

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	10/27/2017	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 12/8/2017

2. COMAR Codification

Title Subtitle Chapter Regulation

34 04 07 02

34 04 07 05

3. Name of Promulgating Authority

Department of Planning

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

New Regulations

Title 34
DEPARTMENT OF PLANNING
Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS
34.04.07 Heritage Structure Rehabilitation Tax Credit Certifications
Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS
34.04.07 Heritage Structure Rehabilitation Tax Credit Certifications
Authority: State Finance and Procurement Article, §5A-303, Annotated Code of
Maryland

Notice of Proposed Action

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The Maryland Department of Planning, Maryland Historical Trust (MHT) proposes to revise COMAR 34.04.07.02 and 34.04.07.05 to clarify (1) a defined term and (2) that amendments to certain tax credit applications are subject to the same review and approval procedures applicable to the original application.

Statement of Purpose

The purpose of this action is to amend two regulations in COMAR 34.04.07. The purpose for the amendments to COMAR 34.04.07.02 is to revise the definition of “qualified rehabilitation expenditure” such that it is clear that rehabilitation expenses incurred prior to the date that MHT approves the rehabilitation plan for a rehabilitation project will not qualify for the Heritage Structure Rehabilitation Tax Credit. The purpose for the amendments to COMAR 34.04.07.05 is to clarify that proposed amendments to “Part 2” tax credit applications are to be reviewed and acted on by MHT under the same procedures applicable to review and action on original Part 2 applications.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Collin Ingraham, Administrator, Preservation Financial Incentives, Maryland Historical Trust, 100 Community Place, 3rd Floor, Crownsville, Maryland 21032-2023, or call 410-697-9558, or email to Collin.Ingraham@maryland.gov, or fax to 410-697-9616. Comments will be accepted through January 8, 2018. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2018
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
No
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
No additional funds are needed are needed to implement these changes.
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
These regulations provide clarification to existing regulations consistent with how MHT applies the existing regulations.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
These regulations provide clarification to existing regulations consistent with how MHT applies the existing regulations.
- G. Small Business Worksheet:

Impact Statement Part C — Legislative Information

Part C requests agencies to provide information required by the Department of Legislative Services in its report to the AELR Committee. Answer the questions in the space provided. Part C is not printed in the Maryland Register.

Small Business Analysis Worksheet

This worksheet is designed to assist the agency in determining if and how the proposal impacts small businesses. Quantify the number of affected small businesses and estimates of costs and benefits to small businesses if possible. State Government Article, §2-1505.2, includes the following definitions which are relevant to the analysis:

“Economic impact analysis” means an estimate of the cost or the economic benefit to small businesses that may be affected by a regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

“Small business” means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: (i) is independently owned and operated; (ii) is not dominant in its field; and (iii) employs 50 or fewer full-time employees.

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

MHT and any person or entity that submits an application Heritage Structure Rehabilitation Tax Credit.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

Households will not be affected by the proposed action.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

Businesses will not be affected by the proposed action.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

None.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How

may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

None.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

There is no long-term economic impact.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

(1) There is no anticipated effect on the cost of providing goods and services; (2) There is no anticipated effect on the work force; (3) There is no anticipated effect on the cost of housing; (4) There is no anticipated effect on efficiency in production and marketing; (5) There is no anticipated capital investment, taxation, competition, and economic development; and (6) There is no anticipated effect on consumer choice.

Attached Document:

Title 34 DEPARTMENT OF PLANNING

Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS

Chapter 07 Heritage Structure Rehabilitation Tax Credit Certifications

Authority: State Finance and Procurement Article, §5A-303, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) – (13) (text unchanged)

- (14) “Qualified rehabilitation expenditure” means any amount that is:
- (a) (text unchanged)
 - (b) Expended [to complete] *on* a certified rehabilitation:
 - (i) Of a structure that is certified by the Director as a certified historic structure under Regulation .04 of this chapter (Part 1) *by* no later than the end of the calendar year during which the certified rehabilitation is completed; [and]
 - (ii) In compliance with a rehabilitation plan [that has been] approved by the Director under Regulation .05 of this chapter (Part 2); and
 - (iii) *For work undertaken after approval by the Director of the rehabilitation plan under Part 2; and*
 - (c) (text unchanged)
- (15) – (23) (text unchanged)

Title 34 DEPARTMENT OF PLANNING

Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS

Chapter 07 Heritage Structure Rehabilitation Tax Credit Certifications

Authority: State Finance and Procurement Article, §5A-303, Annotated Code of Maryland

.05 Procedures for Application for and Review of Certifications of Eligibility of Certified Historic Structure Rehabilitations (Part 2).

A. Part 2 Application Process.

- (1) – (4) (text unchanged)
- (5) At any time before completion of the rehabilitation, an applicant may [propose to] *file with* the Director an amendment to a Part 2 application [which the Director may approve or deny at the Director’s discretion] *in form and substance as instructed on the Trust’s website.*

B. Homeowner Tax Credit.

- (1) Upon receipt of *either* a complete Part 2 application *or an amendment to an application* for the Homeowner Tax Credit, the Director shall review the application *or amendment* and determine whether:
 - (a) (text unchanged)
 - (b) The plan for the rehabilitation as described in the application *or amendment* meets the Standards for Certified Historic Structure Rehabilitation; *and*
 - (c) The anticipated qualified rehabilitation expenditures will exceed \$5,000[; and
 - (d) No substantial part of the rehabilitation had begun at the time that the Trust received the application].
- (2) The Director shall approve the Part 2 application *or amendment* and promptly send written notice of the approval to the applicant if the Director determines that each of the criteria set forth in §B(1) of this regulation is satisfied.
- (3) The Director shall deny the Part 2 application *or amendment* and promptly send written notice of the denial to the applicant if the Director determines that any of the criteria set forth in §B(1) of this regulation is not satisfied.

C. Small Commercial Tax Credit.

(1) Upon receipt of *either* a complete Part 2 application *or an amendment to an application* for the Small Commercial Tax Credit, the Director shall review the application *or amendment* and determine whether:

(a) (text unchanged)

(b) The plan for the rehabilitation as described in the application *or amendment* meets the Standards for Certified Historic Structure Rehabilitation; *and*

(c) The anticipated qualified rehabilitation expenditures will exceed \$5,000 but not exceed \$500,000[; and

(d) No substantial part of the rehabilitation had begun at the time that the Trust received the application].

(2) If the Director determines that each of the criteria set forth in §C(1) of this regulation is satisfied, the Director shall:

(a) Approve the Part 2 application *or amendment*;

(b)—(c) (text unchanged)

(3) If the Director determines that any of the criteria set forth in §C(1) of this regulation is not satisfied, the Director shall deny the Part 2 application *or amendment* and promptly send written notice of the denial to the applicant.

(4) The Director may not approve any Part 2 application *or amendment* and may not issue any initial credit certificates for a Small Commercial Tax Credit after the aggregate amount of initial credit certificates for the Small Commercial Tax Credit issued by the Director on or after January 1, 2015, totals \$4,000,000.

D. (text unchanged)