

TYPES NOT MAPPED YET September 18, 2023 | TTR not mapped yet | Garrett M. Fischer, Janette M. Lohman

Missouri Department of Economic Development Proposes Changes to its Historic Tax Credit Regulations

The Missouri Historic Structures Rehabilitation Tax Credit (the “*Credit*”) Program (the “*Program*”) was launched in 1998 and provides eligible taxpayers with a Credit equal to twenty-five percent (25%) of the qualifying costs and expenses for rehabilitating a commercial or residential property located in Missouri.

On September 1, 2023, the Missouri Department of Economic Development (the “*MDED*”) proposed to amend several of the Program’s regulations (the “*Proposed Regulations*”). The Proposed Regulations are available at: [The Missouri Register](#), and the MDED is accepting public comments on the Proposed Regulations until September 30, 2023.

As described in the Proposed Regulations, the proposed changes are intended to:

- Ensure consistency in the definitions between the Program statutes and regulations, add definitions to reflect the three (3) different stages when applications can be submitted, and update certain definitions to reflect technological advancements in filing and processing applications.
- Amend the Program rules to reflect three (3) different stages when an application may be submitted, and clarify the steps within and the requirements for each application type or stage. Significant changes to the regulations would include:
 1. Adding a fifteen (15) business day opportunity to cure an incomplete application;
 2. Eliminating the current three (3) tier scoring system, and replacing it with a simpler pass/fail scoring system;
 3. Eliminating the current two (2), one-month application cycles per fiscal year, and replacing them with a single cycle open for twelve (12) months;
 4. Changing the order in which Credits are allocated from a statutory set-aside for projects in qualified census tracts;
 5. Providing for Credit authorization upon a conditional approval from the State Historic Preservation Office (SHPO) or the National Park Service, rather than authorization only upon receipt of an unconditional approval from SHPO; and
 6. Adding the ability to receive Credits for certain hard costs incurred one (1) year before the submission of a preliminary application for Credits.
- Clarify which applications require a net fiscal benefit evaluation, and require the applicant to submit the analysis of municipal net fiscal benefit.
- Clarify which applications are evaluated for overall size and quality.
- Clarify which applications require a level of economic distress evaluation, and add inclusion in an enhanced enterprise zone as a basis for receiving a higher score.

- Clarify which applications require a letter of support from local officials.
- Clarify which applications result in an issuance of Credits, and add to the rule compliance with RSMo. Section 285.530 (regarding employment of unauthorized aliens).
- Eliminate duplicative paperwork by allowing a phased project to submit a single preliminary application instead of a separate preliminary application for each project phase.
- Remove the requirement that applicants and developers use a specific form for a developer fee agreement, and combine percentage caps on contractor overhead and contractor profit to allow applicants more flexibility in these arrangements.
- Eliminate certain unnecessary provisions regarding not-for-profit entities.
- Clarify how the MDED may notify an applicant of the administrative closure of inactive projects.

For further guidance on the proposed changes to the Program regulations or the general transferability of state tax credits in Missouri and other states, contact Thompson Coburn LLP's Tax Credit partners [Garrett Fischer](#) or [Janette Lohman](#).

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