

118TH CONGRESS
1ST SESSION

S. 639

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

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2023

Mr. CARDIN (for himself, Mr. CASSIDY, Ms. CANTWELL, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to improve the historic rehabilitation tax 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 “Historic Tax Credit
5 Growth and Opportunity Act of 2023”.

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

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

1 “(e) SPECIAL RULE REGARDING CERTAIN SMALL
2 PROJECTS.—

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

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

7 “(B) which is a small project,
8 subsection (a)(2) shall be applied by substituting ‘30
9 percent’ for ‘20 percent’.

10 “(2) MAXIMUM CREDIT.—The credit under this
11 section (after application of this subsection) with re-
12 spect to any project for all taxable years shall not
13 exceed \$750,000.

14 “(3) SMALL PROJECT.—

15 “(A) IN GENERAL.—For purposes of this
16 subsection, the term ‘small project’ means any
17 certified historic structure or portion thereof
18 if—

19 “(i) the total qualified rehabilitation
20 expenditures taken into account for pur-
21 poses of this section with respect to the re-
22 habilitation do not exceed \$3,750,000, and

23 “(ii) no credit was allowed under this
24 section for either of the two immediately

1 preceding taxable years with respect to
2 such building.

3 “(B) PROGRESS EXPENDITURES.—Credit
4 allowable by reason of subsection (d) shall not
5 be taken into account under subparagraph
6 (A)(ii).”.

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

13 **SEC. 3. INCREASING THE TYPE OF BUILDINGS ELIGIBLE**
14 **FOR REHABILITATION.**

15 (a) IN GENERAL.—Section 47(c)(1)(B)(i)(I) of the
16 Internal Revenue Code of 1986 is amended by inserting
17 “50 percent of” before “the adjusted basis”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to taxable years beginning after
20 December 31, 2022.

21 **SEC. 4. ELIMINATION OF REHABILITATION CREDIT BASIS**
22 **ADJUSTMENT.**

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

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

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

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

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

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

17 “(III) DISQUALIFIED LEASE
 18 RULES TO APPLY ONLY IN CASE OF
 19 GOVERNMENT ENTITY.—For purposes
 20 of subclause (I), except in the case of
 21 a tax-exempt entity described in sec-
 22 tion 168(h)(2)(A)(i), the determina-
 23 tion of whether property is tax-exempt
 24 use property shall be made under sec-
 25 tion 168(h) without regard to whether

1 the property is leased in a disqualified
2 lease (as defined in section
3 168(h)(1)(B)(ii)).”.

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

○