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Council Recommends Rehab of Federal Historic Tax Credit Program, States Consider Historic Tax Credit Legislation

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The Historic Preservation Development Council (HPDC) last month released a set of industry recommendations meant to streamline and improve the administration of the federal historic rehabilitation tax credit program. The recommendations were announced by HPDC Executive Director Peter Bell at the National Council of State Historic Preservation Officers' Annual Meeting in Washington, D.C.

The federal historic rehabilitation tax credit is a one-time, federal income tax credit claimed by developers and/or investors for 20 percent of the costs of rehabilitating buildings designated as historic by the federal government, or located in a national historic district. Buildings may be residential, commercial or industrial to qualify for the tax credit. Rehabilitation plans for projects must be approved by the National Park Service (NPS), which administers the historic credit program with the Internal Revenue Service. The National Housing & Rehabilitation Association (NHRA) reports that the NPS received a copy of the recommendations and was expected to respond early this month.

Last year, the HPDC, a membership council within the NHRA that operates in cooperation with the National Trust for Historic Preservation, convened a working group to analyze the use and interpretation of the Secretary of the Interior's Standards for Rehabilitation and to discuss ways in which the administration of the tax credit program might be enhanced. The Secretary's Standards provide guidance to developers on the proper techniques for rehabilitating historic properties. The NPS and state historic preservation officers (SHPOs) review every tax credit project to make sure the intended rehabilitation complies with the Secretary's Standards.

The working group featured a diverse cross section of historic rehabilitation professionals, including architects, developers, building contractors, attorneys, preservation consultants, accountants, SHPOs and public policy experts.

NHRA says the resulting recommended changes are intended to identify areas that deter greater use of the historic rehabilitation tax credit program for generating economic development activity and make recommendations for eliminating such deterrents.

The group's recommendations emphasize that the historic tax credit is primarily a rehabilitation program, rather than a preservation tool. "Instead of viewing the historic credit as a 'rehabilitation' tool that developers can use to breathe new economic life into old, often neglected buildings, NPS staff appears sometimes to take a more conservative stance that strongly emphasizes the need for more authentic architectural 'restoration,' rather than 'rehabilitation,'" HPDC says.

The group also suggested refining the state certification process. HPDC concluded that the two-step review process for historic tax credit projects - an initial review at the state level followed by final review by NPS - has some inherent redundancy that adds time and expense to projects. The group recommends that NPS establish a demonstration program for small projects only —a program that allows any participating SHPO to complete and certify all Part 1, Part 2 and Part 3 applications for conformance with the Secretary of the Interior's Standards for Rehabilitation. This review would be limited to projects generating no more than $500,000 in historic tax credits (which translates into an estimated total development cost of approximately $2.5 million or less).

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Council Recommends

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State Historic Credit Programs

There have also been recent positive developments for historic credits at the state level as well.

Maryland

Gov. Robert L. Ehrlich Jr. and other supporters of the state's Heritage Structure Rehabilitation Tax Credit Program urged lawmakers to pass H.B. 289 to extend the program through 2010.

The bill would extend from June 1, 2004 to January 1, 2010 the sunset date for the Maryland Heritage Structure Rehabilitation Tax Credit. The annual cap for credits would be set at $30 million and the maximum amount of credits awarded to an individual rehabilitation project would be restricted to $50,000 for noncommercial projects and $3 million for commercial projects. The bill also makes changes to the certification and application processes and authorizes the Department of Housing and Community Development (DHCD) to charge fees to cover administrative costs.

Alabama

Under existing law, there is no income tax credit for the rehabilitation and preservation of historic buildings in Alabama. However, H.B. 246, a bill introduced recently in the Alabama Legislature, would provide an income tax credit for the rehabilitation and preservation of historic buildings.

The measure would set the state's annual cap at $2 million for the taxable year beginning January 1, 2005, and $4 million for taxable years thereafter. Of this cap, the proposed bill would allocate one-third for owner-occupied residences and two-thirds to income-producing buildings. In the event that either percentage is not fully allocated, the measure allows any unallocated credits to be utilized by the alternate category.

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