STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HISTORICAL PRESERVATION & HERITAGE COMMISSION

HISTORIC HOMEOWNERSHIP TAX CREDIT REGULATIONS

I. GENERAL

Chapter 33.1 of Title 44 of the Rhode Island General Laws provides a special incentive to encourage the Maintenance and Rehabilitation of residences that have historic merit. This special incentive is a Rhode Island state income tax credit based on the cost of the Maintenance or Rehabilitation work.

The act directs the Historical Preservation & Heritage Commission to promulgate guidelines for Maintenance or Rehabilitation of a Historic Residence consistent with the historic character of that residence. The Commission is further directed to promulgate application and certification forms and guidelines for certifying to the Department of Administration, Division of Taxation, whether taxpayers' Maintenance or Rehabilitation projects did or did not comply with the Commission's guidelines.

II. CERTIFICATION

No credit will be allowed unless the qualifying owner of a Historic Residence has received the certification of the Rhode Island Historical Preservation & Heritage Commission for the Maintenance or Rehabilitation work.

III. DEFINITIONS

In general, definitions and regulations set out by the Rhode Island Historical Preservation & Heritage Commission in accordance with 44-33.1-5 will be used in administering the historic homeownership tax credit unless a different meaning is clearly intended.

A. "Certified Maintenance or Rehabilitation" means any Maintenance or Rehabilitation of a Historic Residence consistent with the historic character of that Historic Residence as determined in accordance with guidelines, which shall be promulgated by the Rhode Island Historical Preservation & Heritage Commission.

B. "Commission" means the Rhode Island Historical Preservation & Heritage Historical Preservation & Heritage Commission Historic Homeowner Tax Credit

~~Commission created pursuant to Rhode Island General Laws section 42-45.~~

~~C. "Historic Residence" means a historic residential structure which~~

~~(1) is not of a character subject to federal depreciation allowance, except that after January 1, 2001 a Historic Residence may contain a non-depreciable owner-occupied residential unit and also one (1) or two (2) depreciable rental units also owned by the building's owner-occupant and qualify for the full value of the credit for Maintenance and Rehabilitation costs incurred on the entire building. In the event that a historic building contains four (4) or more units, only that portion of Maintenance or Rehabilitation costs reasonably associated with owner-occupied units may be used to claim a historic preservation residential tax credit.~~

~~AND~~

~~(2) has been recognized has having historical significance in the following manner:~~

~~(a) it is listed individually in the State Register of Historic Places; or~~

~~(b) it is located in a district listed in the State Register of Historic Places and certified by the Commission as contributing to the historic character of that district; or~~

~~(c) it is located in a local historic district zone as designated by a city or town under Rhode Island General Laws section 45-24.1-1 and certified by the Commission as contributing to the historic character of that historic district; or~~

~~(d) it is designated by a city or town as an individual structure subject to regulation by a historic district commission under Rhode Island General Laws 45-24.1-1.~~

~~D. "State Register of Historic Places" means the state register of historical, architectural, and cultural sites, buildings, places, landmarks, or areas complied by the Commission pursuant to Rhode Island General Laws 42-45-5. Properties are listed on the State Register in accordance with the Commission's Procedures for Registration and Protection of Historic Properties.~~

~~E. "Owner" means a person or persons who hold legal title to the historic property. For purposes of claiming the Historical Preservation Residential Tax Credit, the property must be kept as a residence for the Owner. Two (2) or more Owners may share the tax credit.~~

~~F. "First User" means the first person to occupy a Historic Residence following the completion of a Certified Maintenance or Rehabilitation. In order to be eligible,~~

the First User must be the Owner of the Historic Residence at the time the tax credit is claimed.

G. "Maintenance" means the preservation of the exterior of a historic building, its component elements, and its structural system by means of periodic repairs, resurfacing, reattachment, application of coatings, and other measures to allow existing building materials to continue in use.

H. "Rehabilitation" means the preservation of the exterior of a historic building, its component elements, and its structural system by means of selective replacement of worn out materials and alterations to the building generally which return the building to an earlier, documented historic appearance without destroying historically significant later additions.

IV. TAX CREDIT

A. General

Tax credits for Maintenance or Rehabilitation of Historic Residences are allowed in the computation of personal income tax (44-33.1).

B. Effective Date

Qualified Maintenance or Rehabilitation of Historic Residences occurring after July 10, 1989 is eligible for the tax credit.

C. Filing Date

The Historical Preservation Residential Tax Credit shall be taken in the year the Certified Maintenance or Rehabilitation work is completed; provided, that First Users shall take the tax credit in the year in which the property is purchased.

D. Minimum Expenditure

In order to qualify for the historic homeownership tax credit, an Owner must spend at least Two Thousand Dollars ($2,000) within a twelve (12) month period. With the prior approval of the Commission, a project may be phased over a five-year period.

E. Calculation Of The Credit

(1) In the years 1989 through 2000, the credit shall equal ten percent (10%) of the documented cost of a project to maintain or rehabilitate a Historic Residence if the

~~project is approved by the Commission. For projects completed after January 1, 2001, the credit shall equal twenty percent (20%) of the~~

~~documented cost of a project to maintain or rehabilitate a Historic Residence if the project is approved by the Commission.~~

~~(2) The value of unpaid labor or unpaid materials shall not be considered in calculating the tax credit. Only documented actual costs of the project will be considered in calculating the credit.~~

~~(3) No tax credit will be allowed for any project in which all of the work has not been approved by the Commission. Upon completion of the Maintenance or Rehabilitation, the Owner shall notify the Commission, at which time the Commission shall determine whether the Maintenance or Rehabilitation work did or did not comply with the Commission's guidelines. At that time, the Owner will provide the Commission with documentation of the work performed and certify the costs incurred in the Maintenance or Rehabilitation.~~

~~(4) If the Commission approves the Maintenance or Rehabilitation, the Owner shall file the Commission's certification form with the Owner's state income tax return when requesting the income tax credit.~~

~~(5) In the event that there is multiple ownership of the Historic Residence, the credit will only be allowed to the Owner(s) for whom the property is actually a residence in accordance with 44-33.1. Further, if the property for which the credit is claimed is the residence of some or all of the Owners, the credit will be allowed only to those Owners who actually incurred the costs for Maintenance or Rehabilitation. In the event that multiple Owners who are also residents all incurred costs for the same project, the credit will be divided proportionally among such Owners based on each Owner's share of the actual costs.~~

~~(6) In the event that a Historic Residence contains a non-depreciable owner-occupied residential unit and not more than two (2) rental units also owned by the building's owner-occupant, after January 1, 2001 the full value of the credit will be allowed for Maintenance and Rehabilitation costs incurred on the entire building if approved by the Commission.~~

~~(7) In the event that a historic building contains one or more non-depreciable owner-occupied residential units and three (3) or more rental units, only that portion of Maintenance or Rehabilitation costs reasonably associated with owner-occupied residential units may be used to claim a historic homeownership tax credit.~~

V. RESTRICTIONS AND CARRYOVERS

A. Maximum Credit In One Year

The maximum historic homeownership tax credit which may be used by any taxpayer in a single year shall be Five Hundred Dollars ($500) in the years 1989 to 1994, One Thousand Dollars ($1,000) in the years 1995 to 2000, and Two Thousand Dollars ($2,000) beginning in 2001 and thereafter.

B. Carryover

Amounts of unused historic homeownership tax credit may be carried over to following years until the entire credit has been used.

C. Restrictions

(1) The tax credit may only be claimed by the Owner or First User of an eligible Historic Residence. If the taxpayer ceases to be the Owner of the eligible Historic Residence or if the property ceases to be an eligible Historic Residence, any unused credit is forfeited.

(2) An Owner who has claimed a portion of the tax credit may not transfer the unused portion of the tax credit to another taxpayer.

(3) In the event an Owner performs Maintenance or Rehabilitation work to the Historic Residence and the work does not comply with the Commission's guidelines, any unused tax credit for that property is forfeited.

(4) A taxpayer may not claim the Rhode Island Historic Homeownership Tax Credit for expenditures that qualified for federal tax credits for Rehabilitation of certified historic structures in accordance with Internal Revenue Code section 47.

(5) A taxpayer may not claim the Rhode Island Historic Homeownership Tax Credit for expenditures that qualified for Rhode Island tax credits in accordance with the mill building and economic revitalization act, Rhode Island General Law 42-64.7.

VI. COMPLIANCE WITH OTHER AUTHORITIES

Applicants for the historic homeownership tax credit shall conform to appropriate local, state or federal standards for construction or Rehabilitation. Nothing contained herein shall be interpreted to authorize any person to violate any ordinance or law relating to building materials, construction methods, design review, or use.

VII. APPLICATION GUIDELINES

A. Forms

Applications shall be filed on the official form designated by the Commission. Forms are available from the Rhode Island Historical Preservation & Heritage Commission, The Old State House, 150 Benefit Street, Providence, Rhode Island 02903; telephone (401) 222-2678; website www.rihphc.state.ri.us.

B. Application Date

Homeowners who have performed Maintenance or Rehabilitation to their Historic Residence shall file a homeowner's application for the tax credit with the Commission following completion of the project. Applicants are advised and encouraged to file a preliminary application before beginning the project in order to receive the Commission's advice.

Property owners who intend to allow the First User to take the tax credit shall file a First User application for the tax credit with the Commission following completion of the project. Applicants are advised and encouraged to file a preliminary application before beginning the project in order to receive the Commission's advice.

C. DOCUMENTATION

The Commission will require sufficient documentation to determine that the property is an eligible Historic Residence and that Maintenance or Rehabilitation was performed in compliance with the Commission's guidelines.

(1) The applicant shall document his or her ownership of the Historic Residence by providing the Commission with sufficient evidence that he or she is a party named as an Owner on the current deed to the property.

(2) The applicant shall document that he or she resides at the property.

(3) The applicant shall document whether the property is subject to federal depreciation allowance and shall document the use of any portions of the property not occupied as the Owner's residence.

(4) The applicant shall provide sufficient information and documentation to enable the Commission to determine whether the property is

(a) listed individually in the State Register of Historic Places; or

~~(b) located in a district listed in the State Register of Historic Places and~~

certified by the Commission as contributing to the historic character of that district; or

(c) located in a local historic district zone as designated by a city or town under Rhode Island General Laws section 45-24.1-1 and certified by the Commission as contributing to the historic character of that historic district; or

(d) designated by a city or town as an individual structure subject to regulation by a historic district commission under Rhode Island General Laws 45-24.1-1.

(5) The applicant shall provide documentation about the Maintenance or Rehabilitation work including:

(a) color photographs, showing the property before the work was started and after the work was completed;

(b) written descriptions of the work, its purpose, and how the work affected the exterior of the existing building, component elements, materials, and structural systems;

(c) documentation of the costs incurred in the Maintenance or Rehabilitation work;

(d) if needed, professionally prepared architectural plans and specifications;

(e) if needed, historical evidence that changes made to the exterior of the building, its component elements, materials, and structural systems returned the building to an earlier, documented historic appearance without destroying historically significant later additions;

(f) if needed, documentation of compliance with appropriate local, state, or federal standards for construction or Rehabilitation, particularly the approval of the local building official and the local historic district commission;

(g) a statement certifying that the information provided in the application is accurate, and acknowledging the certification requirements.

(6) In order to meet the administrative costs of processing applications, conducting detailed review of projects, and certifying the credit, an administrative fee will be charged when the application is filed. The fee for projects of less than $25,000 will be $100. The fee for projects of $25,000 and over will be $200.

VIII. CERTIFICATION GUIDELINES

A. Guidelines for Maintenance and Rehabilitation of Historic Residences

The Commission's guidelines for Maintenance and Rehabilitation of Historic Residences are The Secretary of the Interior's Standards for Rehabilitation, published by the U. S. Department of the Interior, National Park Service, as interpreted by the Commission.

B. Certification of Eligibility

The Commission will review the information provided in the application and will determine whether or not the property is a Historic Residence.

C. Certification of Maintenance And Rehabilitation

The Commission will review the information provided in the application and will determine whether or not the Maintenance and Rehabilitation complies with the Commission's guidelines.

(1) Scope of Review

The Commission will not certify any project in which all of the work has not been approved. If a project contains some work that complies with the Commission's guidelines, but other work performed does not meet the guidelines, the Commission will review the project as a whole. If the Commission determines that the project overall meets the guidelines, the project will be certified and a credit will be allowed. If the Commission determines that the project overall does not meet the guidelines, the project will not be certified and no credit will be allowed.

Work that is performed solely on non-historic features, such as repairs to a recent addition, will not be eligible for a tax credit.

For the purpose of determining whether all project work has been certified, any exterior work (including new construction) performed within the twelve (12) months preceding the date of application and any exterior work (including new construction) performed within the twelve (12) months following the date of certification shall be deemed by the Commission to be part of the project.

In the event that work is performed during the twelve (12) months after the date of certification and such additional work does not comply with the Commission's guidelines, the credit shall be disallowed, and the taxpayer shall repay the amount of any credits taken plus interest to the Division of Taxation.

In the event that work is performed more than twelve (12) months after the date of certification and such additional work does not comply with the Commission's guidelines, any unused credit is forfeited.

(2) Review of Costs

The Commission will review the applicant's statement of costs for the approved Rehabilitation or Maintenance work. Applicants are required to document claimed costs by presenting copies of canceled checks. If canceled checks are not available to document claimed costs, the Commission may consider other types of documentation such as itemized receipts for payments made. The Commission may request advice from the Department of Administration, Division of Taxation regarding the review of claimed costs. Costs which cannot be documented shall not be allowed in calculating the tax credit. No costs incurred or paid before July 10, 1989 shall be allowed in calculating the tax credit.

D. ISSUING THE COMMISSION'S CERTIFICATE

(1) If the Commission determines that all of the requirements of these regulations have been met, the Commission shall issue its written certification that an eligible Historic Residence has been maintained or rehabilitated in accordance with the Commission's guidelines, and the Commission shall state the total amount of the tax credit based upon the Owner's statement of costs.

(a) Homeowner Certificate

The Commission will issue a Homeowner Certificate that shall be filed by the Owner with the Owner's state income tax return when requesting the income tax credit.

(b) First User Certificate

Alternatively, the Commission will issue a First User Certificate to the property owner that certifies that the project qualifies for an income tax credit for the First User. Following purchase of the Historic Residence, the First User shall present the First User certificate to the Commission and shall certify that he or she owns the property as a Historic Residence. The Commission will issue a homeowner's certificate that shall be filed by the Owner with the Owner's state income tax return when requesting the income tax credit.

(2) In order to assure timely professional review of applications, the Commission delegates to its Executive Director authority to act on behalf of the Commission in determining whether the requirements of these regulations

have been met and to issue final certifications. Appeal of a decision made by the Executive Director shall be addressed to the Commission chairman within thirty (30) days.

(3) Appeal of a decision made by the Commission Executive Director shall be heard by the Commission or a sub-committee of the Commission. The Commission shall sustain, modify, or reverse the decision of the Executive Director within sixty (60) days of receiving the appeal. The decision of the Commission is the final administrative review.

DATE ADOPTED: January 17, 2001
DATE FILED: February 14, 2001
EFFECTIVE DATE: March 7, 2001