Colorado Historic Preservation Income Tax Credit

(Updated January 2020)

AVAILABLE PROGRAMS

The Colorado Job Creation and Main Street Revitalization Act of 2014 (CRS 39-22-514.5) offers a 20 –35 percent tax credit for the rehabilitation of a qualified commercial (income-producing) property, as well as a 20 – 35 percent credit for the rehabilitation of a qualified residential (owner-occupied) property. This law currently expires on **December 31, 2029**.

The Historic Preservation Tax Credit Act of 1990 (CRS 39-22-514), which offered a 20 percent tax credit for the rehabilitation of a qualified historic property, **expired on December 31, 2019**. It is no longer available. Applicants who received tax credits under this program prior to its expiration can continue to claim any remaining credits they hold.

WHICH CREDIT TO USE?

The Colorado Job Creation and Main Street Revitalization Act of 2014 offers two options for taxpayers, depending on how they use their property:

(1) Owner-occupied residential properties are eligible for up to $50,000 in tax credits. Primary homes, second homes, vacation homes, and other properties where the taxpayer is the sole user of the property all fall under the residential credit program.
(2) Income-producing properties are eligible for up to $1,000,000 in tax credits per year. Office, retail, rental residential, industrial, agricultural, and other commercial uses fall under this program.

ELIGIBLE PROPERTIES

Eligible properties must be:

- At least 50 years old, AND;
- Historically designated by being:
    - Listed on the National Register of Historic Places
    - Listed on the Colorado State Register of Historic Properties
    - Listed as a Historic Landmark by a Certified Local Government (CLG)*
    - Designated as a "contributing property" in a historic district that is listed on the National Register, State Register, or landmarked by a CLG

*As of January 2020, Colorado has 64 Certified Local Governments. A full list of these CLGs can be found at the end of this document.

ELIGIBLE TAXPAYERS

The 2014 credit expands the availability of the program to:

- Property owners
- Tenants of residential properties with a lease of at least 5 years
- Tenants of commercial properties with a lease of at least 5 years (rural areas) or 39.5 years (urban areas)*
- Potential buyers of a historic property who have a purchase agreement or an option to purchase

*For the definitions of "rural" and "urban" areas, refer to the section on Rural and Urban areas at the end of this document

ELIGIBLE PROJECTS

- Projects must involve physical preservation, restoration, or rehabilitation and must preserve the historic character of the property
- Projects can retain the original use of the building or adopt the building for a new use
- Projects must meet the Secretary of the Interior's Standards for Rehabilitation; The entire project must meet the "Standards," not simply the portion on which you hope to obtain credits.

ELIGIBLE EXPENDITURES

Tax credits are calculated as 20 – 35 percent of Qualified Rehabilitation Expenditures.

- Qualified rehabilitation expenditures for commercial properties are defined by the Internal Revenue Service (under Section 47(c)(2)(A) of the Internal Revenue Code)
- Qualified rehabilitation expenditures for residential properties are defined by state law (under CRS 39-22-514.5(2)(k))- repair or replacement (when the Standards allow) of roof, exterior siding, masonry, windows, doors, woodwork & trim, foundation & related excavation, electrical, plumbing & HVAC systems, interior walls & ceilings and their finishes, interior woodwork & trim when existing, insulation, and floor materials except carpet. Reconstruction of documented missing historic elements is allowed.
- Qualified rehabilitation expenditures typically do not cover the following:
    - "Soft costs" such as: appraisals; design fees; legal, accounting, and realtor fees; building permit, use, and inspection fees; insurance; and rent loss during construction
    - Acquisition costs
    - New additions or enlargements
    - Excavation, grading, paving, and landscaping

EXTENT OF TAX SAVINGS

Tax credits directly reduce (dollar for dollar) the amount of income tax owned by the taxpayer in a given tax year. Available credits for all programs can be carried forward for up to ten years. Taxpayers can reduce the amount of state income tax credit they owe to zero if they have the available credits to do so.

- The 2014 credit for residential properties is calculated as 20% of the Qualified Rehabilitation Expenditures, with a cap of $50,000 in credits per property. However, this is not a lifetime cap. It resets to zero upon sale of the property to a new owner or after ten years.
- The 2014 credit for commercial properties is calculated as 25% of all Qualified Rehabilitation Expenditures under $2 million, and 20% of all Qualified Rehabilitation Expenditures above $2 million. For example, an owner who spends $1,000,000 in qualified rehabilitation expenditures would receive $250,000 in tax credits (25%), while an owner who spends $3,000,000 would receive $700,000 (25% on the first $2 million and 20% on the remaining $1 million). The commercial credit is capped at $1 million per project, per property, per year. There is no lifetime cap.
- Residential and commercial properties under the 2014 credit can receive an additional 5% "bonus credit" if they are located in a county that has been declared

a Federal or State Disaster Area.* The property owner is still limited to a maximum of $50,000 (residential) or $1,000,000 (commercial) in credits.

- For projects that began on or after January 1st, 2020, residential and commercial properties under the 2014 credit can receive an additional 10 - 15% “bonus credit” if they are located in a Rural Area, as defined by state law. Again, the property owner is limited to a maximum of $50,000 (residential) or $1,000,000 (commercial) in credits.
- Taxpayers cannot claim both the “disaster” and “rural” bonuses described above, even if they qualify for both. They must choose one or the other.

*Note: A list of areas that are eligible for the “disaster” and “rural” bonuses can be found at the end of this document

MINIMUM EXPENDITURES

- The costs associated with the rehabilitation of a residential property must exceed $5,000
- The costs associated with the rehabilitation of a commercial property must exceed 25% of the *adjusted basis* of the property. This basis is defined by state law as being “the purchase price of the qualified commercial structure less the value attributed to the land”
- **For commercial rehabilitation projects commencing on or after January 1, 2020**, the costs associated with the rehabilitation must exceed $20,000 (the adjusted basis method described above will no longer be used after December 31, 2019)

EFFECTIVE DATES

- The 2014 credit came into effect on July 1, 2015, and is currently in effect through **December 31, 2029**.
- The 1990 credit came into effect on January 1, 1991, and expired on **December 31, 2019**. Taxpayers are no longer able to submit new applications for this credit.

ASSOCIATED FEES

- The 2014 credit allows reviewing entities to charge a “reasonable application fee” for the review of residential projects, but does not specify a maximum or minimum fee. This fee is charged at the start of the project review period. The state of Colorado, and most local reviewing entities, charge the same fee for the 2014 credit as they did for the 1990 credit listed below ($0 to $1,000, depending on cost)
- The 2014 credit allows reviewing entities to charge a review fee not exceeding $500 for the review of commercial projects
- Under the 2014 credit, commercial projects are also subject to an additional fee upon the completion of the project and the issuance of tax credits. This additional fee is 3% of the value of the credits issued. For example, a commercial project with $1 million in qualified rehabilitation expenditures would receive a tax credit of $250,000. This would be subject to a 3% “issuance fee” (or $7,500).

APPLICATION PROCEDURES

- For residential properties, projects are reviewed by the Certified Local Government (CLG) or, in the absence of a participating CLG, by History Colorado:

  - The applicant submits preliminary work plans along with current photos to the reviewing entity and pays an application fee (if required)
  - The reviewing entity reviews the proposed scope of work and, if it meets the program requirements, notifies the applicant that the project has preliminary approval
  - Upon completion of the project, the applicant submits final paperwork, including project costs and photographs of completed work, and pays any required fees
  - The reviewing entity reviews the final paperwork to confirm that the work performed was done in accordance with the previously-approved preliminary application.
  - The reviewing entity certifies the work as completed and meeting the requirements of the program, and a tax credit is issued to the applicant
- Under the 2014 credit, all applications for commercial properties are reviewed by the Colorado Department of Economic Development and International Trade (OEDIT) and by History Colorado:
  - The applicant submits preliminary work plans to the OEDIT through that agency's web site (www.advancecolorado.com)
  - OEDIT and History Colorado review the proposed scope of work to certify that it meets program requirements
  - Upon approval, OEDIT reserves a portion of that year's available "pool" of tax credit funding to the applicant. If the "pool" of funding has been reduced to zero, the applicant will be notified and will automatically be placed in line for the next year's funding.
  - Upon completion of the project, the applicant submits final paperwork, including project costs and photographs of the completed work. All project costs must be audited by a Certified Public Accountant not affiliated with the owner and submitted to OEDIT.
  - OEDIT and History Colorado review the final paperwork to ensure compliance with the program requirements
  - OEDIT and History Colorado certify the project as complete. OEDIT issues a tax credit certificate to the applicant

PROJECT TIMING

- Under the 2014 credit, all residential projects are also accepted on a rolling, year-round basis.
- Under the 2014 credit, commercial projects are also accepted on a rolling, year-round basis. <u>However</u>, the total amount of available credits for a given year is limited by the amount of money that has been set aside by the State Legislature for that year:
  - For 2017 through 2029, $5 million for projects qualified costs of under $2 million and $5 million for projects with qualified costs of over $2 million
- Because the "pool" of available money in any given year is limited, applicants are encouraged to apply for the credit as early as possible during the Calendar Year). If the "pool" is depleted during a given year, later applicants will be notified of this fact and will be placed in line for the next year's allocation of credits.

PROJECT LENGTH

- The 2014 credit eliminates time limits for residential and commercial projects. However, applicants for the commercial credit must meet several milestones to keep their allocation of credits:
  - The project must be at least 20% complete within 18 months of approval;

- The applicant must complete at least 10% of the total work every year
- All updates must be submitted to OEDIT in order to keep the allocation of credits
- Projects that do not meet these timetables may lose their credits. Lost credits are returned to the “pool” for use by other applicants.

♦ Because the 2014 credit currently sunsets at the end of 2029, and because the State has not yet set aside any funding for Fiscal Year 2030 for the credit, all applicants should plan on completing their projects before December 31, 2032, three years after the official end of the 2014 credit program Projects completed after this date may not be able to claim and use credits even if a preliminary allocation of credits was obtained.

SUBMISSION DEADLINES

♦ For the 2014 residential credits, initial applications for projects underway prior to submittal can include work performed up to 24 months prior to submittal if documented
♦ For the 2014 commercial credits, initial applications for projects underway prior to submittal can include work performed up to 90 days prior to submittal if documented.
♦ History Colorado and OEDIT recommend that initial applications be submitted prior to beginning work to ensure that all work to be completed does meet the Secretary of the Interior’s Standards for Rehabilitation
♦ For both residential and commercial projects, submission of a Part II (project completion) application must be submitted to OEDIT (commercial) or the reviewing entity (CLG or History Colorado no later than 90 days after project completion. Final applications submitted after this time will not be accepted.

SALE OF CREDITS

The 2014 credit allows commercial property owners, non-profits, and (long-term) lease holders to sell or transfer tax credits that they have obtained to other Colorado taxpayers. Holders of tax credits can sell or transfer all or part of their credits to other Colorado taxpayers at any time. In addition, “Colorado taxpayers” refers only to taxpayers (individuals, corporations, etc.) who have a state tax liability; they do not have to be physically located or headquartered in Colorado. Buyers of tax credits may, in turn, sell or transfer them to a third party without penalty.

The sale of credits applies only to the commercial historic tax credit program. Taxpayers who obtained a credit for the rehabilitation of an owner-occupied residential property are not able to sell or transfer their credits. Taxpayers who obtained tax credits through the expired 1990 program are also not able to sell or transfer their credits.

CERTIFIED LOCAL GOVERNMENTS
(updated January 2020)

The following cities and counties are designated as Certified Local Governments. These governments have the power to designate properties as historic landmarks (and to create historic districts); under state law, these designated properties may be eligible for historic tax credits.

Certified Local Governments have the authority to review and approve residential (but not commercial) historic tax credit projects. Local governments can choose to review or to not review applications. In cases where the local government has chosen not to review tax credit projects, and in communities that are not Certified Local Governments, History Colorado will provide the review instead.

Certified Local Governments:

Alamosa
Aspen
Aurora^
Berthoud
Black Hawk^
Boulder^
Boulder County
Breckenridge
Brighton
Broomfield
Brush
Buena Vista
Carbondale
Castle Rock^
Central City
Colorado Springs
Cortez
Crested Butte^
Cripple Creek
Denver^
Durango^
Elizabeth
Erie
Florence
Fort Collins
Fort Lupton
Georgetown^
Gilpin County
Glenwood Springs
Golden
Greeley^
Gunnison County
Idaho Springs
Kiowa County
La Junta^
La Veta
Lafayette
Lake City^
Lakewood
Lamar
Leadville
Littleton^
Longmont^
Louisville
Loveland
Manitou Springs^
Montrose
New Castle
Northglenn
Otero County
Pagosa Springs^
Park County
Pueblo
Saguache^
Salida
Starkville^
Steamboat Springs^
Telluride^
Trinidad
Walsenburg
Westminster
Windsor
Woodland Park
Yuma

(^ This Certified Local Government reviews applications for 2014 historic preservation tax credits)

FEDERAL AND STATE DISASTER AREAS (updated January 2020)

Sections 5.5(a)(II) and 8(c)(II) of the Colorado Job Creation and Main Street Revitalization Act of 2014 (CRS 39-22-514.5) allow tax credit applicants to claim an additional 5% credit if they are located in a county that has been declared:

- A major disaster area under Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 512), or;
- A disaster area under Article 7 of the Colorado Disaster Emergency Act (CRS 24-33.5-700)

An area is declared to be a major disaster area under the Stafford Act by proclamation of the President of the United States. Similarly, an area is declared to be a disaster area under the Colorado Disaster Emergency Act by proclamation of the Governor of Colorado. Other disaster declarations, such as those made by the U.S. Department of Agriculture, do not qualify properties for this bonus.

Disaster areas, for the purposes of the Colorado Job Creation and Main Street Revitalization Act, are determined to be county-wide in scope. For example, if the Governor of Colorado declares a disaster area in a portion of a given county, all properties within that county are eligible for the additional 5% credit.

NOTE: Under state law, the additional 5% credit only applies to projects that begin with six years of the date the disaster is declared.

In addition, the additional 5% credit does not allow the total allocation of tax credits to rise above the mandated project caps for projects, which are $50,000 for residential projects and $1,000,000 for commercial projects.

This bonus cannot be combined with the 10% rural bonus (see below).

LIST OF COUNTIES
(Note: counties listed in **bold** will have their disaster provision expire in calendar year 2020)

County	Designation	Declared	Expires
Adams	State	4/20/2019	4/20/2025
Arapahoe	State	4/20/2019	4/20/2025
Baca	Federal	7/15/2015	7/15/2021
Bent	State	5/26/2017	5/26/2023
Boulder	State	6/23/2017	6/23/2023
Costilla	State	3/18/2019	3/18/2025
Custer	State	5/26/2017	5/26/2023
Delta	State	3/18/2019	3/18/2025
Douglas	State	4/3/2019	4/3/2025
Eagle	State	8/3/2018	8/3/2024
Elbert	State	4/20/2019	4/20/2025
El Paso	State	4/20/2019	4/20/2025
Fremont	State	5/26/2017	5/26/2023
Garfield	State	7/16/2018	7/16/2024
Grand	State	10/10/2018	10/10/2024
Hinsdale	State	4/3/2019	4/3/2025
Huerfano	State	3/18/2019	3/18/2025
Jefferson	State	4/20/2019	4/20/2025
Larimer	State	4/20/2019	4/20/2025
La Plata	State	6/15/2018	6/15/2024
Las Animas	State	7/16/2018	7/16/2024

County	Designation	Declared	Expires
Logan	State	4/20/2019	4/20/2025
Moffat	State	7/24/2018	7/24/2024
Montrose	State	7/16/2018	7/16/2024
Morgan	State	4/20/2019	4/20/2025
Otero	State	5/26/2017	5/26/2023
Park	State	7/24/2018	7/24/2024
Phillips	State	4/20/2019	4/20/2025
Pueblo	State	5/26/2017	5/26/2023
Rio Blanco	State	9/7/2018	9/7/2024
Routt	State	10/20/2017	10/20/2023
Saguache	Federal	7/15/2015	7/15/2021
San Juan	State	6/15/2018	6/15/2024
Sedgwick	State	4/20/2019	4/20/2025
Teller	State	7/24/2018	7/24/2024
Washington	Federal	7/15/2015	7/15/2021
Weld	State	6/23/2017	6/23/2023
Yuma	Federal	7/15/2015	7/15/2021

RURAL AND URBAN AREAS
(updated January 2020)

Subsections 5.5(a)(II) and 8(c)(III) of the Colorado Job Creation and Main Street Revitalization Act of 2014 (CRS 39-22-514.5) allow tax credit applicants to claim an additional 10% credit (for commercial properties) or 15% credit (for residential properties), beginning January 1, 2020 if they are located within a Rural Area, as defined by Subsections 2(d.3) and 2(o.5) of the law. Lease holders of commercial properties in these defined Rural Areas may also be eligible for tax credits if they have a leasehold interest of not less than five years as found in Subsection 2(i)(III.5).

Under Sections 2(d.3) and 2(o.5) of the law, a Rural Area is defined as:

- A property that is located in a municipality that has a population of under 50,000 residents and is not located within the Denver Metropolitan Area, or;
- A property that is located in an unincorporated area of a county that has a total countywide population of under 50,000 residents and is not located within the Denver Metropolitan Area;
- The “Denver Metropolitan Area” is defined as the following counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Jefferson, and Douglas, with the exception of the towns of Castle Rock and Larkspur.
- Population is measured by the most recent national census, which is currently the 2010 census. Data from the 2020 census will become available in early 2021.

In general, this means that taxpayers <u>cannot</u> take this bonus credit if:

- Their property is located within the boundaries of Adams, Arapahoe, Boulder, Broomfield, Denver, or Jefferson Counties (these counties are part of the Denver Metropolitan Area).
- Their property is located in an unincorporated area of Eagle, El Paso, Garfield, La Plata, Mesa, or Weld Counties (these counties exceeded 50,000 in population at the time of the 2010 census);
- Their property is located within the city/town limits of: Colorado Springs, Fort Collins, Grand Junction, Greeley, Longmont, Loveland, Pueblo, or Thornton (these cities exceeded 50,000 in population at the time of the 2010 census);
- Their property is located in Douglas County, but is outside of the town limits of Castle Rock and Larkspur (Douglas County, excluding Castle Rock and Larkspur, is part of the Denver Metropolitan Area).

Taxpayers who are eligible for both the bonus for being located in a “disaster county” and the bonus for being located in a “rural area” cannot claim both bonuses. They must choose one or the other.

In addition, these additional bonuses do not allow the total allocation of tax credits to rise above the mandated project caps for projects, which are $50,000 for residential projects and $1,000,000 for commercial projects.