

111TH CONGRESS
1ST SESSION

H. R. 3715

To amend the Internal Revenue Code of 1986 to expand the rehabilitation credit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 1, 2009

Ms. SCHWARTZ (for herself, Mr. TIBERI, Mr. CARNAHAN, Mr. GORDON of Tennessee, Ms. BERKLEY, Mr. WELCH, Mr. LARSON of Connecticut, Mr. HIGGINS, Mr. NEAL of Massachusetts, Mr. PASCRELL, Mr. DAVIS of Illinois, Mr. YARMUTH, Mr. LEWIS of Georgia, Mr. FATTAH, Mr. BLUMENAUER, Mr. LANGEVIN, Mr. CONNOLLY of Virginia, Mr. HOLT, Mr. DOYLE, Mr. TURNER, Mr. ALTMIRE, Mr. COURTNEY, Mr. PRICE of North Carolina, Mr. TONKO, Mr. ARCURI, Ms. KAPTUR, Ms. SHEA-PORTER, Ms. SUTTON, Mr. MCGOVERN, Mr. ETHERIDGE, Ms. DELAURO, Ms. SCHAKOWSKY, Mr. MICHAUD, Mr. COSTELLO, Mr. ABERCROMBIE, Mr. TIERNEY, Ms. TSONGAS, Mr. ANDREWS, Mr. BRADY of Pennsylvania, Mr. SERRANO, and Mr. SESTAK) 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 expand the rehabilitation credit, 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 “Community Restora-
5 tion and Revitalization Act of 2009”.

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

3 (a) IN GENERAL.—Section 47 of the Internal Rev-
4 enue Code of 1986 (relating to rehabilitation credit) is
5 amended by adding at the end the following new sub-
6 section:

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

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

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

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

16 “(2) MAXIMUM CREDIT.—The credit deter-
17 mined under this subsection with respect to any
18 smaller project for all taxable years shall not exceed
19 \$1,500,000.

20 “(3) SMALLER PROJECT DEFINED.—

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

25 “(i) the qualified rehabilitation ex-
26 penditures taken into account for purposes

1 of this section (or would have been so
2 taken into account if this subsection had
3 been in effect for all prior periods) with re-
4 spect to the rehabilitation are not over
5 \$7,500,000, and

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

9 “(B) SPECIAL RULES.—

10 “(i) ENERGY EFFICIENCY EXPENDI-
11 TURES NOT TAKEN INTO ACCOUNT.—
12 Amounts that are qualified rehabilitation
13 expenditures solely by reason of subsection
14 (c)(2)(E) shall not be taken into account
15 under subparagraph (A)(i).

16 “(ii) PROGRESS EXPENDITURES.—
17 Credit allowable by reason of subsection
18 (d) shall not be taken into account under
19 subparagraph (A)(ii).”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to periods after the date of the
22 enactment of this Act, under rules similar to the rules of
23 section 48(m) of the Internal Revenue Code of 1986 (as
24 in effect on the day before the date of the enactment of
25 the Revenue Reconciliation Act of 1990).

1 **SEC. 3. USE FOR LODGING NOT TO DISQUALIFY FOR REHA-**
2 **BILITATION CREDIT PROPERTY WHICH IS**
3 **NOT A CERTIFIED HISTORIC STRUCTURE.**

4 (a) IN GENERAL.—Subparagraph (C) of section
5 50(b)(2) of the Internal Revenue Code of 1986 (relating
6 to property eligible for the investment credit) is amended
7 by striking “certified historic structure” and inserting
8 “qualified rehabilitated building”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to property placed in service after
11 the date of the enactment of this Act.

12 **SEC. 4. DATE BY WHICH BUILDING MUST BE FIRST PLACED**
13 **IN SERVICE.**

14 (a) IN GENERAL.—Subparagraph (B) of section
15 47(c)(1) of the Internal Revenue Code of 1986 (relating
16 to the date by which building must be first placed in serv-
17 ice) is amended—

18 (1) by striking “BUILDING MUST BE FIRST
19 PLACED IN SERVICE BEFORE 1936” and inserting
20 “DATE BY WHICH BUILDING MUST FIRST BE
21 PLACED IN SERVICE”, and

22 (2) by striking “before 1936” at the end of the
23 subparagraph and inserting “no less than 50 years
24 prior to the year in which qualified rehabilitation ex-
25 penditures are taken into account under subsection
26 (b)(1)”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to property placed in service after
3 the date of the enactment of this Act.

4 **SEC. 5. MODIFICATIONS REGARDING CERTAIN TAX-EXEMPT**
5 **USE PROPERTY.**

6 (a) IN GENERAL.—Clause (I) of section
7 47(c)(2)(B)(v) of the Internal Revenue Code of 1986 (re-
8 lating to tax-exempt use property) is amended by inserting
9 “and subclauses (I), (II), and (III) of section
10 168(h)(1)(B)(ii) shall not apply” after “thereof”.

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

14 **SEC. 6. REHABILITATION CREDIT MAY BE TRANSFERRED.**

15 (a) IN GENERAL.—Subsection (b) of section 47 of the
16 Internal Revenue Code of 1986 (relating to when expendi-
17 tures taken into account) is amended by adding at the
18 end the following new paragraph:

19 “(3) CREDIT MAY BE ASSIGNED.—The amount
20 of qualified rehabilitation expenditures, not to exceed
21 \$5,000,000, which would (but for this paragraph) be
22 taken into account under subsection (a) for any tax-
23 able year by any person (hereafter in this paragraph
24 referred to as the ‘initial taxpayer’)—

1 “(A) may be taken into account by any
2 other person to whom such expenditures are as-
3 signed by the initial taxpayer, and

4 “(B) shall not be taken to account by the
5 initial taxpayer.

6 Any person to whom such expenditures are assigned
7 under subparagraph (A) shall be treated for pur-
8 poses of this title as the taxpayer with respect to
9 such expenditures.”.

10 (b) CONFORMING AMENDMENT.—The heading for
11 such subsection (b) is amended by inserting “; ELIGI-
12 BILITY FOR CREDIT MAY BE ASSIGNED” after “AC-
13 COUNT”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to rehabilitations the
16 physical work on which begins after the date of the enact-
17 ment of this Act.

18 **SEC. 7. CREDIT FOR MODERATE REHABILITATIONS.**

19 (a) IN GENERAL.—Subclause (I) of section
20 47(c)(1)(C)(i) of the Internal Revenue Code of 1986 (de-
21 fining substantially rehabilitated) is amended by inserting
22 “50 percent of” before “the adjusted basis”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply with respect to rehabilitations the

1 physical work on which begins after the date of the enact-
2 ment of this Act.

3 **SEC. 8. ADDITION OF ENERGY EFFICIENCY SUPPLEMENT**
4 **TO REHABILITATION CREDIT.**

5 (a) IN GENERAL.—Subsection (a) of section 47 of the
6 Internal Revenue Code of 1986 is amended by striking
7 “and” at the end of paragraph (1), by striking the period
8 at the end of paragraph (2) and inserting “, and”, and
9 by adding at the end the following new paragraph:

10 “(3) in the case of a qualified rehabilitated
11 building designed to achieve at least a 30 percent
12 qualified energy use reduction as a result of being
13 substantially rehabilitated (determined under sub-
14 section (e)), the energy efficiency supplement with
15 respect to such building.”.

16 (b) ENERGY EFFICIENCY SUPPLEMENT.—Section 47
17 of such Code is amended by adding at the end the fol-
18 lowing new subsection:

19 “(e) ENERGY EFFICIENCY SUPPLEMENT.—

20 “(1) IN GENERAL.—For purposes of subsection
21 (a)(3), the energy efficiency supplement shall be de-
22 termined in accordance with the following table.

“If the achieved qualified energy use reduction is—	The energy efficiency supplement per square foot of the building is—
At least 30 percent but not over 35 percent	\$2.00
Over 35 percent but not over 40 percent	\$2.67

“If the achieved qualified energy use reduction is—	The energy efficiency supplement per square foot of the building is—
Over 40 percent but not over 45 percent	\$3.42
Over 45 percent but not over 50 percent	\$4.18
Over 50 percent	\$5.00.

1 “(2) LIMITATION.—In no event shall the energy
2 efficiency supplement exceed 50 percent of the quali-
3 fied rehabilitation expenditures with respect to the
4 qualified rehabilitated building.

5 “(3) PARTIAL ALLOWANCE.—

6 “(A) IN GENERAL.—In order to encourage
7 implementation of building retrofits, the Sec-
8 retary shall prescribe by regulations the condi-
9 tions under which a taxpayer may receive a par-
10 tial energy efficiency supplement corresponding
11 to the actual qualified energy use reduction
12 achieved.

13 “(B) TAXPAYER ELIGIBILITY.—This para-
14 graph shall apply to a taxpayer only if—

15 “(i) the taxpayer certifies to the Sec-
16 retary that the rehabilitation was under-
17 taken as part of a plan to achieve a quali-
18 fied energy use reduction of at least 30
19 percent, and

20 “(ii) such reduction is not substan-
21 tiated under any certification process pre-

1 scribed by the Secretary, but a qualified
2 energy use reduction of at least 25 percent
3 is so substantiated.

4 “(C) MAXIMUM PARTIAL ALLOWANCE.—
5 The energy efficiency supplement allowable by
6 reason of this paragraph shall not exceed the
7 product of—

8 “(i) \$2.00, and

9 “(ii) a fraction—

10 “(I) the numerator of which is
11 the number of percentage points of
12 the achieved qualified energy use re-
13 duction, and

14 “(II) the denominator of which is
15 30.

16 “(4) QUALIFIED ENERGY USE REDUCTION.—
17 For purposes of this subsection, the term ‘qualified
18 energy use reduction’ means, for buildings or aggre-
19 gation of buildings, improvement in energy perform-
20 ance with reference to the energy consumption dur-
21 ing the previous year of the building or aggregation
22 of buildings being rehabilitated, while adjusting for
23 other relevant factors including prior vacancy, intro-
24 duction of modern technologies and systems, and
25 changes in use and occupancy loads.

1 “(5) REGULATIONS.—The Secretary, after con-
2 sultation with the Administrator of the Environ-
3 mental Protection Agency and the Secretary of the
4 Interior, shall promulgate such regulations as may
5 be necessary or appropriate to carry out the pur-
6 poses of the energy efficiency supplement, including
7 prescribing the manner and method for calculating,
8 verifying, and certifying qualified energy use reduc-
9 tions. Such regulations shall provide that a qualified
10 energy use reduction shall be determined by using
11 an established energy benchmarking tool which shall,
12 to the maximum extent feasible, take into account
13 the requirements necessary to become a certified re-
14 habilitation and shall include an approach that de-
15 termines success in energy efficiency based on actual
16 measured savings after a retrofit is complete.

17 “(6) COORDINATION.—The Secretary shall des-
18 ignate processes for tracking the numbers and loca-
19 tions of buildings claiming the energy efficiency sup-
20 plement, with information on projected and actual
21 savings of energy and its value over time in coordi-
22 nation with the Department of Energy.”.

23 (c) SUBSTANTIAL REHABILITATION REQUIREMENT
24 NOT TO APPLY TO ENERGY EFFICIENCY SUPPLEMENT.—
25 Subparagraph (A) of section 47(c)(1) (defining qualified

1 rehabilitated building) is amended by adding at the end
2 the following new flush sentence:

3 “Clause (i) shall not apply to so much of the
4 rehabilitation credit as is attributable to the en-
5 ergy efficiency supplement under subsection
6 (a)(3).”.

7 (d) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by this section
10 shall apply to property placed in service after the
11 date of the enactment of this Act.

12 (2) WAIVER OF SUBSTANTIAL REHABILITATION
13 REQUIREMENT.—The amendment made by sub-
14 section (c) shall apply with respect to rehabilitations
15 the physical work on which begins after the date of
16 the enactment of this Act.

17 **SEC. 9. MODIFICATION TO DEFINITION OF QUALIFIED RE-**
18 **HABILITATION EXPENDITURE.**

19 (a) IN GENERAL.—Clause (i) of section 47(c)(2)(A)
20 of the Internal Revenue Code of 1986 (relating to the defi-
21 nition of qualified rehabilitation expenditures) is amended
22 by striking “or” at the end of subclause (III), by striking
23 subclause (IV), and by inserting after subclause (III) the
24 following new subclauses:

1 “(IV) rehabilitated building en-
2 ergy efficiency property, or

3 “(V) an addition or improvement
4 to property described in subclause (I),
5 (II), (III), or (IV), and”.

6 (b) REHABILITATED BUILDING ENERGY EFFICIENCY
7 PROPERTY.—Section 47(c)(2) of such Code is amended by
8 adding at the end the following new subparagraph:

9 “(E) REHABILITATED BUILDING ENERGY
10 EFFICIENCY PROPERTY.—

11 “(i) IN GENERAL.—For purposes of
12 subparagraph (A), the term ‘rehabilitated
13 building energy efficiency property’ means
14 property which is certified as being—

15 “(I) affixed to, adjacent to, or in-
16 tegral to the provision of renewable
17 energy to a qualified rehabilitated
18 building, or

19 “(II) installed as part of a plan
20 designed to achieve any qualified en-
21 ergy use reduction (as defined in sub-
22 section (e)(4)) or a reduction in water
23 use.

1 Subparagraph (B)(i) shall not apply to re-
2 habilitated building energy efficiency prop-
3 erty.

4 “(ii) CERTIFICATION.—The Secretary
5 shall prescribe the manner and method for
6 the making of certifications under clause
7 (i).”.

8 (c) ENLARGEMENTS.—Clause (iii) of section
9 47(c)(2)(B) of such Code is amended by adding at the
10 end the following new sentence: “The preceding sentence
11 shall not apply to any rehabilitated building energy effi-
12 ciency property which is an addition or improvement to
13 a building.”

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to qualified rehabilitated buildings
16 placed in service after the date of the enactment of this
17 Act.

18 **SEC. 10. COORDINATION OF ENERGY CREDIT WITH REHA-**
19 **BILITATION CREDIT.**

20 (a) IN GENERAL.—Paragraph (2) of section 48(a) of
21 the Internal Revenue Code of 1986 is amended by striking
22 subparagraph (B).

23 (b) BASIS REDUCTION.—Paragraph (3) of section
24 50(c) of such Code is amended by adding at the end the
25 following new flush sentence:

1 “In the case of property that qualifies for both the
 2 energy credit and the rehabilitation credit, the pre-
 3 ceding sentence shall be applied by substituting
 4 ‘none’ for ‘only 50 percent’ each place it appears.”.

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

8 **SEC. 11. SPECIAL RULES FOR DISPOSITIONS OF STATE HIS-**
 9 **TORIC TAX CREDITS.**

10 (a) IN GENERAL.—Part III of subchapter B of chap-
 11 ter 1 of the Internal Revenue Code of 1986 (relating to
 12 items specifically excluded from gross income) is amended
 13 by inserting after section 139C the following new section:

14 **“SEC. 139D. DISPOSITIONS OF STATE HISTORIC TAX CRED-**
 15 **ITS.**

16 “(a) EXCLUSION FROM INCOME; BASIS REDUC-
 17 TION.—

18 “(1) IN GENERAL.—In the case of a taxpayer
 19 who receives a State historic tax credit and transfers
 20 or disposes of such credit, or receives a refund of all
 21 or a portion of such credit—

22 “(A) no portion of the net proceeds of such
 23 transfer or disposition or of such refund shall
 24 constitute income to such taxpayer under sec-
 25 tion 61(a), and

1 “(B) the taxpayer’s adjusted basis in the
2 property with respect to which the State his-
3 toric tax credit is allowed shall be reduced by
4 an amount equal to such net proceeds or refund
5 received by such taxpayer,
6 unless the taxpayer makes an election under sub-
7 section (b).

8 “(2) DETERMINATION OF REDUCTION IN
9 BASIS.—The reduction in basis under paragraph (1)
10 shall be applied—

11 “(A) first, against the basis in the land,

12 “(B) second, against so much of the basis
13 of any building or interest therein as was not
14 treated as a qualified rehabilitation expenditure
15 by reason of clause (ii) or (iii) of section
16 47(c)(2)(B), and

17 “(C) third, against the remaining basis in
18 the property.

19 “(D) ADJUSTMENT IN BASIS OF INTEREST
20 IN PARTNERSHIP OR S CORPORATION.—The ad-
21 justed basis of—

22 “(i) a partner’s interest in a partner-
23 ship, or

24 “(ii) stock in an S corporation (as de-
25 fined in section 1361(a)(1)),

1 shall be appropriately adjusted to take into ac-
2 count adjustments made under this subsection
3 in the basis of property held by the partnership
4 or S corporation (if any).

5 “(b) ELECTION TO INCLUDE IN INCOME.—

6 “(1) IN GENERAL.—In the case of a taxpayer
7 who elects to have this subsection apply, the net pro-
8 ceeds of the transfer or disposition or the refund de-
9 scribed in subsection (a) received by such taxpayer
10 shall constitute income to such taxpayer under sec-
11 tion 61(a).

12 “(2) MAKING OF ELECTION.—An election under
13 this subsection shall be made at such time and in
14 such manner as the Secretary of the Treasury may
15 by regulation prescribe. Such election shall apply for
16 the taxable year for which it is made and for all sub-
17 sequent taxable years and may be revoked only with
18 the consent of the Secretary of the Treasury.

19 “(c) EFFECT ON QUALIFIED REHABILITATION EX-
20 PENDITURES AND REHABILITATION CREDITS.—For pur-
21 poses of determining the rehabilitation credit allowable to
22 a taxpayer under section 47, the transfer or disposition
23 of State historic tax credits with respect to any property
24 by a taxpayer shall not affect or reduce the amount of
25 qualified rehabilitation expenditures (as defined in section

1 47(c)(2)) incurred in connection with such property, nor
2 shall such transfer or disposition, nor any basis adjust-
3 ments under subsection (a), be treated as an early disposi-
4 tion of investment credit property for purposes of the re-
5 capture provisions of section 50.

6 “(d) STATE HISTORIC TAX CREDITS DEFINED.—For
7 purposes of this section, the term ‘State historic tax credit’
8 means any credit against State or local tax liabilities
9 which—

10 “(1) is allowable under the laws of any State or
11 political subdivision thereof to a taxpayer with re-
12 spect to expenditures made for the rehabilitation of
13 property identified by such laws, and

14 “(2) is transferable or refundable under such
15 laws.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for such part III is amended by inserting after the item
18 relating to section 139C the following new item:

“Sec. 139D. Dispositions of State historic tax credits.”.

19 (c) EFFECTIVE DATE.—This section shall apply to
20 transfers or dispositions made, or refunds received, after
21 the date of the enactment of this Act.

○