

- (A) "Director" means the director of the department of development of the state of Ohio.
- (B) "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 overall purpose. Rowhouses 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.
- (C) "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 is in compliance with the secretary of the interior's standards for rehabilitation of historic buildings would be economically feasible.
- (D) "Cost and benefit analysis" means the economic model as approved by the director and the tax commissioner to determine whether or not a project submitted for a historic preservation tax credit will result in a net revenue gain in state and local taxes.
- (E) "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 median dollar investment amounts of all federal historic preservation tax credit investment projects certified in the state of Ohio.
- (F) "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 median dollar investment amounts of all federal historic preservation tax credit investment projects certified in the state of Ohio.
- (G) "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.
- (H) "Net revenue gain" means the difference between the estimated total present value of increased state and local tax revenues resulting from the rehabilitation of a historic

building, including any occupant activity, after the project is completed and once the building is used, and the total cost of state and local incentives. The net revenue gain is to be calculated for the accepted useful life of the project as designated by the director.

(I) "State and local taxes" means the revenues from those state and locally imposed tax obligations identified by the director which are generated by a historic building, including any occupant activity, prior to and post project rehabilitation. Revenues from real and personal property tax, sales and use tax, individual income tax, school district income tax, dealer in intangibles tax, corporate franchise tax, the commercial activity tax and domestic and foreign insurance tax shall be included as state and local taxes. The director may include any other state or local taxes which are related to the project and provide significant revenues.

(J) "Once the building is used" means the date the rehabilitation is complete and the project is placed into service, which shall be no later than the end of the rehabilitation period as defined in section 149.311 (A)(7) of the revised code.

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Certification

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Rule Amplifies:	149.311, 5725.151, 5733.47, 5747.76

**Application procedures.**

- (A) On or after July 1, 2007 and during the periods set forth in section 149.311 (A) (9) of the revised code, an owner of a historic building may apply to the state historic preservation officer and the director on a form as approved and made available by the director to receive a historic rehabilitation tax credit certificate.
- (B) The applicant shall provide one completed original application and an electronic version on compact disc for the state historic preservation officer. At that time, the applicant shall also provide a copy of the application and an electronic version on compact disc to the director.
- (C) Each application shall be date and time stamped in the order of receipt by the state historic preservation officer. The state historic preservation officer shall provide the director written notice of the order of receipt of applications within seven (7) calendar days of receipt. The director shall review the applications in the order of receipt as set forth by the state historic preservation officer.
- (D) Within forty-five (45) calendar days of receipt, the state historic preservation officer and the director shall determine whether an application is complete. The director shall notify an applicant in writing of a determination that an application is incomplete as submitted. Such an application loses the original stamped time and date order of receipt assigned by the state historic preservation officer. An application determined to be incomplete must be resubmitted to be considered further.
- (E) Only completed applications will be reviewed. During the review process, should deficiencies be identified or additional information be necessary to finalize approval, the director shall notify the applicant in writing of such issues. The applicant shall be granted a cure period of forty-five (45) days to resolve all identified application deficiencies and/or provide additional information. Should the applicant not resolve the identified issues, the application will be rejected. A rejected application shall lose its original stamped time and date order of receipt assigned by the state historic preservation officer and must be resubmitted to be considered further.
- (F) An application for the historic preservation tax credit must include documentation that the subject building is either:
- (1) listed on the national register of historic places under 16 U.S.C. 470a dated October 15, 1966, as amended or any successor to that section;
  - (2) located in a registered historic district and certified by the state historic preservation officer as being of historic significance to the district; or
  - (3) individually listed as a historic landmark designated by a local government certified under 16 U.S.C. 470a (c) dated October 15, 1966, as amended or any successor to that section.

(G) 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.

(H) An application for the historic preservation tax credit shall include in a format acceptable to the director a description of the proposed project rehabilitation activities sufficient to determine whether the secretary of the interior's standards for rehabilitation will be met.

(I) The director shall notify the applicant in writing of the approval of an application.

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**Historic preservation tax credit eligibility.**

- (A) Only the owner of a historic building may apply for the historic preservation tax credit.
- (B) The director, in consultation with the tax commissioner, shall conduct a cost and benefit analysis to determine whether the rehabilitation of the historic building will result in a net revenue gain in state and local taxes. Only those applications documenting such a net gain shall be approved for a historic preservation tax credit certificate.
- (C) The owner of a historic building must certify and provide supporting documentation to the director that the historic preservation tax credit is a major factor in the decision to rehabilitate the historic building or to increase the level of project investment.
- (D) Prior to implementing any modification to the project, as described in an approved application, including but not limited to changes in the rehabilitation activities or end use, the applicant must request and receive approval of the director and state historic preservation officer.
- (E) The director shall ensure that the approved projects include a mix of both high and low qualified rehabilitation expenditures. To fulfill this requirement, the director may consider and review applications in an order other than set forth by the state historic preservation officer.
- (F) Because of the need for certainty at all times in all matters of the historic preservation tax credit, all determinations and decisions made by the director shall be final and not subject to appeal. None of the determinations or decisions of the director under this chapter involves an adjudication order within the meaning of section 119.06 of the revised code.
- (G) All rehabilitation identified in the historic preservation tax credit application must meet the secretary of the interiors standards for rehabilitation.

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**Historic preservation tax credit certificate.**

- (A) Within thirty (30) calendar days after the project completion date, the owner of the historic building must notify the director in a format acceptable to the director that the project is complete in accordance with the application and request a historic preservation tax credit certificate be issued. This request must include the owner's certification of the amount of qualified rehabilitation expenditures paid or incurred during the rehabilitation period as approved in the historic preservation tax credit application.
- (B) The director may issue a historic preservation tax credit certificate in a form approved by the director to the owner of a project approved during an application period once the owner has certified to the director the amount of qualified rehabilitation expenditures paid or incurred during the rehabilitation period, as approved in the historic preservation tax credit application, and that the project has been completed in compliance with the secretary of the interior's standards for rehabilitation.
- (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.
- (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 sections 5725.151, 5733.47 or 5747.76 of the revised code.

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**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 (3) business days, conduct a site visit to the project to inspect and evaluate the rehabilitation.
- (B) 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.
- (C) For a period of four (4) 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.
- (D) The owner shall establish and maintain for a period of at least four (4) 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.
- (E) The director and tax commissioner shall file such reports as required by statute.

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