



Rules of Department of Economic Development

Division 85—Division of Business and Community Services

Chapter 5—Historic Preservation Tax Credit Program

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**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT**
**Division 85—Division of Business and
Community Services**
**Chapter 5—Historic Preservation Tax
Credit Program**

4 CSR 85-5.010 Overview and Definitions

PURPOSE: This gives a brief overview of the program and defines terms used in this chapter.

(1) The Missouri Historic Preservation Tax Credit (HTC) Program was enacted in 1997 and took effect on January 1, 1998. The law may be found in sections 253.545 to 253.561, RSMo. The law is intended to aid in the rehabilitation of historic structures in the state of Missouri by providing an incentive in the form of state tax credits equal to twenty-five percent (25%) of the total costs and expenses of rehabilitation, provided that such costs and expenses exceed fifty percent (50%) of the total basis in the property. The Department of Economic Development (DED) is responsible for the issuance of the credits based upon certification of the rehabilitation by the Department of Natural Resources, State Historic Preservation Office.

(2) As used in this chapter, the following terms mean:

(A) Final Completion. For the purposes of issuing state historic preservation tax credits, the project is considered complete when all work has been done on the project. The final year construction costs are incurred in the year credits will be issued. (i.e., if costs are still being incurred in 2007 then regardless of “placed in service” date or date of “substantial completion,” the credits will be issued as 2007 credits if those expenses are being claimed for tax credits.) Please note: completion dates have been established for the state historic program only. Federal guidelines vary. Final completion is separately determined for each “construction period” of a “multiple project.” Costs associated with one construction period may not be carried to another construction period of a project. Each construction period is considered a separate project for audit purposes and must stand alone to meet all requirements of the HTC Program. Any exceptions must be submitted to DED before the final cost certification is submitted and must be approved in writing by DED.

(B) Identity of Interest. An identity of interest may exist: 1) when the project owner has any financial interest in the other party

(i.e., general contractor, subcontractor, vendor); 2) when one (1) or more of the officers, directors, stockholders, or partners of the project owner is also an officer, director, stockholder, or partner of the other party; 3) when any officer, director, stockholder, or partner of the project owner has any financial interest whatsoever in the other party or has controlling interest in the management or operation of the other party; 4) when the other party advances any funds to the project owner; 5) when the other party provides and pays on behalf of the project owner the cost of any legal services, architectural services, or engineering services other than those of a surveyor, general superintendent, or engineer employed by a general contractor in connection with obligations under the construction contract; 6) when the other party takes stock or any interest in the project owner as part of consideration to be paid; and 7) when there exists or comes into being any side deals, agreements, contract, or undertakings entered into thereby altering, amending, or canceling any of the original documents submitted to DED at initial application, except as approved by DED. In the event an identity of interest exists between the project owner, developer, and/or contractor, care should be taken that no duplication of work exists.

(C) Non-Qualified Expenditures. All costs included in Total Project Costs which are not Qualified Rehabilitation Expenditures are considered Non-Qualified Expenditures.

(D) Project Owner. The entity or individual(s) owning the structure or property on which rehabilitation or new construction costs have been incurred which are expected to generate HTC and/or Neighborhood Preservation Act (NPA) tax credits.

(E) Qualified Rehabilitation Expenditures (QRE)—HTC. Qualified Rehabilitation Expenditures are those expenditures that are used as eligible basis on which to calculate the Missouri Historic Preservation Tax Credit. Such costs include, but shall not be limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the *Internal Revenue Code* of 1986, as amended.

(F) Qualified Rehabilitation Expenditures (QRE)—NPA. Qualified Rehabilitation Expenditures are those expenditures that are used as eligible basis on which to calculate the Missouri Neighborhood Preservation Tax Credit.

(G) Total Project Costs. Total Project Costs include all costs, whether accrued or paid, pertaining to the redevelopment of the property for which an application for tax credits has been submitted. Total Project Costs include all Qualified Rehabilitation Expenditures and all Non-Qualified Expenditures,

including the shell acquisition cost. It does not include any cash reserves established or to be established for the project, such as replacement reserves, lease-up reserves, lease commission reserves, or other cash held by, or for, the project owner.

AUTHORITY: section 135.487, RSMo 2000 and section 620.010, HB 788, Second Regular Session, Ninety-fourth General Assembly, 2008.* Original rule filed July 8, 2008, effective Feb. 28, 2009.

*Original authority: 135.487, RSMo 1999 and 620.010, RSMo 1971, amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001, 2007, 2008.

4 CSR 85-5.020 Preliminary Application

PURPOSE: This rule establishes requirements for submitting a preliminary application for tax credits under the Historic Preservation Tax Credit Program.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) In order to qualify for state historic preservation tax credits, the property must be a certified historic structure listed on the National Register of Historic Places or a contributing structure in a certified historic district, as those terms are defined in section 253.545, RSMo. The eligible rehabilitation costs and expenses must exceed fifty percent (50%) of the total basis in the property. A copy of the portion of the settlement statement that shows purchase price must be submitted as proof, preferably with the preliminary application materials. The rehabilitation must meet standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the State Historic Preservation Office of the Missouri Department of Natural Resources (SHPO).

(2) The approval process is broken into two (2) parts—the preliminary application and the final application. A preliminary application should be submitted prior to any project



work. This allows the Missouri Department of Economic Development (DED) and SHPO to review the project for eligibility and allows SHPO to guide the applicant in regard to rehabilitation. Any work done prior to certification of preliminary approval is done at the applicant's risk.

(3) A project may be completed in multiple construction periods. Use of construction periods will only be allowed when a phased federal application is also filed. The construction periods used for the state historic rehabilitation must match the phase dates submitted in the federal application. The applicant must apply for all construction periods simultaneously, prior to the start of any work on the project. An applicant who elects to utilize construction periods must submit an audit performed by a certified public accountant.

(4) Applicants for state historic preservation tax credits whose preliminary applications are received by the DED on, or after, February 28, 2009, but before January 30, 2015 must follow the procedures and guidelines found in *Missouri Historic Preservation Tax Credit Program, Preliminary Application and Guidelines* and complete *Historic Preservation Tax Credit Program—Preliminary Approval Form—Form 1*, both of which are incorporated by reference in this rule as published February 28, 2009, by DED and available at DED, Business and Community Services, 301 West High Street, Suite 770, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.

(5) Applicants for state historic preservation tax credits whose preliminary applications are received by the DED on, or after, January 30, 2015 must follow the procedures and guidelines found in *Missouri Historic Preservation Tax Credit Program, Preliminary Application and Guidelines*, which is incorporated by reference in this rule as published September 2, 2014, by DED and available at DED, Division of Business and Community Services, 301 West High Street, Suite 770, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.

(6) After receiving preliminary approval, the applicant may go forward with the project. When the project is completed and expenses have been paid, the final application should be submitted along with expense documentation and required application materials. (See rule 4 CSR 85-5.030.) After the final materi-

als are received by DED, SHPO performs a final review of the technical project work and DED performs an audit of the expenses. After approval of the project work and expenses, a tax credit certificate for twenty-five percent (25%) of state qualified rehabilitation expenditures is issued and mailed to the applicant.

AUTHORITY: section 620.010, RSMo Supp. 2014. Original rule filed July 8, 2008, effective Feb. 28, 2009. Amended: Filed July 31, 2014, effective Jan. 30, 2015.*

**Original authority: 620.010, RSMo 1971, amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001, 2007, 2008.*

4 CSR 85-5.030 Final Application

PURPOSE: This rule establishes the requirements for submitting the final application for tax credits under the Historic Preservation Tax Credit Program.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) When a project for which tax credits are sought under the Historic Preservation Tax Credit Program (HTC) is completed and expenses have been paid, the final application should be submitted along with expense documentation and required application materials. After the final materials are received by the Department of Economic Development (DED), the State Historic Preservation Office of the Department of Natural Resources (SHPO) performs a final review of the technical project work and DED performs an audit of the expenses. After approval of the project work and expenses, a tax credit certificate for twenty-five percent (25%) of qualified rehabilitation expenditures is issued and mailed to the applicant.

(2) For projects with total project costs of two hundred fifty thousand dollars (\$250,000) or more in which tax credits are being sought under both the HTC program and the Neighborhood Preservation Tax Credit Program (sections 135.475 to 135.487, RSMo), the

project applicant must follow the HTC guidelines and complete the HTC cost certification, which will be used by both programs in the credit approval process.

(3) Applicants for state historic preservation tax credits must follow the procedures and guidelines found in *Missouri Historic Preservation Tax Credit Program, Final Application and Guidelines* and complete *Historic Preservation Tax Credit Program—Final Approval Form—Form 2*, both of which are incorporated by reference in this rule as published February 28, 2009, by DED and available at DED, Business and Community Services, 301 West High Street, Suite 770, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.

AUTHORITY: section 135.487, RSMo 2000 and section 620.010, HB 788, Second Regular Session, Ninety-fourth General Assembly, 2008. Original rule filed July 8, 2008, effective Feb. 28, 2009.*

**Original authority: 135.487, RSMo 1999 and 620.010, RSMo 1971, amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001, 2007, 2008.*