STATE OF RHODE ISLAND
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO TAXATION -- HISTORIC PRESERVATION TAX CREDITS 2013

Introduced By: Senators Satchell, Conley, Jabour, Pearson, and Euer
Date Introduced: January 18, 2018
Referred To: Senate Finance

It is enacted by the General Assembly as follows:

SECTION 1. Section 44-33.6-4 of the General Laws in Chapter 44-33.6 entitled "Historic Preservation Tax Credits 2013" is hereby amended to read as follows:

44-33.6-4. Administration.

(a) To claim the tax credit authorized in this chapter, taxpayers shall apply:

(1) To the commission prior to the certified historic structure being placed in service for a certification that the certified historic structure's rehabilitation will be consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation;

(2) To the commission after completion of the rehabilitation work of the certified historic structure for a certification that the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation; and

(3) To the division of taxation after completion of the rehabilitation work of the certified historic structure for a certification as to the amount of tax credit for which the rehabilitation qualifies. The commission and the division of taxation may rely on the facts represented in the application without independent investigation and, with respect to the amount of tax credit for which the rehabilitation qualifies, upon the certification of a certified public accountant licensed in the state of Rhode Island. The applications shall be developed by the commission and the division of taxation and may be amended from time to time.

(b) Within thirty (30) days after the commission's and division of taxation's receipt of the taxpayer's application requesting certification for the completed rehabilitation work:
(1) The commission shall issue the taxpayer a written determination either denying or certifying the rehabilitation; and

(2) Division of taxation shall issue a certification of the amount of credit for which the rehabilitation qualifies. To claim the tax credit, the division of taxation's certification as to the amount of the tax credit shall be attached to all state tax returns on which the credit is claimed.

(c) No taxpayer may benefit from the provisions of this chapter unless the owner of the certified historic structure grants a restrictive covenant to the commission, agreeing that during the holding period no material alterations to the certified historic structure will be made without the commission's prior approval and agreeing that such shall be done in a manner consistent with the standards of the Secretary of the United States Department of the Interior; and, in the event the owner applies for the twenty-five percent (25%) tax credit, that either:

(1) At least twenty-five percent (25%) of the total rentable area of the certified historic structure will be made available for a trade or business; or

(2) The entire rentable area located on the first floor of the certified historic structure will be made available for a trade or business, in either case, for a period of sixty (60) months after the placed in service date of the certified historic structure or identifiable portion thereof.

(d) The division of taxation shall charge a fee equal to three percent (3%) of qualified rehabilitation expenditures. The fee shall be payable upon submission of the Part 2 application no later than ninety (90) days after the date of the commission's written determination certifying the rehabilitation. The fee shall be non-refundable.

(e) Notwithstanding any provisions of the general laws or regulations adopted thereunder to the contrary, including, but not limited to, the provisions of chapter 2 of title 37, the division of taxation is hereby expressly authorized and empowered to enter into contracts with persons, firms, partnerships, trusts, estates, limited liability companies, corporations (whether for profit or nonprofit) or other business entities that incur qualified rehabilitation expenditures for the substantial rehabilitation of certified historic structures or some identifiable portion of a structure.

Upon payment of the portion of the fee set forth in subdivision (d) above, the division of taxation and the applicant shall enter into a contract for tax credits consistent with the terms and provisions of this chapter.

(f) Upon satisfaction of the requirements set forth herein and the payment of the fees as set forth in subdivision (d) above, the division of taxation shall, on behalf of the State of Rhode Island, guarantee the delivery of one hundred percent (100%) of the tax credit and use of one hundred percent (100%) of the tax credit in the tax year a certified historic structure is placed in service through a contract with persons, firms, partnerships, trusts, estates, limited liability
companies, corporations (whether for profit or nonprofit) or other business entities that will incur
qualified rehabilitation expenditures for the substantial rehabilitation of a certified historic
structure or some identifiable portion of a structure.

(g) Any contract executed pursuant to this chapter by a person, firm, partnership, trust,
estate, limited liability company, corporation (whether for profit or nonprofit) or other business
entity shall be assignable to:

(1) An affiliate thereof without any consent from the division of taxation;

(2) A banking institution as defined by subdivision 44-14-2(2) or credit union as defined
in subdivision 44-15-1.1(1) without any consent from the division of taxation; or

(3) A person, firm, partnership, trust, estate, limited liability company, corporation
(whether for profit or nonprofit) or other business entity that incurs qualified rehabilitation
expenditures for the substantial rehabilitation of certified historic structures or some identifiable
portion of a structure, with such assignment to be approved by the division of taxation, which
approval shall not be unreasonably withheld or conditioned. For purposes of this subsection,
"affiliate" shall be defined as any entity controlling, controlled by or under common control with
such person, firm, partnership, trust, estate, limited liability company, corporation (whether for
profit or nonprofit) or other business entity.

(h) If information comes to the attention of the commission or division of taxation at any
time up to and including the last day of the holding period that is materially inconsistent with
representations made in an application, the commission may deny the requested certification or
revoke a certification previously given, and in either instance all fees paid by the applicant shall
be deemed forfeited. In the event that tax credits or a portion of tax credits are subject to
recapture for ineligible costs and such tax credits have been transferred, assigned and/or
allocated, the state will pursue its recapture remedies and rights against the applicant of the tax
credits, and all fees paid by the applicant shall be deemed forfeited. No redress shall be sought
against assignees, transferees or allocates of such credits provided they acquired the tax credits by
way of an arms-length transaction, for value, and without notice of violation, fraud or
misrepresentation.

(i) The commission, in consultation with the division of taxation, shall promulgate such
rules and regulations as are necessary to carry out the intent and purpose of this chapter.

SECTION 2. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION -- HISTORIC PRESERVATION TAX CREDITS 2013

***

1 This act would provide that applicants for historic tax credits shall have ninety (90) days
2 after the date of the commission's written determination certifying the rehabilitation to pay the
3 required three percent (3%) non-refundable fee to the division of taxation.
4 This act would take effect upon passage.