

HB 1936 -- HISTORIC PRESERVATION TAX CREDIT

SPONSOR: Wilson

This bill modifies provisions relating to the Historic Preservation tax credit and renames such tax credit the "Missouri Historic, Rural Revitalization, and Regulatory Streamlining Act".

The bill specifies the applicable percentages for the rehabilitation of low income properties to receive a 25% state tax credit; properties located in a qualifying county approved for a state tax credit of 35%, and property not located in a qualifying county of a 25% tax credit.

This bill transfers the State Historic Preservation Office (SHPO) and Missouri Advisory Council on Historic Preservation to the Office of the Lieutenant Governor, and repeals references to the Department of Natural Resources and replaces it with the Office of the Lieutenant Governor.

Currently, any tax payer that incurs costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, may receive a credit of 25% of the total costs and expenses of rehabilitation incurred after January 1, 1998, provided that the costs and expenses exceed 50% of the total basis in the property. The bill states that 10% of such total costs and expenses of rehabilitation upon which the tax credit is based may be incurred before the taxpayer submits an application for tax credits. For costs and expenses incurred for an eligible property in a qualifying county which is also a certified historic structure or a structure in a certified historic district, any taxpayer shall receive a credit in an amount equal to 35% of the total costs and expenses of rehabilitation on or after July 1, 2023. Of such total costs and expenses of rehabilitation upon which the tax credit is based, 10% may be incurred before the taxpayer submits an application for tax credits. The State historic rehabilitation standards shall not be more restrictive than the Secretary of Interior's Standards for Rehabilitation.

The bill repeals reference to the amount of tax credits that the Department of Economic Development can approve for defined time periods. The amount of tax credits that the Department can approve is limited to \$90 million in the aggregate for properties that are not located in a qualified census tract, as defined in the bill. The limitations do not apply to projects that receive less than \$300,000 in tax credits, which number is annually adjusted to the Consumer Price Index for All Urban Consumers (CPI index).

Currently, \$30 million in tax credits is authorized for projects located in the qualified census tract. Under the bill, projects that receive a preliminary approval located in a qualified census tract may receive tax credits under the \$90 million or \$30 million categories but the \$30 million tax credit category must first be applied. The \$30 million tax credits that are allowed shall be adjusted to the CPI index.

Currently, the eligible property is a non-income-producing single-family owner-occupied residential property and is either a certified historic structure or a structure in a certified historic district. Under the bill, on or after January 1, 2010, no more than \$250,000 in tax credits may be issued for eligible costs and expenses incurred in the rehabilitation of a non-income-producing single-family residential property occupied by the taxpayer or any relative within the third degree of consanguinity or affinity of the applicant, that is either in a certified historic structure or a structure in a certified historic district. For properties that are not located in a qualifying county, to receive the tax credits the property should be located in a distressed community as specified in the bill.

The bill authorizes not-for-profit entities to be eligible for the tax credits and provides that the eligible taxpayers may transfer, sell, or assign the credits.

The bill requires the Department to establish an application cycle that allows for year-round submission and year-round receipt and review of the applications. The bill adds a requirement to be included in the application for approval, for proof that a property is an eligible property and a certified historic structure or a structure in a certified historic district or a part 1 of a federal application or a draft national register of historic places nomination that has been submitted to SHPO. Further, the bill modifies existing evaluation criteria for the Department to consider for the projected net fiscal benefit of the project to the state and local municipality to be calculated based upon reasonable methods that exclude proprietary computer models; and for the overall size and quality of the proposed project to factors indicated in the bill. However, said provisions do not apply to vacant schools or theaters or applications for projects to receive less than \$300,000 in tax credits annually adjusted to the CPI index.

The bill authorizes a third party review to ensure compliance with the qualified rehabilitation standards. Further, the Department is required to promptly notify SHPO of each preliminary application for tax credits. The State Historic Preservation Act is to make its determination within 90 days of a taxpayer filing an initial

application for tax credits. The bill specifies what evidence is to be considered in making such determination. If SHPO approves the application within 90 days, SHPO will forward any review comments to the National Park Service (NPS) and to the applicant. If SHPO fails to approve the application within 90 days the application will be forwarded to NPS without any comments. Conditions noted on the preliminary application or on part 2 of the federal application are to be addressed as part of the final approval of the application.

The bill includes provisions relating to the submission of a phased rehabilitation project which includes information included in the bill. Upon approval of costs submitted and work completed on each phase of the project, the Department shall issue 80% of the amount of the state tax credit. The remaining 20% of the tax credit is issued upon final approval. The bill includes language relating to a change in the scope of the project with material changes after approval of the application.

As specified in the bill, taxpayers are required to notify the Department of any loss of site control or failure to exercise any option of getting site control within 10 days of such loss or failure. The bill includes provision relating to rescission of tax credits or that taxpayer's voluntary forfeiture of the approval. Taxpayers may voluntarily forfeit project approval at any time. The amount of tax credits authorized for such forfeited or rescinded project will be made available for other projects. If a taxpayer later submits an application for the same project, any expenditures which are incurred after the date of the rescinded or forfeited approval shall remain eligible expenditures for the purposes of determining the amount of tax credits.

The bill includes language governing the taxpayer's application for final approval by SHPO or an approved part 3 of the federal application.

After completion of a project, the taxpayer is required to submit an application for the final approval of costs and issuance of tax credits. Within 60 days of receipt of such application, the Department must issue to the taxpayer tax credits in the amount of 75% of the total amount of tax credits for which the taxpayer is eligible based on the application for final approval, or 75% of the amount of tax credits approved under the initial application, including amounts approved based upon material change in the scope of the project, whichever is less. Within 120 days of receipt of an application for final approval with the materials, the Department must make a determination of final costs and the amount of tax credits to be issued, and must issue the balance of tax credits owed to the applicant and not issued in the initial tax

credit issuance. If the amount initially issued exceeds the amount that the taxpayer is eligible for, as determined by the Department's final approval, the taxpayer must repay such excess amount to the Department.

The bill sets forth appeals of any official decisions made by the Department or SHPO. An applicant or the applicant's duly authorized representative may appeal any official decision made by the Department with regard to the application submitted to an independent appeals officer or review panel as designated by the Department. This appeal must be submitted in writing within 30 days of the applicant's receipt of the decision being appealed.

The appeal is considered an administrative review of the decision and is not conducted as an adjudicative proceeding. There is an independent review panel consisting of members of the private sector and the Department. Further, an independent appeals officer will be the chair who receives the information relating to the appeal. Upon providing the information to SHPO or the Department, the latter may respond to the appeal within 30 days. The bill authorizes one meeting with the appeals officer or review panel with discretionary authority to schedule additional meetings. A decision is to be rendered no later than 90 days after the initial receipt of the appeal by the appeals officer or review panel. The appeals officer must deliver a written decision no later than 90 days after initial receipt of the appeal.

Currently, the Department may charge a fee of 4% of the value of tax credits issued under the bill for deposit in the Economic Development Advancement Fund, with 37.5% of such revenue appropriated for business recruitment and marketing, and the remainder appropriated for various purposes in the Department. This bill modifies such provision to distribute the revenues as follows: 37.5% in the Economic Development Advancement Fund for business recruitment and marketing, 10% to the Department for the administration of the bill, 10% to SHPO for the administration of the bill, and the remaining 42.5% to the Economic Development Advancement Fund for purposes allowed by current law.

This bill is similar to HB 316 (2023).