

DEPARTMENT OF HIGHER EDUCATION

Historical Society

INCOME TAX CREDIT FOR QUALIFIED COSTS INCURRED IN PRESERVATION OF HISTORIC PROPERTIES

8 CCR 1504-6

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

STATEMENT OF BASIS AND PURPOSE:

House Bill 90-1033 required the establishment and promulgation of criteria and procedures by which restoration, rehabilitation and preservation of qualified properties shall be determined to be qualified rehabilitation for purposes of a tax credit. House Bill 99-1345, which reauthorizes with amendments the tax credit through December 31, 2009, maintained this provision as does House Bill 08-1033 which reauthorizes with amendments the tax credit through December 31, 2019.

The purpose of the criteria and procedures is to provide uniformity of procedure for the state historic preservation officer, State Historical Society of Colorado, and the participating certified local governments, so that taxpayers applying for use of the tax credit receive prompt and consistent review of proposed and completed rehabilitation work.

1. IMPLEMENTATION

- 1.1 These criteria and procedures implement House Bill 90-1033, as amended by House Bill 99-1345 and House Bill 08-1033, and should be used and read in conjunction with the law. All definitions found in CRS 39-22-514 (12) are incorporated by reference herein.
- 1.2 The 1999 amendments to the tax credit statute made in House Bill 99-1345 shall apply only to those projects commenced on or after June 3, 1999.
- 1.3 Since review of restoration, rehabilitation, or preservation of qualified properties may be made by a participating certified local government or the state historic preservation officer, the criteria and procedures are uniform for all reviewing entities. All forms shall be furnished by the state historical society.
- 1.4 The term "rehabilitation" used in these criteria and procedures includes restoration and preservation.

2. APPLICATION TO REVIEWING ENTITY

- 2.1 Application for preliminary approval of proposed rehabilitation work shall be made on the form developed by the state historical society, and available from the reviewing entity. At the time of submittal of an application form to the reviewing entity, the applicant shall also pay the initial, non-refundable \$250 fee, unless the fee has been reduced or eliminated by the reviewing entity for rehabilitation work when qualified costs are less than \$15,000, and shall provide plans, photographs and specifications for the proposed rehabilitation work. CRS 39-22-514 (3)(a) (I)
- 2.2 Applications for rehabilitation work may include qualified costs already incurred prior to granting preliminary approval, provided that:

- (a) The reviewing entity finds that the applicant's documentation for the already completed work demonstrates conformity with the Secretary of the Interior's Standards for Rehabilitation and any applicable local standards;
- (b) The reviewing entity finds that any additional documentation requested of the applicant, including photographic documentation, demonstrates conformity with the Secretary of the Interior's Standards for Rehabilitation and any applicable local standards; and,
- (c) Receipts for goods and services prove that qualified costs were for rehabilitation work performed on or after June 3, 1999 of and within the twenty-four (24) months period following commencement of the work during which the work must be completed. CRS 39-22-514 (3)(a)(I).

2.3 The state historical society's application form shall include, but shall not be limited to: applicants) name, address (business and residence), and telephone number (business and residence); address of the property proposed for rehabilitation; applicant(s) status as owner or tenant; estimated, itemized costs of the proposed rehabilitation work; a description of the work to be done, as detailed in the plans and specifications; and the applicant's signed approval to allow the reviewing entity reasonable access to the property.

2.4 The state historical society's application form shall be used by each certified local government serving as reviewing entity, and shall be modified by that local government to show the name, address and telephone of that certified local government.

3. RESPONSE BY REVIEWING ENTITY

3.1 Upon receipt of an application, the reviewing entity shall respond in writing within ten (10) calendar days, as to the apparent completeness of the application.

3.2 Within forty-five (45) calendar days of receipt of a complete application, the reviewing entity shall notify the applicant in writing of its decision to: grant preliminary approval, deny approval, or table the application pending receipt of specified additional materials or information.

4. CONTRIBUTING PROPERTY

4.1 "Contributing property" shall include any property within a designated historic district unless it is decided by the reviewing entity that the property does not contribute to the district's sense of time and place and historical development.

4.2 An applicant may appeal a decision that a property is not a contributing property within sixty (60) calendar days of notification of such decision by providing additional information to the reviewing entity on the significance of the property and requesting a final review on the basis of the additional information. The reviewing entity shall issue its final decision within forty-five (45) calendar days of receipt of the additional information.

5. QUALIFIED COSTS

5.1 "Qualified costs" and "qualified rehabilitation" are defined and listed in CRS 39-22-514 (12)(e)(g).

5.2 Improvements undertaken due to normal wear and tear on a property do not qualify nor does routine or periodic maintenance, such as cleaning, routine painting, minor repairs, general periodic upkeep, redecorating or any purely cosmetic change that is not part of an overall rehabilitation or that does not enhance the property's historic character.

5.3 Rehabilitation work on hard surfaces of landscaping is a qualified cost, but work on vegetative landscaping is not a qualified cost.

5.4 Restoration of documented missing features such as dormers and porches is a qualified cost and is not considered an addition.

6. APPROVAL OF COMPLETED QUALIFIED REHABILITATION

6.1 Within sixty (60) days of completion of the rehabilitation work described in the approved application as evidenced by appropriate documentation, the applicant shall submit the request for approval of the completed rehabilitation work.

6.2 Requests for approval of the completed rehabilitation work shall be made on the form developed by the state historical society, and available from the reviewing entity. At the time of submittal of such request, the applicant shall also submit to the reviewing entity: payment of the non-refundable fee required in CRS 39-22-514(11)(a); interior and exterior photographs documenting the completed rehabilitation work; and an itemized accounting of all qualified costs incurred on qualified rehabilitation work.

6.3 The state historical society's form for requesting approval of completed rehabilitation work shall include, but shall not be limited to: applicant(s) name, address (business and residence), and telephone (business and residence); address of the property rehabilitated; applicant(s) status as owner or tenant; an itemized list of qualified costs incurred on qualified rehabilitation work; and the applicant's signed approval to allow the reviewing entity reasonable access to the property.

6.4 The state historical society's form for requesting approval of the completed rehabilitation work shall be used by each certified local government serving as a reviewing entity, and shall be modified by that local government to show the name, address and telephone of that certified local government.

7. VERIFICATION OF COMPLIANCE

7.1 The state historical society shall develop a verification form containing the information included in CRS 39-22-514(3)(a)(III).

7.2 The state historical society's verification form shall be used by each certified local government serving as a reviewing entity, and shall be modified by that local government to show the name, address and telephone of that certified local government.

7.3 Within forty-five (45) calendar days of receipt of a complete request for approval of completed rehabilitation work, the reviewing entity shall review and respond to the request.

7.4 If the completed rehabilitation meets the provisions of CRS 39-22-514(3)(a)(III)(A)(B)(C), the verification form shall be issued within the forty-five (45) day period.

7.5 If the completed rehabilitation fails to meet the provisions of law cited in 7.4, no verification form shall be issued, and the applicant shall be informed of such decision in writing within the forty-five (45) day period.

8. EXTENSION OF COMPLETION DEADLINE

8.1 Requests for a one time extension of the twenty-four (24) month deadline for the completion of qualified rehabilitation work shall be submitted to the reviewing entity in writing at least sixty (60) days prior to the end of the twenty-four (24) month period. CRS 39-22-514 (5)

8.2 Within forty-five (45) calendar days of the receipt of the written extension request, the reviewing entity shall respond in writing either approving or denying such request.

9. CERTIFIED LOCAL GOVERNMENTS AS REVIEWING ENTITIES

9.1 House Bill 08-1033 eliminated the requirement for each certified local government to determine annually by resolution whether or not it will act as a reviewing entity for the following year and provides that each certified local government's decision to review or not to review projects locally is effective until and unless it is changed by the certified local government by resolution.

9.2 A reviewing entity may establish an appeal process for a decision failing to grant a preliminary approval or final approval in full or in part. The appeal from decisions of the Office of Archaeology and Historic Preservation should be made in writing to the state historic preservation officer within thirty (30) days of the decision. The state historic preservation officer shall respond within thirty (30) days of receipt of the appeal.

10. TAX CREDIT MAY NOT BE TAKEN IN YEARS WHEN PROJECTED GENERAL FUND REVENUES ARE INSUFFICIENT

10.1 For income tax returns prepared for calendar year 2011 and years thereafter, the tax credit may not be taken if general fund revenue estimates prepared by the legislative council in December 2010 and each December thereafter for each succeeding year indicates the general fund is insufficient to maintain the limit on appropriations as determined by the legislature in 24-75-201.1, and 39-22-514 (11.7) C.R.S. However, the tax credit may then be taken in years in which funds are sufficient.

10.2 The Department of Revenue is required to post on its website by January 1 of each year starting January 1, 2011 whether or not the tax credit may be taken for that year. The Colorado Historical Society shall notify certified local governments of the determination after it is posted.

Editor's Notes

History

Entire rule eff. 12/30/2009.