Alabama: Expired Historic Rehabilitation Tax Credit Program could be renewed

David M. Kall | Thursday, February 16, 2017

In 2013, the Alabama legislature signed HB 140 into law, designed to provide tax help for owners who rehabilitate residential or commercial properties. The program, known as the Alabama Historic Rehabilitation Tax Credit Program (Program), offered a tax credit of up to 25 percent for the substantial rehabilitation of a historic residential or commercial property. The Alabama Historical Commission notes that between 2013 and 2015, $20 million in tax credits were available, for a total of $60 million. Commercial projects could receive the credit for up to $5 million in qualified expenses, and private residential properties up to $50,000.

The Program expired in May 2016, but at least one lawmaker is eager to bring it back, according to the Alabama NewsCenter. When the legislature convened on February 7, 2017, and State Sen. Jabo Waggoner revealed that he plans to introduce a similar measure to encourage the rehabilitation of abandoned buildings. Said he,

> “The historic tax credit bill is vital not only for Birmingham but this entire state. It has transformed downtown Birmingham. You look at the Redmont, you look at the Pizitz Building, you look at the Lyric and the list goes on. And it’s not just in Birmingham. We’re talking about Mobile, we’re talking about Montgomery, we’re talking about Huntsville, we’re talking about some buildings in rural Alabama that have to have the historic tax in order to bring back to life some of these buildings.”

The Alabama NewsCenter reported that during the time the Program was in place, it was responsible for $384 million in private investment in the state.

There is good reason to keep the tax credits flowing. A January 26, 2016, impact study commissioned by the Alabama Historical Commission (Commission) declared that the Program “demonstrates the ability to leverage large amounts of private investment…Upon interview with several developers, each expressed that the rehabilitation would not have been possible but for the credit.”

The Commission reached these additional conclusions about the Program:

- The tax credit is responsible for 2,133 direct construction jobs and 1,373 operational-phase jobs. The operation jobs are expected to grow over time.
- Projects utilizing the tax credit can be considered anchor tenants for several development districts, and

provide significant “halo effects” in downtown areas.
- A model of the Program’s tax impact demonstrates that over a 20-year period, for every one dollar of tax credit allocation that the state invests in the program, $3.90 is returned to state/local tax collections.
- The modeled tax impacts demonstrate that by 2019, Alabama will break even on its current investment of $60 million in tax credit allocation.
- According to the Alabama Department of Revenue, for projects completed in the 2014 tax year $630,281 of tax credits were claimed in the 2014 tax year out of the $2,249,101 of tax credits authorized.
- The types of projects utilizing the Program have a significant effect on the tax outcome of the model. Alabama’s investment pipeline includes a large percentage of mixed-Use development, which generate significant tax impacts.

Ultimately, the Commission opined that the tax credit should be extended, due to the return on investment, and the significant job impact during both the construction phase and operation phase. Moreover, “[a]necdotally, it is evident that many completed projects have provided for a strong “halo” effect and have spurred nearby development. Several projects have become strong “anchor” tenants for downtown development.”

On February 7, 2017, the day lawmakers came back to work, a second Alabama NewsCenter article reported that a different study, conducted by the University of Tennessee and commissioned by the Alabama Department of Revenue, gave the Program a “B” grade. Commenting on University of Tennessee’s work, a contributor to Real Estate Alabama pointed out that although the Program had an “overall positive impact on some of Alabama's urban centers,” it could be improved. He agreed with these recommendations:

- **Make the credits refundable** so that recipients can enjoy their full value upon approval: Even if it is risky to provide credits in advance, the approved projects are not at risk of failing to be completed. “Indeed, the odds of completion surely would increase if the full value of the credits were available earlier in the rehabilitation process. This would also eliminate the need for inefficient monetization of the credits."
- **Change the application process** by eliminating the first-come first-served requirement, instead allowing applications to be submitted over a longer predetermined period of time and evaluated collectively: “This would more closely mirror a typical Request for Quotations process, and would put the state in a better position to allocate available credits to the most impactful projects. Care would obviously need to be taken to ensure an open and neutral process, perhaps by engaging a panel of experts representing local interests as well as state program administrators."
- **Create a more formal evaluation process**, outside the Alabama Historical Commission, for the ongoing review of rehabilitation projects: “This would protect the Commission from the criticism that is common with similar types of credit programs, while also protecting the public interest by ensuring a fair and open evaluation process. The current evaluation, which is the subject of this report, is one step in the right direction."
- **Conduct deeper studies**, including of the extent to which the tax credit actually induced the rehabilitation activities on approved projects: “The program is actually set up well to enable such a study, as approved projects that have received allocated tax credits could easily be compared to wait-listed projects or others that were not approved for credits. If the wait-listed or non-funded projects have not moved forward without the credits, then the case can more easily be made that the [tax credit] truly induced the rehabilitation activity in the funded projects."
- **Utilize other incentives in historic rehabilitation**, such as loan assistance programs and private activity bonds: “It is not obvious, however, that any of these alternatives would be superior to the current [tax credit]. Moreover, alternative incentive structures could potentially reduce leveraging opportunities and would lead to new costs of program development, implementation, administration and compliance."

Alabama NewsCenter quoted Senator Waggoner as further justifying the tax credit: “[y]ou don’t attract a Mercedes to come to Vance, Alabama, without a tax credit. It’s all about industrial development, and they need tax credits. And Alabama through the years has taken advantage of them.”

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Team member bio