

## Chapter HS 3

### STATE HISTORIC REHABILITATION TAX CREDITS

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**HS 3.01 Authority.** This chapter is promulgated under the authority of ss. 44.02 (24), 44.34 (4) and 227.11 (2) (a), Stats., and provides a process to implement s. 71.07 (9r), Stats.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**HS 3.02 Purpose.** This chapter establishes procedures that the state historical society will use to make its determinations regarding the eligibility of projects to rehabilitate historic property for 25% state investment tax credits.

**Note:** In addition to these requirements of the state historical society, the taxpayer claiming the credit must meet other requirements of the department of revenue.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**HS 3.03 Definitions.** In this chapter:

(1) “Completion date” means the date indicated in the approved part 2 application by which all eligible activity is to be completed.

(2) “Eligible activity” means those portions of a project for which the owner may claim the costs under the 25% rehabilitation tax credit program under s. 71.07 (9r) (a) and (b) 1m., Stats.

(3) “Eligible property” means real property located in the state of Wisconsin that has been determined to be historic property that is used as an owner-occupied personal residence and is not actively used in a trade or business, held for the production of income, or held for sale or other disposition in the ordinary course of the owner’s trade or business.

(4) “Five year phasing application” means state form HPD:WTC004, “Request for Five-Year Project Phasing,” available from the division of historic preservation, state historical society, 816 State Street, Madison, Wisconsin 53706.

(5) “Listing date” means the date on which the property or the district in which it is physically located is listed in the national register or state register.

(6) “National register” means the list of properties and districts of historic, archeological, architectural, and engineering significance in the national register of historic places maintained by the national park service, U. S. department of the interior under provisions of 16 USC 470.

(7) “Officer” means the state historic preservation officer appointed under s. 44.32, Stats.

(8) “Outbuilding” means any building within the legal boundaries of a property that contains eligible property under sub. (3).

(9) “Owner” means the natural person whose name is listed in the county register of deeds as holding record title to the property or who holds equitable title as a land contract vendee.

(10) “Part 1 application” means state form HPD:WTC001, “Historic Preservation Certification Application, Part 1—Evaluation of Significance,” available from the division of historic preservation, state historical society, 816 State Street, Madison, Wisconsin 53706.

(11) “Part 2 application” means state form HPD:WTC002, “Historic Preservation Certification Application, Part 2—Description of Rehabilitation,” available from the division of historic preservation, state historical society, 816 State Street, Madison, Wisconsin 53706.

(12) “Part 3 application” means state form HPD:WTC003, “Request for Certification of Completed Work,” available from the division of historic preservation, state historical society, 816 State Street, Madison, Wisconsin 53706.

(13) “Physical work” means construction or destruction in preparation for construction.

(14) “Project period” means the period from the start of physical work until the completion of all eligible activity.

(15) “Rehabilitation work” means an activity that has received, or is the subject of an application to receive, a general certification by the society under s. HS 3.04, including both eligible activity and other physical work that may be undertaken during or within 12 months before the project period.

(16) “Society” means the state historical society.

(17) “State register” means the list of properties and districts of historic, archeological, architectural, and engineering significance in the Wisconsin state register of historic places maintained by the state historical society under s. 44.36, Stats., including interim listings under s. 44.36 (5) (a) 3., Stats.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**HS 3.04 General certification by the society.** For purposes of s. 71.07 (9r) (b) 3., Stats., a project is certified when the officer has made a determination of historic property under s. HS 3.05 and certifies in writing that the property is historic property and that the rehabilitation work meets the rehabilitation standards under s. HS 3.06. The officer shall rescind certification if the applicant does not submit a part 3 application under s. HS 3.06 (1) and (2) or the officer denies the part 3 application under s. HS 3.07 (5).

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**HS 3.05 Determination of historic property.** Before the officer may certify the rehabilitation work, under s. HS 3.06, a property shall be determined to be historic property through the following processes:

(1) **INDIVIDUALLY LISTED PROPERTY.** (a) A property is historic property if the officer certifies that it is listed individually in the national register or the state register.

(b) The owner shall apply for and receive written determination of historic property by the officer. The owner shall apply using a part 1 application.

(c) If the rehabilitation project includes work on an outbuilding, the owner shall include in the part 1 application a description of the outbuilding and photographs for the officer to determine

that the outbuilding contributes to the significance of the historic property.

(d) If the officer determines that the part 1 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(e) If the officer determines that the part 1 application is complete, the officer shall review and approve or deny the part 1 application in writing.

(f) When the officer determines a property to be historic property, the officer shall sign the part 1 application and return it to the owner indicating that the property is historic property.

**(2) DISTRICT PROPERTY.** (a) A property is historic property if it is included in a district that is listed in the national register or the state register and if the officer certifies in writing that it contributes to the significance that caused the district to become eligible for listing in one or both registers.

(b) The owner shall apply for and receive written determination of historic property by the officer. The owner shall apply using a part 1 application.

(c) If the rehabilitation project includes work on an outbuilding, the owner shall include in the part 1 application a description of the outbuilding and photographs for the officer to determine that the outbuilding contributes to the significance of the historic property.

(d) If the officer determines that the part 1 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(e) If the officer determines that the part 1 application is complete, the officer shall review and approve or deny the part 1 application in writing.

(f) When the officer determines a property to be historic property, the officer shall sign the part 1 application and return it to the owner indicating that the property is historic property.

**(3) PROPERTY DETERMINED ELIGIBLE.** (a) A property is historic property if it is determined by the officer to be eligible for listing in the national register or the state register.

(b) The owner shall apply for and receive written determination of historic property by the officer. The owner shall apply using a part 1 application that describes the historic building, its site, and any outbuildings contained on the site.

(c) If the officer determines that the part 1 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(d) If the officer determines that the part 1 application is complete, the officer shall review and approve or deny the part 1 application in writing.

(e) When the officer determines a property to be historic property, the officer shall sign the part 1 application and return it to the owner indicating that the property is historic property.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

### HS 3.06 Certification of rehabilitation work. (1)

The owner shall apply for and receive approval by the officer for proposed rehabilitation work using a part 2 application. The owner shall describe all rehabilitation work, including both eligible activities and non-eligible activities, such as site work and cosmetic interior work, and shall indicate on the part 2 application those portions of the project for which the tax credit will be claimed.

**(2)** The part 2 application shall document the condition and appearance of the property before the start of rehabilitation work, including photographic documentation of all affected portions of the property and, where necessary to describe the project, archi-

tectural plans. The officer may waive photographic documentation or architectural drawings in cases where documentation is impossible.

**(3)** The officer shall review the part 2 application if the owner has applied for a determination of historic property using a part 1 application and if the officer has determined that the property is historic property. If the officer reviews the part 1 application and determines that the property is not historic property, the officer shall return the part 2 application to the owner with an indication that the property is not historic property.

**(4)** If the officer determines that the part 2 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

**(5)** If the officer determines that the part 2 application is complete, the officer shall review and approve, approve with conditions, or deny the part 2 application in writing.

**(6)** The officer shall approve the part 2 application if the officer determines that the proposed project meets all of the following rehabilitation standards:

(a) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(d) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

(f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(h) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(i) New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(j) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**(7)** The officer may approve the part 2 application with conditions if the officer determines that compliance with the conditions would result in the rehabilitation work meeting the rehabilitation standards.

**(8)** When the officer approves a part 2 application, the officer

shall sign the part 2 application and return it to the owner indicating that the officer has certified the property as historic property and has approved the proposed work and any conditions that may be attached to the approval.

(9) An owner may reapply for certification of a rehabilitation project that has been denied by the officer. If the officer determines that the owner has made substantive revisions to the application to conform to the rehabilitation standards, the officer shall consider the application in accordance with procedures in this section.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**HS 3.07 Certification of completed work.** (1) Within 90 days of the completion of rehabilitation work the owner shall submit a part 3 application to the officer for approval. If the officer determines that the part 3 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(2) If the officer does not receive a part 3 application within 90 days of the completion date, the officer shall notify the owner in writing that certification of rehabilitation will be rescinded unless the owner submits a complete part 3 application within 45 days of the date of the written notification. If the officer does not receive a complete part 3 application by the end of the 45 day period, the officer shall notify the secretary of the department of revenue in writing that certification of rehabilitation has been rescinded.

(3) If the officer determines that the part 3 application is complete, the officer shall review and approve or deny the part 3 application in writing.

(4) The officer shall approve the part 3 application if the officer determines that the rehabilitation work conforms to the part 2 application. When the officer approves a part 3 application, the

officer shall sign the part 3 application and return it to the owner indicating that the officer has approved the rehabilitation work.

(5) The officer shall deny the part 3 application if the officer determines that the rehabilitation work does not conform to the part 2 application. When the officer denies a part 3 application, the officer shall issue a letter to the property owner notifying the owner of the reasons for the denial, any remedial action that the owner may take that will result in the approval of the part 3 application, and a date by which the remedial action must take place. If by the given date the officer determines that the project has been brought into conformance with the part 2 application, the officer shall sign and return it to the owner indicating that the officer has approved the rehabilitation work; If by the given date the owner has not demonstrated that work has been brought into conformance with the part 2 application, the officer shall notify by letter the secretary of the department of revenue that the rehabilitation work does not meet the rehabilitation standards.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**HS 3.08 Approval of 5 year phasing.** (1) The owner shall apply for and receive approval by the officer prior to the beginning of physical work if the owner elects to claim the costs of eligible activity not completed within a two year project period. Application shall be made using a 5 year phasing application submitted to the officer with the part 2 application.

(2) If the officer determines that the 5 year phasing application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(3) When the officer approves the 5 year phasing application, the officer shall sign the form and return it to the owner indicating that the phasing plan has been approved and that the project period has been extended according to the approved application up to a maximum of 5 years.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.