

FEDERAL AND NEW YORK STATE HISTORIC PRESERVATION TAX CREDIT PROGRAMS

HELP FOR HISTORIC INCOME-PRODUCING PROPERTIES

Owners of historic commercial, office, industrial, agricultural or residential rental properties may be eligible for 20% federal and 20% state income tax credits for rehabilitation projects.

IF YOU WANT TO APPLY:

- You must own an income-producing property.
- The property must be individually listed on the State or National Registers of Historic Places or a contributing property located in a State and National Registers listed historic district.
- All the work must be approved by the Division for Historic Preservation BEFORE you begin.
- To apply for the STATE PRESERVATION TAX CREDIT, the property must also be located in an eligible census tract as well as qualify for the federal credit.

The division can provide assistance on how to rehabilitate your property while preserving its historic appearance. The proposed work must follow the Secretary of the Interior's Standards for Rehabilitation (visit www.nps.gov/hps/tps/standguide/rehab/rehab_standards.htm), which focuses on repairing historic materials; retaining distinctive, character-defining features; and preserving important interior spaces. The credit does not cover new construction outside the existing footprint of the historic building.

For information, visit www.nysparks.com/shpo/tax-credit-programs or call 518-237-8643.

GENERAL GUIDELINES

- Contact the Division for Historic Preservation for assistance early in the project planning process before you begin work.
- Projects are reviewed by the division prior to submission to the National Park Service, which is responsible for final tax credit project approval.
- The tax credits are a dollar-for-dollar reduction in federal and state tax liability.
- The cost of the rehabilitation must be equal to or greater than the adjusted basis of the property; basically, the adjusted basis is the value of property minus the value of the land.
- The three part, step-by-step application includes: 1. Evaluation of the property's significance; 2. Description of the proposed rehabilitation; and 3. Certification of completed work.

QUICK TIPS:

- Thoroughly photograph the inside and outside of your building to document its existing, pre-rehabilitation condition.
- Historic windows, significant interior spaces, and original floor plans are important, character-defining features that require careful consideration and appropriate treatment during project planning and construction.

FREQUENTLY ASKED QUESTIONS

What is a preservation tax credit?

It is a set percentage of the final historic rehabilitation costs subtracted from the amount of federal and/or state income taxes owed.

How are the federal and state tax credit programs different?

While both programs offer credits equal to 20% of the rehabilitation costs respectively, the state credit is limited to properties that not only qualify for the federal tax credit, but are also located in eligible census tracts. Additionally, the state tax credit applies to rehabilitation costs up to \$5 million only. For more information, visit www.nysparks.com/shpo/tax-credit-programs or call 518-237-8643.

What kind of work qualifies?

All interior and exterior rehabilitation work is eligible for the tax credits as long as it follows the Secretary of the Interior's Standards for Rehabilitation, including work that adapts the property for contemporary use or improves its energy efficiency. The programs essentially cover the entire historic building, from foundation to roof, inside and out. For technical guidance on a wide range of preservation and rehabilitation topics, visit www.nps.gov/history/hps/tps/tax/index.htm. For tax credit program information and technical assistance, visit www.nysparks.com/shpo/tax-credit-programs or call 518-237-8643.

How can I find out if my property is listed on the State and National Registers of Historic Places?

Visit www.nysparks.com/shpo/ for access to scanned State and National Register nomination forms (look for Online Tools and see Document Imaging for National Register) or call 518-237-8643 for National Register program assistance.

What if my property is not listed on the State and National Registers of Historic Places?

The division can help you determine if your property is eligible for State and National Registers listing and, if so, provide assistance on the nomination process. Although listing is a program requirement, the property does not have to be listed before you begin the project. Information and assistance is available at www.nysparks.com/shpo/national-register/ or call 518-237-8643.

Can the preservation tax credits be used in combination with other public funding programs?

Yes. A variety of federal and state loan, grant, and tax credit programs can be used in conjunction with the preservation tax credits, such as community development grants and low income housing credits.

What is the review and approval process?

The division is your primary contact, reviewing your application materials throughout the project planning and construction process, providing technical assistance and advice, requesting more information as needed, and submitting your application materials to the National Park Service for review and approval.



NEW YORK STATE HISTORIC HOMEOWNERSHIP REHABILITATION TAX CREDIT PROGRAM

HELP FOR HOMEOWNERS

If you own a house that is listed on the State and National Registers of Historic Places individually or is contributing to a listed historic district and located in an eligible census tract, you may qualify for a state historic rehabilitation tax credit equal to 20% of the repair costs.

IF YOU WANT TO APPLY:

- You must own and live in the house.
- The repair costs must exceed \$5,000 and you must spend at least 5% on exterior work.
- All the work must be approved by the Division for Historic Preservation BEFORE you begin.

We can provide assistance on how to repair your house while preserving its historic appearance. A wide range of work items are eligible, including the repair of walls, floors, chimneys, doors, and windows as well as new roofs, mechanical systems, electrical wiring, and plumbing. The credit does not cover work outside the house, such as landscaping, fencing, and new additions.

For assistance, contact Sloane Bullough by calling 518-237-8643, ext. 3252 or email sloane.bullough@parks.ny.gov. For tax credit program information and applications, visit www.nysparks.com/shpo/tax-credit-programs.

GENERAL GUIDELINES

Take photographs inside and outside your house to show its condition.

Exterior and interior work is eligible and you can undertake a wide range of repairs and/or replacements AS LONG AS THE WORK DOES NOT SIGNIFICANTLY CHANGE YOUR HOUSE'S OVERALL HISTORIC APPEARANCE, including but not limited to:

- Structural systems, including foundations, floor joists, and ceiling and attic rafters.
- Roofs, including roof coverings, rafters, fascia, soffits, gutters, and downspouts.
- Interior work, including floors, walls, stairs, ceilings, and trim around windows and doors.
- Utility systems, including heating, ventilation, air conditioning, electrical, and plumbing systems as well as fire safety and security systems.
- Windows and doors, including glass, frames, shutters, hardware, and storm windows.
- Exterior walls, cornices, porches, and foundations, including siding, dormers, brackets, columns, railings, stairs, window and door trim, concrete or masonry walls, and chimneys.
- Weatherproofing, including caulking, weather-stripping, and some insulation upgrades.



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FREQUENTLY ASKED QUESTIONS

If I want to apply for the credit, what should I do?

For more information and for an application, visit www.nysparks.com/shpo/tax-credit-programs or contact Sloane Bullough by calling 518-237-8643, ext. 3252.

How do I know if my house is eligible?

Visit www.nysparks.com/shpo/tax-credit-programs for information about how to determine eligibility or contact Sloane Bullough by calling 518-237-8643, ext. 3252.

Can I make my house more energy efficient?

Yes. As long as the work does not alter the house's overall historic appearance. For more information, see the Weatherization Tool Kit and Technical Assistance section on the division's website at nysparks.com/shpo/.

Can I replace my old windows?

Window replacement is an eligible expense if existing windows are not historic or cannot be repaired due to severe deterioration. You must provide photographs of the windows to show their condition and the proposed replacements must be approved by the division. Vinyl or vinyl clad windows are generally not acceptable. Existing windows can be made more energy efficient with proper repair, including the installation of weather stripping and interior or exterior storm windows. For more information, see the Weatherization Tool Kit at nysparks.com/shpo/.

Can I install vinyl siding on my house?

Replacing repairable historic material is never recommended; however, if the historic material cannot be repaired because of the extent of the damage, we recommend that the material is replaced in-kind. The use of modern materials over existing wood siding may lead to future moisture damage to the structure and diminishes the historic appearance of the building. For more information, see Preservation Brief #8: Aluminum and Vinyl Siding on Historic Buildings at www.nps.gov/tps/how-to-preserve/briefs.htm.

Can I use the credit if I have a rental unit in my house?

Only the work associated with the homeowner-occupied portion of the house is eligible. There are other historic preservation tax incentives for income-producing properties. For assistance, please contact Sloane Bullough by calling 518-237-8643, ext. 3252.

When can I take the tax credit?

This state income tax credit is taken in the year that the owner receives a Certification of Completion from the Division for Historic Preservation; the certificate is issued when work is completed and Part 3 of the tax credit application is submitted and approved.

What if I am unable to use all of the credit?

The credit can be carried over to subsequent years until it is used. If your household adjusted gross income is below \$60,000, the unused credit can be taken as a refund.



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FIELD SERVICES BUREAU

DIVISION FOR HISTORIC PRESERVATION

NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

Internet Resources

New York State Historic Preservation Office (SHPO) 518-237-8643

The SHPO offers a wider range of technical assistance from information about preservation incentive tax credits and grants programs to guidance on rehabilitating your buildings and general preservation in New York State. Call for information about your regional staff representatives.

- General New York State preservation information: www.nysparks.state.ny.us/shpo/
- National Register of Historic Places information:
www.nysparks.state.ny.us/shpo/national-register/
- Tax Credit Programs: www.nysparks.state.ny.us/shpo/tax-credit-programs/
- Online tools: for maps, project database and images:
www.nysparks.state.ny.us/shpo/online-tools/

National Park Service, Department of the Interior 202-513-7270

National Park Service has extensive publications and website sections on technical preservation issues, preservation procedures and programs such as rehabilitation tax credit programs. Information on National Register: www.nps.gov/history/nr/listing.htm
Technical Preservation Services has many bulletins on specific technical issues:
www.nps.gov/tps/

National Trust for Historic Preservation

1785 Massachusetts Ave. NW, Washington, DC 20036-2117
Phone 202-588-6000 Toll-free 800-944-6847 Fax 202-588-6038
www.preservationnation.org

Technical information and publications; substantial website section on sustainability and green design. The National Trust Preservation Fund includes funds that provide

matching grants for preservation planning and educational efforts, and intervention funds for preservation emergencies.

Sustainability Guide: <http://www.preservationnation.org/issues/sustainability/>

Preservation League of New York State

44 Central Avenue, Albany, New York 12206-3002

518-462-5658

Fax 518-462-5684

www.preservenys.org

Provides technical and public policy assistance. Preserve New York Program funds planning stages such as cultural resource surveys, historic structure or landscape reports. Other programs target Endangered Properties and Upper Floor Vacancy. Staff can also provide information on local preservation organizations that may offer technical assistance.



Comparison Chart: Federal and State Historic Preservation Tax Credits

	Federal Commercial 20%	State Commercial 20%	State Homeowner 20%
Building Type	Commercial (includes rental residential)	Same as federal program.	Homeowner occupied
Nat. Register Timing	By 30 mos. bldg. placed in service.	By 30 mos. bldg. placed in service.	Before application is reviewed.
Census Tract Limitations	None	Needs to be located in eligible census tract.	Needs to be located in eligible census tract.
Minimum Expenditure	Qualified rehab expenditures must exceed adjusted basis (AB).	Same as Federal program.	\$5,000.00
Exterior Spending Requirements	None	None	At least 5% of total expenditures need to be on exterior.
Credit Cap	None	\$5,000,000.00	\$50,000.00
Credit Carry Over	May be carried over 1 year before or 20 years after the credit is received.	Unlimited.	Unlimited.
Approvals	Must be approved by the SHPO and the NPS. Part 1 must be approved before building is placed in service. However, approval before work begins is strongly encouraged.	Same as federal program.	Work needs to be approved by the State Historic Preservation Office before it begins.
Refund	N/A	For buildings placed in service in or after 2015, unused credit may be taken as a refund.	If adjusted gross income is below \$60,000.00, unused credit may be taken as a refund.
Fee	Between \$500 and \$2,500 depending on total expenditures.	Between \$100 and \$5,000 depending on total expenditures.	Between \$50 and \$500 depending on total expenditures.
Length of time owner must hold the building	5 years	5 years	2 years
Is there an Application?	Yes	Federal form is used for both. If federal credit is approved, the building is located in eligible census tract, and the state fee is received, a certification will be sent to owner.	Yes

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New York Bill Extends State Historic Tax Credit

By Teresa Garcia, Staff Writer, Novogradac & Company LLP

New York Gov. Andrew Cuomo signed a 2013-2014 budget bill March 28 that extended the state historic rehabilitation tax credit (HTC) program through 2019. Senate Bill 2609D maintains the 20 percent state HTC and \$5 million project cap for commercial rehabilitation projects. While the state credit still cannot be bifurcated from the federal credit, the legislation will allow it to be refundable for projects certified beginning in 2015. After 2019, in the absence of further legislation, the credit reverts to its original 2006 programmatic format: a 6 percent credit and a \$100,000 per-project cap. The state budget bill also extended the owner-occupied residential property rehabilitation tax credit through 2019, but no other changes were made to that program.

Preservation advocates see the HTC extension as a promising sign of continued state support for the program. "This is the first time a [New York] governor has proposed the program for budget inclusion and it signals a significant commitment and interest from Gov. Cuomo, something we've long sought and much appreciate," said Daniel Mackay, director of public policy for the Preservation League of New York State (PLNYS).

Program History

"New York, in particular Western and Upstate New York, has a great treasure trove of historic buildings. These buildings are part of the landscape and culture of our communities," said Steven Weiss, founding partner at Cannon Heyman & Weiss LLP and public policy committee chairman and board member of the PLNYS. He said that the economic downturn left many New York buildings vacant in recent

years but that the state HTC helps revitalize these buildings and communities.

New York established a state HTC for commercial and homeowner properties in 2006. The original 6 percent commercial credit had no sunset and had no census tract income limits. "It was a program on paper only. The credit on the commercial side was too low to serve as an effective incentive — it was capped at only \$100,000. We had a large constituency of developers and property owners frustrated that it wasn't going to be effective," said Mackay.

After two more years of advocacy, program supporters began to see legislative changes that made the credit more effective. Legislators reached a compromise in 2009 when they raised the program's commercial credit from 6 percent to 20 percent and the per-project cap from \$100,000 to \$5 million. In concession, the commercial and owner-occupied residential programs' availabilities were limited to properties in distressed census tracts, those where the median family income was at or below the state median family income, and a 5-year sunset imposed for both of the programs was scheduled to take effect in 2014.

Another major victory for program advocates came in 2010 when legislators passed a bill that qualified additional bank and insurance companies for the program. Before this change, non-New York-based companies could only apply the credit against their general corporate income tax liability. The legislative change made it possible for companies to apply the credit against their state franchise tax liability and thus increased the pool of potential investors, said Mackay.

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In federal fiscal year (FY) 2012, the New York total project figures for the federal HTC were the highest amount for any state in the history of the federal program. That year, 36 projects totaling more than \$915 million in rehabilitation costs were approved by the National Park Service. Only 24 of those projects, worth about \$200 million in estimated expenses, are located economically distressed census tracts eligible for state HTCs.

Refundable Credit

Supporters of the program say the most significant change to the credit under the new state budget bill is that it will be refundable for projects placed in service after Jan. 1, 2015, so that cash refunds are available for investors who do not have any or enough state income tax liability to claim the credit fully. Previously, only New York taxpayers could benefit from both the federal and state historic incentives because the credit cannot be bifurcated or divided among different investors.

"There are not enough New York investors for all of the New York deals out there. The recent change is an elegant solution to a bad problem," said Weiss, explaining that the refundable credit will attract out-of-state investors. "They'll see this as New York saying, 'We are open for business and we want you to invest in our state,'" he said.

Mackay agreed. "Developers have been curtailed by the single investor restriction, and this chokepoint has limited the ability of state and national investors to participate in the program. We expect a significant increase in the number of projects moving through both the state and federal program as a result [of the now refundable HTC]," said Mackay.

While Mackay said that he would be willing to revisit the issue of bifurcation in future bills, he said its passage is unlikely in the near future for New York. He said that the New York State Department of Taxation and Finance appears reluctant to support bifurcation because there isn't a precedent for it in state law. Refundable state credits do have state-level precedents with both the state brownfields tax credit and the state film and television production tax credit.

"We recognize that bifurcation is a core component of most successful state credit programs, like Missouri, Maryland and Virginia. We have long represented the need for that here in New York, but we understand that we're not going to get it. At this point in time, we're content with refundability and to see how it plays out in New York State," said Mackay.

Qualifications and Implementation

The property qualification requirements of the credit remain

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unchanged. As before, commercial buildings must have an approved federal tax credit certification. The property must also be in a federal census tract that is at or below 100 percent the state family median income level. The legislation did replace the data source for defining the census tracts from the U.S. Census to the American Community Survey.

The program targets economically distressed census tracts, so investments will be made in historic downtowns and neighborhoods that need it most, said staff at the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). There is no application for the state commercial HTC because an owner needs to receive the federal HTC in order to be eligible for the state HTC. If a project applies for the federal credit and meets all the state credit requirements, it automatically qualifies for the state credit.

Although the state HTC can be used with other tax credit incentives like the federal low-income housing tax credit (LIHTC) and new markets tax credit (NMTC), Mackay said he hasn't yet seen many developments partnering the credits. He expects this to change in the long run with the recent concessions to investor flexibility. "The lack of bifurcation has limited use of the state credit. Now that refundability has been added to the program, we expect more project starts with larger projects and greater multi-program impacts," said Mackay.

Proposed Legislation

In the 2012 legislative session, State Sen. Mark Grisanti introduced a bill that would have immediately increased the state HTC per-project cap from \$5 million to \$12 million.

Sen. Grisanti spoke with developers in Western New York who wanted to undertake bigger rehabilitation projects that would require more credits than those allowed under the current cap. "In these discussions it became apparent that the \$5 million cap while normally good ... was in fact a disincentive to the rehabilitation of these projects," said Sen. Grisanti. The bill was passed by the Senate and Assembly but was vetoed by the governor, who said that the 2013 state budget would be a more appropriate forum for the tax credit program proposals. Supporters advocated for the cap increase during discussions of the 2013 state budget but the proposed cap increase was eliminated before final passage of the bill.

During the present legislative session, Sen. Grisanti introduced S. B. 4642, new legislation that would phase in a per-project cap increase from the present \$5 million to \$7 million in state FY 2015-2016, \$9 million in state FY 2016-2017 and \$12 million from then until the scheduled 2019 sunset of the current program. Assemblymember Steven Englebright introduced Assembly Bill

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NYS Rehabilitation Tax Credit: Commercial Property Program

	Previous Law: Chapter 547 of the Law of 2006	Current Law: Chapter 239 of the Laws of 2009	New Law: 2013 Enacted NYS Budget
Availability	Statewide	Census tracts at or below 100% State Median Family Income (SMFI), census tracts qualified under IRC 143(j)	Census tracts at or below 100% State Median Family Income (SMFI), from American Community Survey data
Qualified Buildings	National Register	National Register	National Register
Credit Rate	30% of federal credit value (6% credit rate)	100% of federal credit value (20% credit rate)	100% of federal credit value (20% credit rate)
Maximum Credit Cap	\$100,000	\$5 million	\$5 million
Allocation	Credit allocation only to entity receiving the federal credit	Credit allocation only to entity receiving the federal credit	Refund or credit allocation only to entity receiving the federal credit
Effective Date	Former program	Current program	January 1, 2015
Sunset	None	December 31, 2014	December 31, 2019

Source: Daniel Mackay, *Preservation League of New York State*

6979 as a companion bill in the New York State Assembly, and both bills are quickly adding co-sponsors, said Mackay.

"I think the expansion of the historic preservation credit in New York will be huge. This program has already

been extremely successful and these changes will only expand an already successful program," said Sen. Grisanti. "The historic tax credit program is a perfect example of how good policy is created, and continuously reviewed and improved upon to help foster economic growth in New York." ❖

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