Frequently Asked Questions (FAQ) on Public Act 100-0629, regarding State Historic Tax Credits

On May 31, 2018, the Illinois General Assembly passed Senate Bill 3527 by a sweeping majority in both the House of Representatives (101-11-1) and the Senate (51-0). On July 26, 2018, Gov. Bruce Rauner signed the bill at an event in Peoria.

Landmarks Illinois and AIA Illinois were closely involved with the drafting of the legislation, and we are providing the following answers to frequently asked questions about the new Historic Preservation Tax Credit Act, commonly referred to as the State Historic Tax Credit (SHTC). As such, Landmarks Illinois is providing this FAQ document to assist in answering basic questions.

More information will be released by the Illinois State Historic Preservation Office (SHPO) after the program rules have been developed.

What is this new program called?

In the legislation it is entitled the "Historic Preservation Tax Credit Act."

What is the Historic Preservation Tax Credit Act?

The Historic Preservation Tax Credit Act will provide a state income-tax credit equal to 25% of a project's qualified expenditures to owners of certified historic structures who undertake certified rehabilitations. Previously, a similar program, the River Edge Redevelopment Zone (RERZ) Historic Tax Credit, was only available in designated zones within five Illinois communities. The new legislation does not replace the RERZ Historic Tax Credit, but creates a new statewide rehabilitation incentive while it improves the RERZ Historic Tax Credit.

When did the bill become law?

The bill passed out of the Illinois General Assembly (ILGA) on May 31, 2018, the final day of the legislative Session. The ILGA sent the legislation to Gov. Bruce Rauner on June 21, 2018, and he had 60 days to consider the bill and either sign or veto the legislation. Gov. Rauner signed the bill on July 26, 2018, and the law takes effect on Jan. 1, 2019.

When will the Historic Preservation Tax Credit be available?

Projects with qualified expenditures incurred on or after January 1, 2019, through December 31, 2023, will be eligible to apply for the state tax credit. The credit will end on or before December 31, 2023. The SHPO expects applications to be ready about June 2019.

Is this a program for homeowners?

Owner-occupied housing is not eligible for this credit. This program is for income-producing buildings, such as rental-residential, commercial, agricultural and/or industrial uses.

Does the new Historic Preservation Tax Credit take the place of the existing RERZ Historic Tax Credit?

No, in addition to creating a new statewide credit, the law revises the RERZ Historic Tax Credit, which remains in effect through December 31, 2021.

Can I use both the SHTC and the RERZ SHTC together?

The intent of the legislation was to disallow using both the SHTC and the RERZ SHTC simultaneously. It is likely that this language will be clarified as part of the rulemaking process that will define how the program is to be administered.

Which Illinois agency is responsible for administering the new credit?

The State Historic Preservation Office (SHPO) of the Illinois Department of Natural Resources will manage the new program, as well as the revised RERZ Historic Tax Credit. To be eligible for the new program, projects must concurrently apply for the federal historic tax credit program through the SHPO, which recommends projects to the National Park Service (NPS) for ultimate approval. The Illinois Department of Commerce and Economic Opportunity will no longer participate in the RERZ Historic Tax Credit Program.

How much money could my project get?

The Historic Preservation Tax Credit issues tax credits, not direct funding, and has a $15 million annual allocation for the program. Each project that qualifies can apply for 25% of its qualifying rehabilitation expenditures (QREs) up to a total of $3 million in state income-tax credits. No project can receive more than $3 million in Illinois Historic Preservation Tax Credits. Because projects must concurrently apply for the federal 20% income tax credit, projects may earn an additional 20% of their qualified expenses as a federal income tax credit.

Is the new credit "certificated?"

At the end of an approved project, the taxpayer will be given a certificate to claim their state income tax credit. However, what is often meant by "certificated" is that the credit can be transferred outside of the development partnership to outside investors. The Historic Preservation Tax Credit is not transferrable, nor is the RERZ Historic Tax Credit. Each credit can only be used by the partners, per the legislation's definitions of "Qualified Taxpayer."

What is "recapture"?

Following the Federal Historic Preservation Tax Credit, if a recapture event occurs within five years after the building was placed in service, all or a pro-rated portion of the credit previously claimed is recaptured. The recapture amount decreases by 20% for each year up to five years. Examples of recapture events include but are not limited to if the building is sold, the building ceases to be income-producing, or demolition.

Does my project need to be in an RERZ to access this new credit?

No, the new Historic Preservation Tax Credit is available in every community across the state, but <u>your project must meet the criteria to be eligible and your building must be listed in or in the process of being listed in the National Register of Historic Places</u>.

How do I know if my project is eligible?

First, projects are required to follow the same provisions as for the Federal Historic Preservation Tax Credit:

1. the building must be listed individually on the National Register of Historic Places or contribute to a historic district that is either listed on the National Register or certified by the NPS for the purposes of the Tax Credit program;
2. the building must be used for income-producing purposes, such as rental-residential, commercial, agricultural, industrial or any combination thereof;
3. the rehabilitation (both interior and exterior) must meet the Secretary of the Interior's Standards for Rehabilitation (Standards); and
4. the project budget must exceed the greater of the building's adjusted basis (roughly the current depreciated value of the building, not including land) or $5,000, either within a 24-month period or within a 60-month period, as long as phased plans are approved in advance.

In addition, projects that meet one of the following criteria will be prioritized:

1. the qualified historic structure is located in a county that borders a state with a historic property rehabilitation credit;
2. the qualified historic structure was previously owned by a federal, state or local governmental entity;
3. the qualified historic structure is located in a census tract that has a median family income at or below the state median family income;
4. the qualified rehabilitation plan includes in the development partnership a Community Development Entity or a low-profit (B Corporation) or not-for-profit organization;
5. the qualified historic structure is located in an area declared under an Emergency Declaration of Major Disaster Declaration under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Is there a cost to apply?

No, there is no cost to apply for either the State Historic Tax Credit or RERZ State Historic Tax Credit. However, both state tax credits have a fee of up to 2% of the value of the state credits that will be collected before the state credit certificate can be issued. For the 20% Federal Historic Tax Credit, the National Park Service will collect a review fee of up to $6,500, depending on the project budget.

When can I begin to apply?

Now that the bill has become law, the Department of Natural Resources will write specific rules concerning how the application process will work until the law goes into effect. We expect that applications will not be accepted before June, 2019.

Will every project that applies receive a credit?

It is unlikely that every project that applies will receive the State Historic Tax Credit, unless the applications for that year add up to less than $15 million in credits. The aggregate cap on the program means that the State Historic Preservation Office cannot commit more than $15 million in total credits per year. A single project can receive no more than $3 million in State Historic Tax Credits with the amount being determined as 25% of the qualifying rehabilitation expenditures; thus, the amount of credits could be less than $3 million. The method by which the State Historic Preservation Office will determine how projects will be put in a queue for the credits is still being discussed.

Where can I find the text for the legislation?

Search the web for Illinois Public Act 100-0629. Or, you can go to the language directly at this URL:
http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=100-0629&GA=100

About Landmarks Illinois

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