

253.559. Procedure for approval of tax credit — eligibility, how determined — certificate required — rehabilitation of property, evidence of capacity to finance required — commencement of rehabilitation, when — issuance of credits. — 1. To obtain approval for tax credits allowed under sections [253.545 to 253.559](#), a taxpayer shall submit an application for tax credits to the department of economic development. Each application for approval, including any applications received for supplemental allocations of tax credits as provided under subsection 10 of this section, shall be prioritized for review and approval, in the order of the date on which the application was postmarked, with the oldest postmarked date receiving priority. Applications postmarked on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed.

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

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

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

(3) The estimated cost of rehabilitation, the anticipated total costs of the project, the actual basis of the property, as shown by proof of actual acquisition costs, the anticipated total labor costs, the estimated project start date, and the estimated project completion date;

(4) Proof that the property is an eligible property and a certified historic structure or a structure in a certified historic district;

(5) A copy of all land use and building approvals reasonably necessary for the commencement of the project; and

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

Only the property for which a property address is provided in the application shall be reviewed for approval. Once selected for review, a taxpayer shall not be permitted to request the review of another property for approval in the place of the property contained in such application. Any disapproved application shall be removed from the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

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

(a) The amount of projected net fiscal benefit of the project to the state and local municipality, and the period in which the state and municipality would realize such net fiscal benefit;

(b) The overall size and quality of the proposed project, including the estimated number of new jobs to be created by the project, the potential multiplier effect of the project, and similar factors;

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

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

(2) The provisions of this subsection shall not apply to applications for projects to receive less than two hundred seventy-five thousand dollars in tax credits.

4. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits equal to the amount provided under section [253.550](#) less any amount of tax credits previously approved. Such approvals shall be granted to applications in the order of priority established under this section and shall require full compliance thereafter with all other requirements of law as a condition to any claim for such credits. If the department of economic development disapproves an application, the taxpayer shall be notified in

writing of the reasons for such disapproval. A disapproved application may be resubmitted.

5. Following approval of an application, the identity of the taxpayer contained in such application shall not be modified except:

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

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

6. In the event that the department of economic development grants approval for tax credits equal to the total amount available under subsection 2 of section [253.550](#), or sufficient that when totaled with all other approvals, the amount available under subsection 2 of section [253.550](#) is exhausted, all taxpayers with applications then awaiting approval or thereafter submitted for approval shall be notified by the department of economic development that no additional approvals shall be granted during the fiscal year and shall be notified of the priority given to such taxpayer's application then awaiting approval. Such applications shall be kept on file by the department of economic development and shall be considered for approval for tax credits in the order established in this section in the event that additional credits become available due to the rescission of approvals or when a new fiscal year's allocation of credits becomes available for approval.

7. All taxpayers with applications receiving approval on or after July 1, 2019, shall submit within sixty days following the award of credits evidence of the capacity of the applicant to finance the costs and expenses for the rehabilitation of the eligible property in the form of a line of credit or letter of commitment subject to the lender's termination for a material adverse change impacting the extension of credit. If the department of economic development determines that a taxpayer has failed to comply with the requirements under this subsection, then the department shall notify the applicant of such failure and the applicant shall have a thirty-day period from the date of such notice to submit additional evidence to remedy the failure.

8. All taxpayers with applications receiving approval on or after the effective date of this act shall commence rehabilitation within nine months of the date of issuance of the letter from the department of economic development granting the approval for tax credits. "**Commencement of rehabilitation**" shall mean that as of the date in which actual physical work, contemplated by the architectural plans submitted with the application, has begun, the taxpayer has incurred no less than ten percent of the estimated costs of rehabilitation provided in the application. Taxpayers with approval of a project shall submit evidence of compliance with the provisions of this subsection. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits, provided under subsection 2 of section [253.550](#), from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

9. To claim the credit authorized under sections [253.550 to 253.559](#), a taxpayer with approval shall apply for final approval and issuance of tax credits from the department of economic development which, in consultation with the department of natural resources, shall determine the final amount of eligible rehabilitation costs and expenses and whether the completed rehabilitation meets the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources. For financial institutions credits authorized pursuant to sections [253.550 to 253.561](#)* shall be deemed to be economic development credits for purposes of section [148.064](#). The approval of all applications and the issuing of certificates of eligible credits to taxpayers shall be performed by the department of economic development. The department of economic development shall inform a taxpayer of final approval by letter and shall issue, to the taxpayer, tax credit certificates. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed.

10. Except as expressly provided in this subsection, tax credit certificates shall be issued in the final year that costs and expenses of rehabilitation of the project are incurred, or within the twelve-month period immediately following the conclusion of such rehabilitation. In the event the amount of eligible rehabilitation costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsection 4 of this section, such taxpayer may apply to the department for issuance of tax credits in an amount equal to such excess. Applications for issuance of tax credits in excess of the

amount provided under a taxpayer's application shall be made on a form prescribed by the department. Such applications shall be subject to all provisions regarding priority provided under subsection 1 of this section.

11. The department of economic development shall determine, on an annual basis, the overall economic impact to the state from the rehabilitation of eligible property.

(L. 1997 2d Ex. Sess. S.B. 1, A.L. 1998 S.B. 827, A.L. 2009 H.B. 191, A.L. 2018 S.B. 590 merged with S.B. 773)

*Section [253.561](#) was repealed by S.B. 613 Revision, 2007.

CROSS REFERENCE:

Tax Credit Accountability Act of 2004, additional requirements, [135.800 to 135.830](#)