

SENATE BILL NO. 721

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

2770S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 253.545, 253.550, 253.557, and 253.559, RSMo, and to enact in lieu thereof five new sections relating to facilities of historic significance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 253.545, 253.550, 253.557, and
2 253.559, RSMo, are repealed and five new sections enacted in
3 lieu thereof, to be known as sections 253.544, 253.545, 253.550,
4 253.557, and 253.559, to read as follows:

**253.544. Sections 253.544 to 253.559 shall be known
2 and may be cited as the "Missouri Historic, Rural
3 Revitalization, and Regulatory Streamlining Act".**

253.545. As used in sections [253.545] **253.544** to
2 253.559, the following terms mean, unless the context
3 requires otherwise:

4 (1) **"Applicable percentage":**

5 (a) **For the rehabilitation of a property that receives
6 or intends to receive a tax credit under sections 135.350 to
7 135.363, twenty-five percent;**

8 (b) **For the rehabilitation of a property located in a
9 qualifying area approved for a tax credit and that is not a
10 property that receives or intends to receive a tax credit
11 under sections 135.350 to 135.363, thirty-five percent; or**

12 (c) **For the rehabilitation of a property not located
13 in a qualifying area approved for a tax credit, twenty-five
14 percent;**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 (2) "Certified historic structure", a property located
16 in Missouri and listed individually on the National Register
17 of Historic Places;

18 [(2)] (3) "Deed in lieu of foreclosure or voluntary
19 conveyance", a transfer of title from a borrower to the
20 lender to satisfy the mortgage debt and avoid foreclosure;

21 [(3)] (4) "**Department**", **the department of economic**
22 **development**;

23 (5) "Eligible property", property located in Missouri
24 and offered or used for residential or business purposes;

25 [(4)] (6) "**Eligible recipient**", **an individual taxpayer**
26 **or nonprofit entity incurring expenses in connection with an**
27 **eligible property**;

28 (7) "Leasehold interest", a lease in an eligible
29 property for a term of not less than thirty years;

30 [(5)] (8) "Principal", a managing partner, general
31 partner, or president of a taxpayer;

32 [(6)] (9) "**Projected net fiscal benefit**", **the total net**
33 **fiscal benefit to the state or municipality, less any state**
34 **or local benefits offered to the taxpayer for a project, as**
35 **determined by the department of economic development**;

36 [(7)] (9) "Qualified census tract", a census tract **or**
37 **census block** with a poverty rate of twenty percent or higher
38 as determined by a map and listing of census tracts which
39 shall be published by the department [**of economic**
40 **development**] and updated on a five-year cycle, and which map
41 and listing shall depict census tracts with twenty percent
42 poverty rate or higher, grouped by census tracts with twenty
43 percent to forty-two percent poverty, and forty-two percent
44 to eighty-one percent poverty as determined by the most
45 current five-year figures published by the American

46 Community Survey conducted by the United States Census
47 Bureau;

48 [(8)] (10) **"Qualified rehabilitation standards", the**
49 **Secretary of the Interior's Standards for Rehabilitation,**
50 **codified under 36 CFR 67;**

51 (11) **"Qualifying county", any county or portion**
52 **thereof in this state that is not:**

53 (a) **Within a city with more than four hundred thousand**
54 **inhabitants and located in more than one county; or**

55 (b) **A city not within a county;**

56 (12) **"Structure in a certified historic district", a**
57 **structure located in Missouri which is certified by the**
58 **[department of natural resources] state historic**
59 **preservation office** as contributing to the historic
60 significance of a certified historic district listed on the
61 National Register of Historic Places, or a local district
62 that has been certified by the United States Department of
63 the Interior;

64 [(9)] (13) **"Taxpayer", any person, firm, partnership,**
65 **trust, estate, limited liability company, or corporation;**

66 (14) **"Theater", any historic theater that is a**
67 **certified historic structure or is located in a historic**
68 **district;**

69 (15) **"Vacant school", any historic school that is a**
70 **certified historic structure or that is located in a**
71 **historic district.**

253.550. 1. (1) Any taxpayer incurring costs and
2 expenses for the rehabilitation of eligible property, which
3 is a certified historic structure or structure in a
4 certified historic district, may, subject to the provisions
5 of this section and section 253.559, receive a credit
6 against the taxes imposed pursuant to chapters 143 and 148,

7 except for sections 143.191 to 143.265, on such taxpayer in
8 an amount equal to twenty-five percent of the total costs
9 and expenses of rehabilitation incurred after January 1,
10 1998, which shall include, but not be limited to, qualified
11 rehabilitation expenditures as defined under Section
12 47(c)(2)(A) of the Internal Revenue Code of 1986, as
13 amended, and the related regulations thereunder, provided
14 the rehabilitation costs associated with rehabilitation and
15 the expenses exceed fifty percent of the total basis in the
16 property and the rehabilitation meets standards consistent
17 with the standards of the Secretary of the United States
18 Department of the Interior for rehabilitation as determined
19 by the [state historic preservation officer of the Missouri
20 department of natural resources] **office of the lieutenant**
21 **governor. Ten percent of such total costs and expenses of**
22 **rehabilitation upon which the tax credit is based may be**
23 **incurred for building stabilization before the taxpayer**
24 **submits the application for tax credits under sections**
25 **253.544 to 253.559.**

26 (2) Any taxpayer incurring costs and expenses for the
27 rehabilitation of eligible property that is in a qualifying
28 area and is a certified historic structure or a structure in
29 a certified historic district shall, subject to the
30 provisions of this section and section 253.559, receive a
31 credit against the taxes imposed under chapters 143 and 148,
32 excluding withholding tax imposed under sections 143.191 to
33 143.265, on such taxpayer in an amount equal to thirty-five
34 percent of the total costs and expenses of rehabilitation
35 incurred on or after July 1, 2023. Ten percent of the total
36 costs and expenses of rehabilitation upon which the tax
37 credit is based may be incurred for building stabilization
38 before the taxpayer submits the application for tax credits

39 under sections 253.544 to 253.559. Such total costs and
40 expenses of rehabilitation shall include, but not be limited
41 to, qualified rehabilitation expenditures as defined under
42 26 U.S.C. Section 47(c)(2)(A), as amended, and related
43 regulations, if:

44 (a) Such qualified rehabilitation expenditures exceed
45 fifty percent of the total basis in the property; and

46 (b) The rehabilitation meets the qualified
47 rehabilitation standards of the Secretary of the United
48 States Department of the Interior for rehabilitation of
49 historic structures.

50 (3) State historic rehabilitation standards shall not
51 be more restrictive than the Secretary of the Interior's
52 Standards for Rehabilitation set forth under 36 CFR 67.

53 2. (1) [During the period beginning on January 1,
54 2010, but ending on or after June 30, 2010, the department
55 of economic development shall not approve applications for
56 tax credits under the provisions of subsections 4 and 10 of
57 section 253.559 which, in the aggregate, exceed seventy
58 million dollars, increased by any amount of tax credits for
59 which approval shall be rescinded under the provisions of
60 section 253.559. For each fiscal year beginning on or after
61 July 1, 2010, but ending before June 30, 2018, the
62 department of economic development shall not approve
63 applications for tax credits under the provisions of
64 subsections 4 and 10 of section 253.559 which, in the
65 aggregate, exceed one hundred forty million dollars,
66 increased by any amount of tax credits for which approval
67 shall be rescinded under the provisions of section 253.559.
68 For each fiscal year beginning on or after July 1, 2018,]
69 The department [of economic development] shall not approve
70 applications for tax credits **for properties not located in a**

71 **qualified census tract** under the provisions of subsections
72 **[4] 6** and **[10] 12** of section 253.559 which, in the
73 aggregate, exceed ninety million dollars, increased by any
74 amount of tax credits for which approval shall be rescinded
75 under the provisions of section 253.559. The limitations
76 provided under this subsection shall not apply to
77 applications approved under the provisions of subsection **[4]**
78 **6** of section 253.559 for projects to receive less than **[two]**
79 **three** hundred **[seventy-five]** thousand dollars in tax
80 credits, **which number shall be annually adjusted by the**
81 **percentage increase in the Consumer Price Index for All**
82 **Urban Consumers, or its successor index, as such index is**
83 **defined and officially reported by the United States**
84 **Department of Labor, or its successor agency.**

85 (2) For each fiscal year beginning on or after July 1,
86 2018, the department shall authorize an amount up to, but
87 not to exceed, an additional thirty million dollars in tax
88 credits issued under subsections **[4] 6** and **[10] 12** of
89 section 253.559, provided that such tax credits are
90 authorized solely for projects located in a qualified census
91 tract. **Projects that receive preliminary approval that are**
92 **located within a qualified census tract may receive an**
93 **authorization of tax credit under either subdivision (1) of**
94 **this subsection or this subdivision, but such projects shall**
95 **first be authorized from the tax credit amount in this**
96 **subdivision before being authorized from the tax credit**
97 **amount in subdivision (1) of this subsection. The thirty**
98 **million dollars in tax credits provided in this subdivision**
99 **shall be annually adjusted by the percentage increase in the**
100 **Consumer Price Index for All Urban Consumers, or its**
101 **successor index, as such index is defined and officially**

102 **reported by the United States Department of Labor, or its**
103 **successor agency.**

104 (3) For each fiscal year beginning on or after July 1,
105 2018, if the maximum amount of tax credits allowed in any
106 fiscal year as provided under subdivisions (1) and (2) of
107 this subsection is authorized, the maximum amount of tax
108 credits allowed under **[subdivision (1)] subdivisions (1) and**
109 **(2)** of this subsection shall be adjusted by the percentage
110 increase in the Consumer Price Index for All Urban
111 Consumers, or its successor index, as such index is defined
112 and officially reported by the United States Department of
113 Labor, or its successor agency. Only one such adjustment
114 shall be made for each instance in which the provisions of
115 this subdivision apply. The director of the department **[of**
116 **economic development]** shall publish such adjusted amount.

117 3. (1) For all applications for tax credits approved
118 on or after January 1, 2010, no more than two hundred fifty
119 thousand dollars in tax credits may be issued for eligible
120 costs and expenses incurred in the rehabilitation of an
121 eligible property **[which] that** is a **[nonincome] non-income-**
122 **producing single-family[, owner-occupied]** residential
123 **property occupied by the taxpayer applicant or any relative**
124 **within the third degree of consanguinity or affinity of such**
125 **applicant and that** is either a certified historic structure
126 or a structure in a certified historic district.

127 (2) For all applications for tax credits, an amount
128 equal to the applicable percentage may be issued for
129 eligible costs and expenses incurred in the rehabilitation
130 of an eligible property that is a non-income-producing
131 single-family residential property occupied by the taxpayer
132 applicant or any relative within the third degree of
133 consanguinity or affinity of such applicant and that is

134 **either a certified historic structure or a structure in a**
135 **certified historic district. For properties not located in**
136 **a qualifying area, tax credits shall not be issued under**
137 **this subdivision unless the property is located in a**
138 **distressed community, as defined under section 135.530.**

139 4. The limitations on tax credit authorization
140 provided under the provisions of subsection 2 of this
141 section shall not apply to:

142 (1) Any application submitted by a taxpayer, which has
143 received approval from the department prior to October 1,
144 2018; or

145 (2) Any taxpayer applying for tax credits, provided
146 under this section, which, on or before October 1, 2018, has
147 filed an application with the department evidencing that
148 such taxpayer:

149 (a) Has incurred costs and expenses for an eligible
150 property which exceed the lesser of five percent of the
151 total project costs or one million dollars and received an
152 approved Part I from the Secretary of the United States
153 Department of Interior; or

154 (b) Has received certification, by the state historic
155 preservation officer, that the rehabilitation plan meets the
156 **qualified rehabilitation** standards [consistent with the
157 standards of the Secretary of the United States Department
158 of the Interior], and the rehabilitation costs and expenses
159 associated with such rehabilitation shall exceed fifty
160 percent of the total basis in the property.

253.557. 1. If the amount of such credit exceeds the
2 total tax liability for the year in which the rehabilitated
3 property is placed in service, the amount that exceeds the
4 state tax liability may be carried back to any of the three
5 preceding years and carried forward for credit against the

6 taxes imposed pursuant to chapter 143 and chapter 148,
7 except for sections 143.191 to 143.265 for the succeeding
8 ten years, or until the full credit is used, whichever
9 occurs first. Not-for-profit entities[,] including, but not
10 limited to, corporations organized as not-for-profit
11 corporations pursuant to chapter 355 shall be [ineligible]
12 **eligible** for the tax credits authorized under sections
13 [253.545 through 253.561] **253.544 to 253.559**. Taxpayers
14 eligible for [such] tax credits may transfer, sell, or
15 assign the credits. Credits granted to a partnership, a
16 limited liability company taxed as a partnership, or
17 multiple owners of property shall be passed through to the
18 partners, members, or owners respectively pro rata or
19 pursuant to an executed agreement among the partners,
20 members, or owners documenting an alternate distribution
21 method.

22 2. The assignee of the tax credits, hereinafter the
23 assignee for purposes of this subsection, may use acquired
24 credits to offset up to one hundred percent of the tax
25 liabilities otherwise imposed pursuant to chapter 143 and
26 chapter 148, except for sections 143.191 to 143.265. The
27 assignor shall perfect such transfer by notifying the
28 department [of economic development] in writing within
29 thirty calendar days following the effective date of the
30 transfer and shall provide any information as may be
31 required by the department [of economic development] to
32 administer and carry out the provisions of this section.

253.559. 1. To obtain approval for tax credits
2 allowed under sections [253.545] **253.544** to 253.559, a
3 taxpayer shall submit an application for tax credits to the
4 department [of economic development]. **The department shall**
5 **establish an application cycle that allows for year-round**

6 **submission and year-round receipt and review of such**
7 **applications.** Each application for approval, including any
8 applications received for supplemental allocations of tax
9 credits as provided under subsection [10] 12 of this
10 section, shall be prioritized for review and approval, in
11 the order of the date on which the application was
12 postmarked, with the oldest postmarked date receiving
13 priority. Applications postmarked on the same day shall go
14 through a lottery process to determine the order in which
15 such applications shall be reviewed.

16 2. Each application shall be reviewed by the
17 department [of economic development] for approval. In order
18 to receive approval, an application, other than applications
19 submitted under the provisions of subsection [10] 12 of this
20 section, shall include:

21 (1) Proof of ownership or site control. Proof of
22 ownership shall include evidence that the taxpayer is the
23 fee simple owner of the eligible property, such as a
24 warranty deed or a closing statement. Proof of site control
25 may be evidenced by a leasehold interest or an option to
26 acquire such an interest. If the taxpayer is in the process
27 of acquiring fee simple ownership, proof of site control
28 shall include an executed sales contract or an executed
29 option to purchase the eligible property;

30 (2) Floor plans of the existing structure,
31 architectural plans, and, where applicable, plans of the
32 proposed alterations to the structure, as well as proposed
33 additions;

34 (3) The estimated cost of rehabilitation, the
35 anticipated total costs of the project, the actual basis of
36 the property, as shown by proof of actual acquisition costs,

37 the anticipated total labor costs, the estimated project
38 start date, and the estimated project completion date;

39 (4) Proof that the property is an eligible property
40 and a certified historic structure or a structure in a
41 certified historic district **or part 1 of a federal**
42 **application or a draft national register of historic places**
43 **nomination has been submitted to the state historic**
44 **preservation office of the office of the lieutenant governor;**

45 (5) A copy of [all] land use [and building approvals
46 reasonably necessary for the commencement of the project]
47 **plans;** and

48 (6) Any other information [which] the department [of
49 economic development] may reasonably require to review the
50 project for approval.

51 Only the property for which a property address is provided
52 in the application shall be reviewed for approval. Once
53 selected for review, a taxpayer shall not be permitted to
54 request the review of another property for approval in the
55 place of the property contained in such application. Any
56 disapproved application shall be removed from the review
57 process. If an application is removed from the review
58 process, the department [of economic development] shall
59 notify the taxpayer in writing of the decision to remove
60 such application. Disapproved applications shall lose
61 priority in the review process. A disapproved application,
62 which is removed from the review process, may be
63 resubmitted, but shall be deemed to be a new submission for
64 purposes of the priority procedures described in this
65 section.

66 3. (1) In evaluating an application for tax credits
67 submitted under this section, the department [of economic
68 development] shall also consider:

69 (a) The amount of projected net fiscal benefit of the
70 project to the state and local municipality[, and the period
71 in which the state and municipality would realize such net
72 fiscal benefit] **as calculated based on reasonable methods,**
73 **which shall exclude proprietary computer models;**

74 (b) The overall size and quality of the proposed
75 project[,] including, **but not limited to:**

76 a. The estimated number of new jobs **or housing units,**
77 **or both,** to be created by the project[,];

78 b. **The estimated number of construction jobs and**
79 **professional jobs associated with the project that are**
80 **included in total project costs;**

81 c. **Capital improvements created by a project and the**
82 **potential of future capital improvements;**

83 d. **Increased revenues from sales or property taxes;**

84 e. The potential multiplier effect of the project[,];
85 and

86 f. **Other** similar factors; **and**

87 (c) [The level of economic distress in the area; and

88 (d)] Input from the local elected officials in the
89 local municipality in which the proposed project is located
90 as to the importance of the proposed project to the
91 municipality. [For any proposed project in any city not
92 within a county, input from the local elected officials
93 shall include, but shall not be limited to, the president of
94 the board of aldermen.]

95 (2) The provisions of this subsection shall not apply
96 to **vacant schools or theaters or** applications for projects
97 to receive less than [two] **three** hundred [seventy-five]

98 thousand dollars in tax credits, which number shall be
99 annually adjusted by the percentage increase in the Consumer
100 Price Index for All Urban Consumers, or its successor index,
101 as such index is defined and officially reported by the
102 United States Department of Labor, or its successor agency.

103 4. The state historic preservation office shall allow
104 for a third-party review as evidence that the proposed
105 rehabilitation satisfies the qualified rehabilitation
106 standard.

107 5. (1) The department shall promptly notify the state
108 historic preservation office of the office of the lieutenant
109 governor of each preliminary application for tax credits.
110 After receipt of such notice, the state historic
111 preservation office shall determine whether a rehabilitation
112 satisfies the qualified rehabilitation standards within
113 ninety days of a taxpayer filing an initial application for
114 tax credits. The determination shall be based upon evidence
115 that the rehabilitation will meet qualified rehabilitation
116 standards, and that evidence shall consist of one of the
117 following:

118 (a) Preliminary approval by the state historic
119 preservation office; or

120 (b) An approved part 2 of the federal application,
121 which the state historic preservation office shall forward
122 directly to the department without any additional review by
123 such office.

124 (2) If the state historic preservation office approves
125 the application for tax credits within the ninety-day
126 determination period established in subdivision (1) of this
127 subsection, such office shall forward the application with
128 any review comments to the National Park Service and shall
129 forward any such review comments to the applicant. If such

130 office fails to approve the application within the ninety-
131 day determination period, such office shall forward the
132 application without any comments to the National Park
133 Service and shall have no further opportunity to submit any
134 comments on such application.

135 (3) Conditions on a state preliminary application or
136 on part 2 of a federal application shall not delay
137 preliminary state approval but shall be addressed by the
138 applicant for final approval of such application.

139 (4) Any application for state tax credits that does
140 not include an application for federal tax credits or a
141 nomination to the federal National Register of Historic
142 Places shall be reviewed by the state historic preservation
143 office within ninety days of a notice received under
144 subdivision (1) of this subsection.

145 (5) (a) An application for state tax credits may
146 provide information indicating that the project is a phased
147 rehabilitation project as described under 26 U.S.C. Section
148 47, as amended. Such application for a phased
149 rehabilitation project shall include at least the following:

150 a. A schedule of the phases of the project with a
151 beginning date for each phase and the expected costs for the
152 whole project. The applicant may submit detailed plans for
153 the project at a later time within the application process;

154 b. The adjusted total basis of such project, which
155 shall be submitted with the schedule of phases of the
156 project; and

157 c. A statement that the applicant agrees to begin each
158 phase of such project within twelve months of the start date
159 for such phase listed in the schedule of the phases.

160 (b) The applicant may submit a preliminary
161 certification of costs upon the completion of each phase of
162 the project.

163 (c) Upon approval of the cost certification submitted
164 and the work completed on each phase of such project, the
165 department shall issue eighty percent of the amount of the
166 state tax credit for which the taxpayer is approved under
167 this section. The remaining twenty percent of the amount of
168 the state tax credit for which the taxpayer is approved
169 under this section shall be issued upon the final approval
170 of the project under this section.

171 (6) If the department determines that the amount of
172 tax credits issued to a taxpayer under subdivision (5) of
173 this subsection is in excess of the total amount of tax
174 credits such taxpayer is eligible to receive, the department
175 shall notify such taxpayer, and such taxpayer shall repay
176 the department an amount equal to such excess.

177 6. If the department [of economic development] deems
178 the application sufficient, the taxpayer shall be notified
179 in writing of the approval for an amount of tax credits
180 equal to the amount provided under section 253.550 less any
181 amount of tax credits previously approved. Such approvals
182 shall be granted to applications in the order of priority
183 established under this section and shall require full
184 compliance thereafter with all other requirements of law as
185 a condition to any claim for such credits. If the
186 department [of economic development] disapproves an
187 application, the taxpayer shall be notified in writing of
188 the reasons for such disapproval. A disapproved application
189 may be resubmitted. **If the scope of a project for which an**
190 **application has been approved under this section materially**
191 **changes, the taxpayer shall be eligible to receive**

192 additional tax credits in the year in which the department
193 is notified of and approves of such change in scope, subject
194 to the provisions of subsection 2 of section 253.550 and
195 subsection 7 of this section, if applicable; however, if
196 such project was originally approved prior to August 28,
197 2018, the department shall evaluate the change in scope of
198 the project under the criteria in effect prior to such
199 date. A change in project scope shall be considered
200 material under this subsection if:

201 (1) The project was not previously subject to a
202 material change in scope for which additional tax credits
203 were approved; and

204 (2) The requested amount of tax credits for the
205 project after the change in scope is higher than the
206 originally approved amount of tax credits.

207 [5.] 7. Following approval of an application, the
208 identity of the taxpayer contained in such application shall
209 not be modified except:

210 (1) The taxpayer may add partners, members, or
211 shareholders as part of the ownership structure, so long as
212 the principal remains [the same] a principal of the
213 taxpayer, provided however, that subsequent to the
214 commencement of renovation and the expenditure of at least
215 ten percent of the proposed rehabilitation budget, removal
216 of the principal for failure to perform duties and the
217 appointment of a new principal thereafter shall not
218 constitute a change of the principal; or

219 (2) Where the ownership of the project is changed due
220 to a foreclosure, deed in lieu of a foreclosure or voluntary
221 conveyance, or a transfer in bankruptcy.

222 [6.] 8. In the event that the department [of economic
223 development] grants approval for tax credits equal to the

224 total amount available **or authorized, as applicable,** under
225 subsection 2 of section 253.550, or sufficient that when
226 totaled with all other approvals, the amount available **or**
227 **authorized, as applicable,** under subsection 2 of section
228 253.550 is exhausted, all taxpayers with applications then
229 awaiting approval or thereafter submitted for approval shall
230 be notified by the department [of economic development] that
231 no additional approvals shall be granted during the fiscal
232 year and shall be notified of the priority given to such
233 taxpayer's application then awaiting approval. Such
234 applications shall be kept on file by the department [of
235 economic development] and shall be considered for approval
236 for tax credits in the order established in this section in
237 the event that additional credits become available due to
238 the rescission of approvals or when a new fiscal year's
239 allocation of credits becomes available for approval **or**
240 **authorized, as applicable.**

241 [7.] 9. All taxpayers with applications receiving
242 approval on or after July 1, 2019, shall submit within
243 [sixty] **one hundred twenty** days following the award of
244 credits evidence of the capacity of the applicant to finance
245 the costs and expenses for the rehabilitation of the
246 eligible property in the form of a line of credit or letter
247 of commitment subject to the lender's termination for a
248 material adverse change impacting the extension of credit.
249 If the department [of economic development] determines that
250 a taxpayer has failed to comply with the requirements under
251 this subsection, then the department shall notify the
252 applicant of such failure and the applicant shall have a
253 thirty-day period from the date of such notice to submit
254 additional evidence to remedy the failure.

255 [8.] 10. All taxpayers with applications receiving
256 approval on or after the effective date of this act shall
257 commence rehabilitation within [nine] **eighteen** months of the
258 date of issuance of the letter from the department [of
259 **economic development**] granting the approval for tax
260 credits. "Commencement of rehabilitation" shall mean that
261 as of the date in which actual physical work, contemplated
262 by the architectural plans submitted with the application,
263 has begun, the taxpayer has incurred no less than ten
264 percent of the estimated costs of rehabilitation provided in
265 the application. Taxpayers with approval of a project shall
266 submit evidence of compliance with the provisions of this
267 subsection. **Taxpayers shall notify the department of any**
268 **loss of site control or of any failure to exercise any**
269 **option to obtain site control within the prescribed time**
270 **period within ten days of such loss or failure.** If the
271 department [of economic development] determines that a
272 taxpayer has **lost or failed to obtain site control of the**
273 **eligible property or otherwise** failed to comply with the
274 requirements provided under this section, the approval for
275 the amount of tax credits for such taxpayer shall be
276 rescinded [and such amount of tax credits]. **A taxpayer may**
277 **voluntarily forfeit such approval at any time by written**
278 **notice to the department. Any approval rescinded or**
279 **forfeited under this subsection** shall then be included in
280 the total amount of tax credits **available in the year of**
281 **such rescission or forfeiture**, provided under subsection 2
282 of section 253.550, from which approvals may be granted.
283 Any taxpayer whose approval [shall be subject to rescission]
284 **is rescinded or forfeited under this subsection** shall be
285 notified of such from the department [of economic
286 **development**] and, upon receipt of such notice, may submit a

287 new application for the project. If a taxpayer's approval
288 is rescinded or forfeited under this subsection and such
289 taxpayer later submits a new application for the same
290 project, any expenditures eligible for tax credits under
291 section 253.550 that are incurred by such taxpayer from and
292 after the date of the rescinded or forfeited approval shall
293 remain eligible expenditures for the purposes of determining
294 the amount of tax credits that may be approved under section
295 253.550.

296 [9.] 11. (1) (a) To claim the credit authorized
297 under sections [253.550] 253.544 to 253.559, a taxpayer with
298 approval shall apply for final approval and issuance of tax
299 credits from the department [of economic development],
300 which[, in consultation with the department of natural
301 resources,] shall determine the final amount of eligible
302 rehabilitation costs and expenses and whether the completed
303 rehabilitation meets the **qualified rehabilitation** standards
304 of the Secretary of the United States Department of the
305 Interior for rehabilitation [as determined by the state
306 historic preservation officer of the Missouri department of
307 natural resources].

308 (b) Final approval shall be shown by one of the
309 following:

310 a. Final approval by the state historic preservation
311 office; or

312 b. An approved part 3 of the federal application.

313 (c) For applications for tax credits for an eligible
314 property for which a taxpayer applies for both the federal
315 historic preservation certification under the Internal
316 Revenue Code of 1986, as amended, and the state historic tax
317 credits under section 253.544 to 253.559, a taxpayer may
318 submit part 1 of the federal application approved by the

319 National Park Service with such state tax credit
320 application. In such instances, the state tax credit
321 application may proceed as a preliminary application
322 concurrent with the associated federal process for
323 nomination to the National Register of Historic Places. An
324 award of tax credits under sections 253.544 to 253.559 shall
325 be contingent on and awarded upon the listing of such
326 eligible property on the National Register of Historic
327 Places.

328 (d) The state historic preservation office shall allow
329 for a third-party review as evidence that the completed
330 rehabilitation satisfies the qualified rehabilitation
331 standards.

332 (2) Within sixty days of the department's receipt of
333 all materials required by the department for an application
334 for final approval and issuance of tax credits, which shall
335 include a state approval by the state historic preservation
336 office or an approved part 3 of the federal application for
337 projects receiving federal rehabilitation credits, the
338 department shall issue to the taxpayer tax credit
339 certificates in the amount of seventy-five percent of the
340 lesser of:

341 (a) The total amount of the tax credits for which the
342 taxpayer is eligible as provided in the taxpayer's
343 certification of qualified expenses submitted with an
344 application for final approval; or

345 (b) The total amount of tax credits approved for such
346 project under subsection 3 of this section, including any
347 amounts approved in connection with a material change in
348 scope of the project.

349 (3) Within one hundred twenty days of the department's
350 receipt of all materials required by the department for an

351 application of final approval and issuance of tax credits
352 for a project, the department shall, unless such project is
353 under appeal under subsection 14 of this section:

354 (a) Make a final determination of the total costs and
355 expenses of rehabilitation and the amount of tax credits to
356 be issued for such costs and expenses;

357 (b) Notify the taxpayer in writing of its final
358 determination; and

359 (c) Issue to the taxpayer tax credit certificates in
360 an amount equal to the remaining amount of tax credits such
361 taxpayer is eligible to receive, as determined by the
362 department, but was not issued in the initial tax credit
363 issuance under subdivision (2) of this subsection.

364 (4) If the department determines that the amount of
365 tax credits issued to a taxpayer in the initial tax credit
366 issuance under subdivision (2) of this subsection is in
367 excess of the total amount of tax credits such taxpayer is
368 eligible to receive, the department shall notify such
369 taxpayer, and such taxpayer shall repay the department an
370 amount equal to such excess.

371 (5) For financial institutions credits authorized
372 pursuant to sections [253.550 to 253.561] 253.544 to 253.559
373 shall be deemed to be economic development credits for
374 purposes of section 148.064. The approval of all
375 applications and the issuing of certificates of eligible
376 credits to taxpayers shall be performed by the department
377 [of economic development]. The department [of economic
378 development] shall inform a taxpayer of final approval by
379 letter and shall issue, to the taxpayer, tax credit
380 certificates. The taxpayer shall attach the certificate to
381 all Missouri income tax returns on which the credit is
382 claimed.

383 [10.] 12. Except as expressly provided in this
384 subsection, tax credit certificates shall be issued in the
385 final year that costs and expenses of rehabilitation of the
386 project are incurred, or within the twelve-month period
387 immediately following the conclusion of such
388 rehabilitation. In the event the amount of eligible
389 rehabilitation costs and expenses incurred by a taxpayer
390 would result in the issuance of an amount of tax credits in
391 excess of the amount provided under such taxpayer's approval
392 granted under subsection [4] 6 of this section, such
393 taxpayer may apply to the department for issuance of tax
394 credits in an amount equal to such excess. Applications for
395 issuance of tax credits in excess of the amount provided
396 under a taxpayer's application shall be made on a form
397 prescribed by the department. Such applications shall be
398 subject to all provisions regarding priority provided under
399 subsection 1 of this section.

400 [11.] 13. The department [of economic development]
401 shall determine, on an annual basis, the overall economic
402 impact to the state from the rehabilitation of eligible
403 property.

404 14. (1) With regard to an application submitted under
405 sections 253.544 to 253.559, an applicant or an applicant's
406 duly authorized representative may appeal any official
407 decision, including all preliminary or final approvals,
408 denials of approvals, or dollar amounts of issued tax
409 credits, made by the department of economic development or
410 the state historic preservation office. Such an appeal
411 shall constitute an administrative review of the decision
412 and shall not be conducted as an adjudicative proceeding.

413 (2) The department shall establish an equitable
414 appeals process.

415 (3) The appeals process shall incorporate an
416 independent review panel consisting of members of the
417 private sector and the department.

418 (4) The department shall name an independent appeals
419 officer as chair.

420 (5) An appeal shall be submitted to the designated
421 appeals officer or review panel in writing within thirty
422 days of receipt by the applicant or the applicant's duly
423 authorized representative of the decision that is the
424 subject of the appeal and shall include all information the
425 appellant wishes the appeals officer or review panel to
426 consider in deciding the appeal.

427 (6) Within fourteen days of receipt of an appeal, the
428 appeals officer or review panel shall notify the department
429 of economic development or the state historic preservation
430 office that an appeal is pending, identify the decision
431 being appealed, and forward a copy of the information
432 submitted by the appellant. The department of economic
433 development or the state historic preservation office may
434 submit a written response to the appeal within thirty days.

435 (7) The appellant shall be entitled to one meeting
436 with the appeals officer or review panel to discuss the
437 appeal, and the appeals officer or review panel may schedule
438 additional meetings at the officer's or panel's discretion.
439 The department of economic development or the state historic
440 preservation office may appear at any such meeting.

441 (8) The appeals officer or review panel shall consider
442 the record of the decision in question; any further written
443 submissions by the appellant, department of economic
444 development, or state historic preservation office; and
445 other available information and shall deliver a written
446 decision to all parties as promptly as circumstances permit

447 but no later than ninety days after the initial receipt of
448 an appeal by the appeals officer or review panel.

449 (9) The appeals officer and the members of the review
450 panel shall serve without compensation.

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