

Chapter 122:19-1 General Provisions

122:19-1-01 Definitions.

(A) "Amendment" means any modification to the project, as described in an approved application, including but not limited to changes in ownership, scope of the project, timeline for completion, changes in financing, the rehabilitation activities or end use.

(B) "Applicable rehabilitation standards" means the secretary of the interior's standards for rehabilitation prescribed under 16 U.S.C.470, et seq., dated October 15, 1966 as amended, or any successor to that section, and 36 C.F.R. 67.7, dated February 26, 1990 or any successor to that section. All work to the historic building must meet these standards.

(C) "Director" means the director of the department of development of the state of Ohio.

(D) "Detailed scoring criteria" means the attributes of historic preservation tax credit applications that are identified in the program policies employed to evaluate such applications for the appropriateness of tax credit assistance, including but not limited to such measures as the potential economic impact and regional distributive balance of the credits throughout the state of Ohio.

(E) "High qualified rehabilitation expenditure application" means an application submitted for a historic preservation tax credit with estimated qualified rehabilitation expenditures above the average of the prior five calendar years rehabilitation costs of all federal historic preservation tax credit investment projects certified in the state of Ohio.

(F) "Low qualified rehabilitation expenditure application" means an application submitted for a historic preservation tax credit with estimated qualified rehabilitation expenditures at or less than the average of the prior five calendar years rehabilitation costs of all federal historic preservation tax credit investment projects certified in the state of Ohio.

(G) "Major factor" means the applicant's analysis of the project, or an increased investment in the project, which identifies receipt of the historic preservation tax credit as a factor that makes it more likely than not that rehabilitation of the historic building in compliance with the applicable rehabilitation standards would be economically feasible.

(H) "Officer" or "State Historic Preservation Officer" means the state historic preservation officer appointed by the governor under 16 U.S.C 470a.

(I) "Program policies" means the detailed guidelines for the Ohio historic tax credit program approved by the Director and applicable for the application periods in section 149.311 (A)(9) of the Revised Code.

(J) "Project" means the activities to be undertaken and costs identified as part of an application submitted for a historic preservation tax credit. The activities and costs include both qualified rehabilitation expenditures as defined within section 149.311(A) (2) of the Revised Code and other rehabilitation costs that do not satisfy the definition of qualified rehabilitation expenditures identified in connection with the rehabilitation of a historic building. Consistent with federal regulation 36 C.F.R. 67, dated February 26, 1990 or any successor to that section, a project may include more than one building, such as an industrial or agricultural complex, provided there is historical evidence that the buildings functioned together during their time period of significance to serve an

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overall purpose. Row houses that were designed and constructed as a single building or complex shall be considered a single project provided the applicant owns each building included in the application.

(K) "Project Completion Date" means the date at which applicants have a certificate of occupancy for the entire Project.

(L) "Tax commissioner" means the commissioner of the department of taxation of the state of Ohio.

122:19-1-02 Application schedule and procedures.

(A) During the application periods an owner of a historic building may apply to the Director to receive a historic rehabilitation tax credit certificate on a form as approved and made available by the Director. Specific application submission schedules shall be established by the Director in the program policies published not less than one month prior to the beginning of each application period.

(B) The applicant must submit an application that complies with the program policies as established by the Director.

(C) The Director shall review applications for completeness and may request that applicants provide missing or additional information following their application submission. Applicants may only submit missing information upon request from the Director. If an application is incomplete, and the applicant does not submit the requested information within a timeframe established in the program policies, the Director shall notify the applicant that the application has been rejected.

(D) A rejection issued by the Director for a specific application period does not prohibit an applicant from submitting an application in a future application period.

122:19-1-03 Historic preservation tax credit eligibility.

(A) Only the owner of a historic building may apply for the historic preservation tax credit.

(B) An application for the historic preservation tax credit must include evidence, reasonably acceptable to the Director, that the applicant is the current owner in fee simple title of the historic building.

(C) An application for the historic preservation tax credit must include documentation that the subject building is a historic building.

(D) All rehabilitation identified in the historic preservation tax credit application must meet applicable rehabilitation standards. An application for the historic preservation tax credit shall include, in a format acceptable to the officer and Director, a description of the proposed project rehabilitation activities sufficient to determine whether the applicable rehabilitation standards will be met.

(E) An application for the historic preservation tax credit must include evidence, reasonably acceptable to the Director, that the tax credit is a major factor in the applicant's decision to rehabilitate the historic building or to increase the level of investment in such rehabilitation.

122:19-1-04 Selection of Approved Applications.

(A) Applications will be approved by the Director according to the detailed scoring criteria in the program policies.

(B) The Director shall ensure that a mix of both high and low qualified rehabilitation expenditure applications are approved in accordance with division (B)(2) of section 149.311 of the Revised Code. To fulfill this requirement, the Director may consider applicants' level of qualified rehabilitation expenditures in addition to the detailed scoring criteria in the program policies.

(C) The Director shall notify all applicants in writing of the status of an application upon completion of the application period.

122:19-1-05 Amendments

(A) The Director shall establish and make available the form to request amendments to an application.

(B) Applicants must request and receive approval of the Director for any amendment to the application.

(C) The Director has the discretion to issue whole or partial approvals for amendments and may issue a conditional approval of an amendment requiring additional materials or progress by a deadline established in the amendment determination. If the applicant does not meet the conditions of approval by the deadline established in the amendment determination, the Director shall notify the applicant that the conditions have not been fulfilled and the amendment determination has been rescinded.

122:19-1-06 Tax Credit Certificates

(A) Within ninety calendar days after the project completion date, the owner of the historic building must notify the Director in a format acceptable to the Director as established in the program policies that the project is complete in accordance with the application and request a historic preservation tax credit certificate be issued.

(B) The Director may issue a historic preservation tax credit certificate to the owner of a project approved during an application period once the owner has provided the following evidence to the Director:

(1) Certified amount of qualified rehabilitation expenditures paid or incurred during the rehabilitation period; such amount shall not exceed the qualified rehabilitation expenditures identified in the application.

(2) The tax information for the owner of the historic building. The owner is the individual(s) or entity that is the fee simple owner of the building as listed on the application on the project completion date. A tax credit received under this section by a partnership, S-corporation, limited liability company (LLC), or other such pass-through entity shall be allocated to the partners, shareholders, or members in proportion to their ownership interest in such entity or as the partners, shareholders, or members otherwise mutually agree.

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(3) All required approvals from the State Historic Preservation Officer, including that the project has been completed in compliance with the secretary of the interior's standards for rehabilitation; and

(4) Any additional information as established in the program policies.

(C) The certificate issued by the Director shall include the name of the owner, the address and location of the project, and the amount of qualified rehabilitation expenditures as certified by the owner to the Director and any additional information as established in the program policies for the latest application period.

(D) The historic preservation tax credit is not transferable to any individual or entity.

(E) The credit is to be applied to the tax liability of the owner, or if the owner is a pass through entity, to the shareholders, partners or members of the pass through entity, as provided under section 5725.151, 5733.47 or 5747.76 of the Revised Code.

122:19-1-07 Monitoring and reporting.

(A) During the rehabilitation period, the Director and/or the state historic preservation officer may, upon reasonable notice of not less than three business days, conduct a site visit to the project to inspect and evaluate the rehabilitation.

(B) During the rehabilitation period, the Director may, upon reasonable notice of not less than thirty days, request a status report, in a format established by the Director, from the applicant consisting of information and updates relevant to the status of the project. Status reports shall not be requested more than twice during a calendar year.

(C) Provisions to demonstrate sufficient evidence of reviewable progress as required under ORC 149.311 section (D)(4) shall be set forth in the program policies.

(D) The amount of the qualified rehabilitation expenditures identified in the owner's certification of completion and reflected on the historic preservation tax credit certificate issued by the Director is subject to inspection, examination and audit by the tax commissioner or the tax commissioner's employees.

(E) For a period of four years following the owner's certification of completion, the owner shall file an annual project status report with the Director on a form approved by the Director.

(F) The owner shall establish and maintain for a period of at least four years from the certification of project completion date such records as required by the Director. Such records include, but are not limited to, records documenting project expenditures and compliance with the secretary of interior's standards for rehabilitation. The owner shall make such records available for review and verification by the Director or tax commissioner or appropriate staff of the Director or the tax commissioner as well as other appropriate state agencies. In the event the Director determines an owner has submitted an annual report containing erroneous information or data not supported by records established and maintained under this rule, the Director may, after providing notice, require the owner to resubmit corrected reports.

(G) The Director and tax commissioner shall file such reports as required by statute.