rehabilitation expenses; ~~unless~~; (ii) if the
64 building is an owner-occupied building, ~~in which case the cost shall amount to~~ at least ~~twenty-five~~ 25
65 percent of the assessed value of such building for local real estate tax purposes for the year prior to the
66 initial expenditure of any rehabilitation expenses; or (iii) if the building is a school, at least 10 percent
67 *of the assessed value of such building, as determined by the locality in which the school is located, for*
68 *the year prior to the initial expenditure of any rehabilitation expenses. Notwithstanding the provisions of*
69 *"The Secretary of the Interior's Standards for Rehabilitation," the Department of Historic Resources*
70 *shall consider a material rehabilitation to have met the requirement that a project be placed in a new*
71 *use that requires minimal change to the defining characteristics of the building and its site and*
72 *environment if the project is placed in use as a school.*

73 "Owner-occupied building" means any building that is used as a personal residence by the owner.

74 E. The Director of the Department of Historic Resources shall establish by regulation the
75 requirements needed for this program, including the fees to defray necessary expenses thereof, and,
76 except as otherwise prohibited by this section, the extent to which the availability of the credit provided
77 by this section is coextensive with the availability of the federal tax credit for the rehabilitation of
78 certified historic resources.

79 F. Any gain or income under federal law from the allocation or application of a tax credit under this
80 section shall not be (i) taxable gain or income for purposes of the tax imposed pursuant to Article 2
81 (§ 58.1-320 et seq.), (ii) taxable gain or income for purposes of the tax imposed pursuant to Article 6
82 (§ 58.1-360 et seq.), or (iii) taxable gain or income for purposes of the tax imposed pursuant to Article
83 10 (§ 58.1-400 et seq.). However, nothing in this subsection shall be construed or interpreted as allowing
84 a subtraction or deduction for such gain or income under federal law if the gain or income is otherwise
85 excluded, deducted, or subtracted in computing the respective tax set forth under clauses (i) through (iii).

86 **2. That the provisions of this act shall apply only to historic rehabilitation projects certified by the**
87 **Department of Historic Resources on and after January 1, 2018.**