

Regulations for the 25% State Commercial Tax Credit Program
Prepared by the Division of Historic Preservation

A. DEFINITIONS

These Regulations provide guidelines for the application process and the Administration of the Historic Preservation Tax Credit by the Louisiana Division of Historic Preservation. Definitions set forth in these Regulations will be used in administering the Historic Preservation Commercial Tax Credit (RS 47: 6019).

1. “Assistant Secretary” means the Assistant Secretary of the Office of Cultural Development, Department of Culture, Recreation, and Tourism.
2. “Certified historic structure” means a building that is located in the State Of Louisiana, is determined eligible by the Division, and is located in a “Downtown Development District,” as defined in these regulations. Determination of eligibility will take into consideration regulations as defined in Section 47(c)(3)(A) of the Internal Revenue Code, and all other applicable regulations.
3. “Director” means the Director of the Louisiana Division of Historic Preservation.
4. “Division” means the Louisiana Division of Historic Preservation.
5. “Downtown Development District” means
 - (a) a downtown development district (DDD) created by or pursuant to law;
 - (b) a central business district (CBD) created by or pursuant to law; or,
 - (c) a DDD or CBD created by ordinance adopted prior to January 1, 2002, in a home rule charter municipality.
6. “Placed in service” means that the property has been placed in a condition of readiness and availability for its assigned function in the production of income and

that all rehabilitation work deemed necessary by the director to qualify as a completed rehabilitation has been finished.

7. “Qualified rehabilitation expenditures” means expenditures related to structural components of a building. U.S. Treasury Regulation 1.48-1(e)(2) defines “structural components” to include walls, partitions, floors, ceilings, permanent coverings such as paneling or tiling, windows and doors, components of central air conditioning or heating systems, plumbing and plumbing fixtures, electrical wiring and lighting fixtures, chimneys, stairs, escalators, elevators, sprinkling systems, fire escapes, and other components related to the operation and maintenance of the building. The items in U.S. Treasury Regulation 1.48-1(e)(2) are also known as “hard costs.” In addition to the hard costs previously listed, “soft costs” such as construction period interest and taxes, architect fees, engineering fees, construction management costs, and reasonable developer fees qualify as well. Qualified rehabilitation expenditures must exceed ten thousand dollars.
8. “Rehabilitation” means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those aspects of the building, its site, and environment that are significant to its historic, architectural, and cultural values.
9. “Standards” means the U.S. Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings under 36 C.F.R. 67.
10. “Taxpayer limitation” means no taxpayer, or any entity affiliated with such taxpayer, shall receive more than five million dollars of credit for any number of structures rehabilitated within a particular Downtown Development District.

B. THE CREDIT

The credit is available for qualifying rehabilitation expenditures incurred in the rehabilitation of depreciable certified historic structures located within a designated Downtown Development District (DDD). All rehabilitation work must meet *federal Historic Preservation Standards* as interpreted by the Louisiana Division of Historic Preservation.

C. THE PROCESS

The Division's process for approval of historic rehabilitation applications shall consist of three parts. To implement the process, the Division shall develop and make available appropriate application forms and supporting material.

D. "PART 1"

The purpose of Part 1 is to determine whether a building proposed for rehabilitation is located within a duly established DDD and is a certified historic structure. In addition the Part 1 will ascertain whether the applicant understands the limitation of credit available to a taxpayer, or affiliated entity, within an individual DDD. The applicant will be required to submit a completed Part 1 application signed by the property owner(s) along with supporting materials including, but not limited to,

- 1) a map of the DDD with the property marked, and

2) photographs (both exterior and interior) detailing the existing conditions of the building. The Division may require that the photographs be keyed to a floor plan of the building. In addition, the Division may require the applicant to submit historical research to determine the possible historical significance of the building.

The Division will signify Part 1 approval by the signature of the Director on the Part 1 form. The Division may also deny the Part 1 application. In such cases of denial, the applicant may utilize to the appeals process set forth in these regulations.

E. "PART 2"

The purpose of Part 2 is to determine whether the proposed rehabilitation meets *federal Standards*. The Part 2 will also require a statement of the projected rehabilitation cost. The applicant will be required to submit a completed Part 2 application signed by the property owner(s) along with such supporting material that the Division may require to fully detail the proposed rehabilitation. These materials may included proposed plans, specifications and shop drawings.

At the time of the Part 2 submission, the applicant must forward to the Division the required **\$250.00** fee for processing. The Division shall specify acceptable methods of payment. Part 2 applications not accompanied by the required fee payment will be

held by the Division for up to 60 days or until payment is received, whichever comes first. Upon receipt of the fee, the Division will process the Part 2 application. The Division may return the Part 2 application after 60 days if no fee is received.

The Part 2 application will also ascertain whether the applicant understands that the fee is for review and handling only, and in no way determines the outcome of the review and approval process for Part 2 or Part 3 (Certification of Completed Work).

The Division will signify Part 2 approval by the signature of the Director on the Part 2 application form. In addition, the Division may also grant approval with conditions. The Division may also deny the Part 2 application. In cases of denial the applicant may utilize the appeals process, set forth in these regulations.

F. "PART 3"

The purpose of Part 3 is to determine that, in the completed rehabilitation, the work was executed in accordance with the previously approved Part 2 application. Alternatively, its purpose is to determine that, should the applicant have deviated from the approved Part 2, the completed rehabilitation still meets the U.S. Secretary of the Interior's Standards for Rehabilitation. With the dated submission of the signed Part 3, the applicant and property owners are officially declaring the rehabilitation project complete in all respects. No further expenditures will be considered qualified rehabilitation expenditures under this program.

The Part 3 submission must include complete photographic coverage of the completed work along with a statement of the total qualified rehabilitation expenditures

and the total of other costs associated with the rehabilitation. It must also include a statement detailing the amount of credit due to each of the parties who participated in the completed rehabilitation based upon the 25% formula and upon the \$5 million taxpayer limitation.

Finally, the submission must include a budget sheet detailing the cost of each work item comprising the total qualified rehabilitation expenditures. It must also list the cost of work items related to the rehabilitation, such as landscaping and new additions, that are not part of the project's qualified rehabilitation expenditures.

The Division will signify Part 3 approval by the signature of the Director on the Part 3 application form. Upon approval, the Division will issue an official certificate specifying the amount of credit due each of the taxpayers who participated in the completed rehabilitation. The Division may also deny the Part 3. In cases of denial the applicant may utilize the appeals process, set forth in these regulations.

Applicants with an approved federal credit for the same rehabilitation project need only submit signed and dated Parts 1, 2, and 3 forms along with the statement of credit due. Such applicants shall note on the forms that there is a corresponding federal application. The Division may decline to process incomplete applications even if the fee has been paid. It may also set timetables and internal procedures for reminder notices and the return of incomplete materials. Applicants who fail to obtain Division approval, at any stage, due to their submission of incomplete materials may not appeal. Should the Division be challenged in this regard, the Director will make the final determination as to submission completeness.

G. THE APPEALS PROCESS

Applicants whose submissions, at any of the three stages, have been officially denied by the Director may appeal to the Assistant Secretary, Louisiana Office of Cultural Development. Written notice of the intent to appeal must be received by the Office of Cultural Development within ten business days following the Director's official denial. The full appeal must be received no later than 30 calendar days following the end of the period to file a notice of appeal. Appeals must be in writing and must detail specific reasons the Director's findings should be partially or completely reconsidered or overturned. At his or her discretion, the Assistant Secretary may hold a hearing in connection with the appeal.

The Assistant Secretary may:

- 1) Sustain the Director's findings,
- 2) Overturn part or all of those findings,
- 3) At his or her discretion, mediate between the Director and the applicant to arrive at a mutually satisfactory resolution, or
- 4) Decline to consider the appeal.

The Assistant Secretary's final response to any appeal must be issued no later than 90 days after receiving the full appeal.