

partment to debar persons; and §§2306.041 - 2306.050, which authorize the Department to assess administrative penalties.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## TITLE 13. CULTURAL RESOURCES

### PART 2. TEXAS HISTORICAL COMMISSION

#### CHAPTER 13. ADMINISTRATION OF THE STATE FRANCHISE TAX CREDITS FOR CERTIFIED REHABILITATION OF CERTIFIED HISTORIC STRUCTURES

##### 13 TAC §13.1

The Texas Historical Commission adopts amendments to 13 TAC §13.1, Definitions, with changes to the proposed text as published in the September 5, 2014, issue of the *Texas Register* (39 TexReg 6967). These amendments affect paragraph (18) and are needed to clarify the type of entities that may apply for the franchise tax credit for rehabilitation of a historic building.

The amendments include a provision that specifies that non-profit and governmental entities may apply for the credit as well as entities that are subject to the Franchise Tax. This determination is based on Attorney General Opinion No. GA-1045 (2014), which stated that entities not subject to the franchise tax are eligible for the credit. In addition, in response to comments, the amendment has been revised to allow for separate ownership of the land and the structure on it, and certain leaseholds in the structure, to reflect similar standards for eligibility of projects under the federal rehabilitation tax credit program.

Comments were received from Stonehenge Capital, who commented that, under some circumstances, the federal law, which is adopted for the determination of the Texas tax credit, does allow leaseholders to claim a rehabilitation tax credit. The THC agrees with the comment and has made changes to the proposed amendment that reflect this comment.

A comment was received from Brian Wishneff and Associates, concerning the eligibility of leaseholds for the tax credit. The THC agrees with the comment and has made changes to the proposed amendment that reflect this comment.

The amendments are adopted under the Texas Government Code §442.005 and Texas Tax Code §171.909 which provide the Commission with authority to promulgate rules that will reasonably effect the purposes of this chapter.

##### §13.1. Definitions.

The following words and terms when used in these rules shall have the following meanings unless the context clearly indicates otherwise:

(1) Applicant--The entity that has submitted an application for a building or structure it owns or for which it has a contract to purchase.

(2) Application--A fully completed Texas Historic Preservation Tax Credit Certification Application form submitted to the Commission, which includes three parts:

(A) Part A - Evaluation of Significance, to be used by the Commission to make a determination whether the building is a certified historic structure;

(B) Part B - Description of Rehabilitation, to be used by the Commission to review proposed projects for compliance with the Standards for Rehabilitation; and

(C) Part C - Request for Certification of Completed Work, to be used by the Commission to review completed projects for compliance with the work approved under Part B.

(3) Application fee--The fee charged by the Commission and paid by the applicant for the review of Part B and Part C of the application as follows: Attached Graphic Figure: 13 TAC §13.1(3) (No change.)

(4) Audited cost report--Such documentation as defined by the Comptroller in 34 TAC Chapter 3, Tax Administration.

(5) Building--Any edifice enclosing a space within its walls, and usually covered by a roof, the purpose of which is principally to shelter any form of human activity, such as shelter or housing, or to provide working, office, parking, display, or sales space. The term includes among other examples, banks, office buildings, factories, warehouses, barns, railway or bus stations, and stores and may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. Functional constructions made usually for purposes other than creating human shelter or activity such as bridges, windmills, and towers are not considered buildings under this definition and are not eligible to be certified historic structures.

(6) Certificate of eligibility--A document issued by the Commission to the Owner, following review and approval of a Part C application, that confirms the property to which the eligible costs and expenses relate is a certified historic structure and the rehabilitation qualifies as a certified rehabilitation; and specifies the date the certified historic structure was first placed in service after the rehabilitation.

(7) Certified historic structure--A building or buildings located on a property in Texas that is certified by the Commission as:

(A) listed individually in the National Register of Historic Places;

(B) designated as a Recorded Texas Historic Landmark under §442.006, Texas Government Code, or as a State Antiquities Landmark under Chapter 191, Texas Natural Resources Code; §21.6 and §26.3(63) - (64) of this title; or

(C) certified by the Commission as contributing to the historic significance of:

(i) a historic district listed in the National Register of Historic Places; or

(ii) a certified local district as per 36 CFR §67.9.

(8) Certified local district--A local historic district certified by the United States Department of the Interior in accordance with 36 C.F.R. §67.9.

(9) Certified rehabilitation--The rehabilitation of a certified historic structure that the Commission has certified as meeting the Standards for Rehabilitation. If the project is submitted for the federal rehabilitation tax credit it must be reviewed by the National Park Service prior to a determination that it meets the requirements for a certificated rehabilitation under this rule. In the absence of a determination for the federal rehabilitation tax credit, the Commission shall have the sole responsibility for certifying the project.

(10) Commission--The Texas Historical Commission. For the purpose of notifications or filing of any applications or other correspondence, delivery shall be made via postal mail to: Texas Historic Preservation Tax Credit Program, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276; or by overnight delivery at: Texas Historic Preservation Tax Credit Program, Texas Historical Commission, 1700 North Congress Avenue, Suite B-65, Austin, Texas 78701.

(11) Comptroller--The Texas Comptroller of Public Accounts.

(12) Contributing--A building in a historic district considered to be historically, culturally, or architecturally significant according to the criteria established by state or federal government, including those formally promulgated by the National Park Service and the United States Department of the Interior at 36 C.F.R. Part 60 and applicable National Register bulletins.

(13) Credit--The tax credit for the certified rehabilitation of certified historic structures available pursuant to Chapter 171, Subchapter S of the Texas Tax Code.

(14) District--A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(15) Eligible costs and expenses--The qualified rehabilitation expenditures as defined by §47(c)(2), Internal Revenue Code, including rehabilitation expenses as set out in 26 C.F.R. §1.48-12(c), incurred during the project.

(16) Federal rehabilitation tax credit--A federal income tax credit for 20% of qualified rehabilitation expenditures with respect to a certified historic structure, as defined in §47, Internal Revenue Code; 26 C.F.R. §1.48-12; and 36 C.F.R. Part 67.

(17) National Park Service--The agency of the U.S. Department of the Interior that is responsible for certifying projects to receive the federal rehabilitation tax credit.

(18) Owner--A person, partnership, company, corporation, whether for profit or not, governmental body, or other entity holding a legal or equitable interest in a Property or Structure, which can include a full or partial ownership interest.

(19) Phased development--A rehabilitation project which may reasonably be expected to be completed in two or more distinct states of development, as defined by United States Treasury Regulation 26 C.F.R. §1.48-12(b)(2)(v). Each phase of a phased development can independently support an Application for a credit as though it was a stand-alone rehabilitation. If any completed phase of the rehabilitation project does not meet the requirements of a certified rehabilitation,

future applications by the same owner for the same certified historic structure will not be considered.

(20) Placed in service--A status obtained upon completion of the rehabilitation project when the building is ready to be reoccupied and any permits and licenses needed to occupy the building have been issued. Evidence of the date a property is placed in service includes a certificate of occupancy issued by the local building official and/or an architect's certificate of substantial completion.

(21) Property--A parcel of real property containing one or more buildings or structures that is the subject of an application for a credit.

(22) Rehabilitation--The process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while retaining those portions and features of the building and its site and environment which are significant.

(23) Rehabilitation plan--Descriptions, drawings, construction plans, and specifications for the proposed rehabilitation of a certified historic structure in sufficient detail to enable the Commission to evaluate compliance with the Standards for Rehabilitation.

(24) Standards for Rehabilitation--The United States Secretary of the Interior's Standards for Rehabilitation as defined in 36 C.F.R. §67.7.

(25) Structure--A building; see also certified historic structure.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Texas Historical Commission

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For further information, please call: (512) 463-2192



## TITLE 16. ECONOMIC REGULATION

### PART 1. RAILROAD COMMISSION OF TEXAS

#### CHAPTER 3. OIL AND GAS DIVISION

##### 16 TAC §3.9, §3.46

The Railroad Commission of Texas (Commission) adopts amendments to §3.9 and §3.46, relating to Disposal Wells, and Fluid Injection into Productive Reservoirs, with changes to the proposed text as published in the August 29, 2014, issue of the *Texas Register* (39 TexReg 6775). The adopted amendments incorporate requirements related to seismic events in connection with disposal well permits, monitoring and reporting.

SUMMARY OF CHANGES FROM THE PROPOSAL LANGUAGE