

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 14-0743.01 Bob Lackner x4350

HOUSE BILL 14-1311

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A BILL FOR AN ACT

101 CONCERNING THE CREDIT AGAINST THE STATE INCOME TAX FOR THE
102 COSTS INCURRED IN CONNECTION WITH THE PRESERVATION OF
103 HISTORIC STRUCTURES, AND, IN CONNECTION THEREWITH,
104 MAKING AND REDUCING APPROPRIATIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

For income tax years commencing on or after January 1, 2015, but prior to January 1, 2019, **section 1** of the bill creates a new income tax

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 17, 2014

credit to be claimed by an owner of a historic property for recovery of certain costs related to preserving the property. Among the provisions, section 1 also:

- ! Requires the governor's office of economic development and international trade (office), in consultation with the state historical society (society), to develop standards for the approval of the substantial rehabilitation of qualified structures for which the new tax credit is being claimed;
- ! Requires the owner of the structure to submit an application and rehabilitation plan to the office for a qualified commercial structure or to a certified local government or the society (reviewing entity) for a qualified residential structure, along with an estimate of the certified rehabilitation expenditures under the rehabilitation plan. Within 90 days after receipt of the application and rehabilitation plan, the office and the society or reviewing entity, as applicable, are required to notify the owner if the rehabilitation plan will result in a certified rehabilitation.
- ! Authorizes the office or the reviewing entity to impose a reasonable application fee and issuance fee for either a commercial or residential structure and specifies the amount of the particular fee that may be imposed;
- ! In the case of a qualified commercial structure, requires the office and society to review the application and rehabilitation plan to determine that the information contained in the application and plan is complete. If the office and society determine that the documentation is complete, the office is required to reserve for the benefit of the owner an allocation of a tax credit and to notify the owner in writing of the amount of the reservation. The reservation of tax credits does not entitle the owner to an issuance of any tax credits until the owner complies with all of the other requirements specified in the bill for the issuance of the tax credit.
- ! Requires the office to reserve tax credits in the order in which it receives completed applications and rehabilitation plans. The office must issue any such reservation of tax credits within a reasonable time, not to exceed 90 days from the filing of a completed application and rehabilitation plan. The office is required to use a lottery process to determine the order in which it will review applications and plans received on the same day. An owner may resubmit a disapproved application and plan, but the resubmitted application and plan is deemed to be a new submission.

- ! If, for any one state fiscal year, the aggregate amount of reservations for tax credits the office has approved is equal to the total amount of tax credits available for reservation during that state fiscal year, requires the office to notify all owners who have submitted applications and plans then awaiting approval or submitted for approval after the calculation is made that no additional approvals of applications and plans for reservations of tax credits will be granted during that fiscal year;
- ! Specifies that no reservation of tax credits is necessary in the case of a qualified residential structure;
- ! Requires any owner receiving a reservation of tax credits to commence rehabilitation of the qualified commercial structure, if rehabilitation has not previously begun, within 18 months of the date of issuance of the written notice from the office to the owner granting the reservation of tax credits. Any owner receiving such reservation is required to incur not less than 20% of the estimated costs of rehabilitation not later than 18 months after the date of issuance of the written notice. If the office determines that an owner has failed to comply with this requirement, the office may rescind the issuance of tax credits previously given the owner.
- ! Following the completion of a rehabilitation of a qualified commercial structure, requires the owner to notify the office that the rehabilitation has been completed and to certify the qualified rehabilitation expenditures incurred by the owner under the rehabilitation plan. The bill requires both the office and the society to review the documentation of the rehabilitation and the society to verify that the documentation satisfies the rehabilitation plan. Within 90 days after receipt of this documentation, the office is required to issue a tax credit certificate geared to the amount of qualified rehabilitation costs incurred.
- ! Specifies that the total amount of the tax credit certificate issued for any particular project must not exceed the amount of the tax credit reservation issued for the project. The amount of a tax credit certificate to be issued for any one qualified commercial structure is limited to \$2 million total.
- ! Following the completion of a substantial rehabilitation of a qualified residential structure, requires the owner to notify the reviewing entity that the substantial rehabilitation has been completed and to certify the qualified rehabilitation expenditures incurred in connection with the

rehabilitation plan. The owner is also required to provide the reviewing entity with a cost and expense certification. The reviewing entity is required to review the documentation of the rehabilitation and verify its compliance with the rehabilitation plan. Within 90 days after receipt of the documentation from the owner, the reviewing entity is required to issue a tax credit certificate in an amount equivalent to 20% of the actual qualified rehabilitation expenditures; except that the bill limits the amount of the tax credit certificate to \$50,000 for each qualified residential structure to be calculated over a 10-year rolling period.

- ! Requires the tax credit amount to be increased for a certified commercial or residential structure that is located in a disaster area;
- ! In order to claim the tax credit, requires the owner to file the tax credit certificate with the owner's state income tax return;
- ! Specifies requirements under which a local government is permitted to act as a reviewing entity;
- ! Specifies that the entire tax credit to be awarded may be claimed by the owner in the taxable year in which the certified rehabilitation is placed in service. If the amount of the credit allowed exceeds the amount of income taxes otherwise due in the income tax year for which the credit is being claimed, the bill permits the owner to offset the amount of the credit not used in the income tax year to be carried forward as a credit against subsequent years' income tax liability for a period not to exceed 10 years. Any amount of the credit that is not used after such period is not refunded to the owner.
- ! Specifies certain limits that the aggregate amount of all tax credits in any tax year that may be reserved by the office upon the certification of all rehabilitation plans must not exceed;
- ! Specifies that the commercial tax credits are freely transferable and assignable subject to certain requirements;
- ! Requires the owner to refund to the department of revenue (department) certain amounts if the owner demolishes or makes material changes to the structure;
- ! Permits the owner to appeal any final determination made by the office or the department in connection with the tax credit;
- ! Permits the department to audit any credit obtained, and requires the office, in consultation with the department, to

submit an annual report to the general assembly on the impact to the state of the tax credit and to promulgate any rules necessary to implement the tax credit.

! Creates in the state treasury the tax credit for qualified costs incurred in the preservation of historic structures fund (fund) and specifies that the source of moneys for the fund is moneys transferred from the capital construction fund.

! Requires the department to notify the state treasurer when a tax credit has been claimed and, upon such notification, requires the state treasurer to transfer the amount of the tax credit claimed from the fund.

Section 2 of the bill requires a 4-year annual transfer of \$15 million from the capital construction fund, commencing with the 2015-16 state fiscal year and concluding with the 2018-19 state fiscal year.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-514.5 as
3 follows:

4 **39-22-514.5. Tax credit for qualified costs incurred in**
5 **preservation of historic structures - short title [REDACTED] - definitions.**

6 (1) THIS SECTION IS KNOWN AND MAY BE CITED AS THE "COLORADO JOB
7 CREATION AND MAIN STREET REVITALIZATION ACT".

8 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "CERTIFIED HISTORIC STRUCTURE" MEANS A PROPERTY
11 LOCATED IN COLORADO THAT HAS BEEN CERTIFIED BY THE HISTORICAL
12 SOCIETY OR OTHER REVIEWING ENTITY BECAUSE IT HAS BEEN:

13 (I) LISTED INDIVIDUALLY OR AS A CONTRIBUTING PROPERTY IN A
14 DISTRICT INCLUDED WITHIN THE NATIONAL REGISTER OF HISTORIC PLACES;

15 (II) LISTED INDIVIDUALLY OR AS A CONTRIBUTING PROPERTY IN A
16 DISTRICT THAT IS INCLUDED WITHIN THE STATE REGISTER OF HISTORIC
17 PROPERTIES PURSUANT TO THE PROVISIONS OF ARTICLE 80.1 OF TITLE 24,

1 C.R.S.;

2 (III) DESIGNATED AS A LANDMARK BY A CERTIFIED LOCAL
3 GOVERNMENT; OR

4 (IV) LISTED AS A CONTRIBUTING PROPERTY WITHIN A DESIGNATED
5 HISTORIC DISTRICT OF A CERTIFIED LOCAL GOVERNMENT.


6 (b) "CERTIFIED LOCAL GOVERNMENT" MEANS ANY LOCAL
7 GOVERNMENT THAT HAS BEEN CERTIFIED BY THE HISTORICAL SOCIETY
8 PURSUANT TO 16 U.S.C. SEC. 470a (c) (1), AS AMENDED.

9 (c) "CERTIFIED REHABILITATION" MEANS REPAIRS OR ALTERATIONS
10 TO A CERTIFIED HISTORIC STRUCTURE THAT HAVE BEEN CERTIFIED BY THE
11 HISTORICAL SOCIETY OR OTHER REVIEWING ENTITY AS MEETING THE
12 STANDARDS FOR REHABILITATION OF THE UNITED STATES SECRETARY OF
13 THE INTERIOR.

14 (d) "CONTRIBUTING PROPERTY" MEANS PROPERTY THAT ADDS TO
15 THE SENSE OF TIME, PLACE, AND HISTORICAL DEVELOPMENT OF A HISTORIC
16 DISTRICT AS DETERMINED BY THE HISTORICAL SOCIETY OR OTHER
17 REVIEWING ENTITY.

18 (e) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF
19 REVENUE OR ANY SUCCESSOR ENTITY.

20 (f) "DESIGNATED" MEANS ESTABLISHED BY LOCAL PRESERVATION
21 ORDINANCE.

22 
23 (g) "HISTORICAL SOCIETY" MEANS THE STATE HISTORICAL SOCIETY
24 OF COLORADO, ALSO KNOWN AS HISTORY COLORADO, OR ANY SUCCESSOR
25 ENTITY.

26 (h) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC
27 DEVELOPMENT OR ANY SUCCESSOR ENTITY.

1 (i) "OWNER" MEANS ANY TAXPAYER FILING A STATE TAX RETURN
2 OR ANY ENTITY THAT IS EXEMPT FROM FEDERAL INCOME TAXATION
3 PURSUANT TO SECTION 501 (c) OF THE INTERNAL REVENUE CODE, AS
4 AMENDED, THAT OWNS:

5 (I) TITLE TO A QUALIFIED STRUCTURE;

6 (II) PROSPECTIVE TITLE TO A QUALIFIED STRUCTURE IN THE FORM
7 OF A PURCHASE AGREEMENT OR AN OPTION TO PURCHASE;

8 (III) A LEASEHOLD INTEREST IN A QUALIFIED COMMERCIAL
9 STRUCTURE FOR A TERM OF NOT LESS THAN THIRTY-NINE YEARS; OR

10 (IV) A LEASEHOLD INTEREST IN A QUALIFIED RESIDENTIAL
11 STRUCTURE FOR A TERM OF NOT LESS THAN FIVE YEARS.

12 (j) "QUALIFIED COMMERCIAL STRUCTURE" MEANS A CERTIFIED
13 HISTORIC STRUCTURE THAT HAS BEEN CERTIFIED BY THE HISTORICAL
14 SOCIETY AS MEETING THE REQUIREMENTS SPECIFIED IN SECTION 47 (c) (1)
15 (A) AND (B) OF THE INTERNAL REVENUE CODE, AS AMENDED.

16 (k) "QUALIFIED REHABILITATION EXPENDITURES" MEANS:

17 (I) WITH RESPECT TO A QUALIFIED COMMERCIAL STRUCTURE, ANY
18 EXPENDITURE AS DEFINED UNDER SECTION 47 (c) (2) (A) OF THE INTERNAL
19 REVENUE CODE, AS AMENDED, AND THE RELATED REGULATIONS
20 THEREUNDER; AND

21 (II) WITH RESPECT TO A QUALIFIED RESIDENTIAL STRUCTURE,
22 EXTERIOR IMPROVEMENTS AND INTERIOR IMPROVEMENTS UNDERTAKEN TO
23 RESTORE, REHABILITATE, OR PRESERVE THE HISTORIC CHARACTER OF A
24 QUALIFIED PROPERTY THAT MEET THE STANDARDS FOR REHABILITATION
25 OF THE UNITED STATES SECRETARY OF THE INTERIOR AS ADOPTED BY THE
26 HISTORICAL SOCIETY OR THE CERTIFIED LOCAL GOVERNMENT PURSUANT
27 TO FEDERAL LAW. AS USED IN THIS SUBPARAGRAPH (II), "EXTERIOR

1 IMPROVEMENTS" IS LIMITED TO ANY ONE OR MORE OF THE FOLLOWING:
2 ROOF REPLACEMENT OR REPAIR; EXTERIOR SIDING REPLACEMENT OR
3 REPAIR; MASONRY REPAIR, RE-POINTING, OR REPLACEMENT; WINDOW
4 REPAIR OR REPLACEMENT; DOOR REPAIR OR REPLACEMENT; WOODWORK
5 AND TRIM REPAIR OR REPLACEMENT; FOUNDATION REPAIR OR
6 REPLACEMENT; AND EXCAVATION COSTS ASSOCIATED WITH FOUNDATION
7 WORK. AS USED IN THIS SUBPARAGRAPH (II), "INTERIOR IMPROVEMENTS"
8 IS LIMITED TO ONE OR MORE OF THE FOLLOWING: ELECTRICAL REPAIRS AND
9 UPGRADES; PLUMBING REPAIRS AND UPGRADES; HEATING, VENTING, AND
10 AIR CONDITIONING REPAIRS AND UPGRADES; REPAIR OF EXISTING INTERIOR
11 WALLS AND FINISHES; REPAIR OR REPLACEMENT OF EXISTING WOODWORK
12 AND TRIM; INSULATION; REFINISHING OR REPLACING HISTORIC FLOOR
13 MATERIALS IN-KIND, EXCLUDING CARPETING; AND RECONSTRUCTING
14 MISSING HISTORIC ELEMENTS WHEN THERE IS SUFFICIENT HISTORICAL
15 DOCUMENTATION TO GUIDE THE RECONSTRUCTION.

16 (I) "QUALIFIED RESIDENTIAL STRUCTURE" MEANS A NONINCOME
17 PRODUCING AND OWNER-OCCUPIED RESIDENTIAL PROPERTY LOCATED IN
18 COLORADO THAT IS:

- 19 (I) AT LEAST FIFTY YEARS OLD; AND
- 20 (II) (A) LISTED INDIVIDUALLY OR AS A CONTRIBUTING PROPERTY
21 IN A DISTRICT INCLUDED WITHIN THE STATE REGISTER OF HISTORIC
22 PROPERTIES PURSUANT TO ARTICLE 80.1 OF TITLE 24, C.R.S.;
- 23 (B) DESIGNATED AS A LANDMARK BY A CERTIFIED LOCAL
24 GOVERNMENT; OR
- 25 (C) LISTED AS A CONTRIBUTING PROPERTY THAT IS INCLUDED
26 WITHIN A DESIGNATED HISTORIC DISTRICT OF A CERTIFIED LOCAL
27 GOVERNMENT.

1 (m) "QUALIFIED STRUCTURE" MEANS A STRUCTURE THAT
2 SATISFIES THE DEFINITION OF EITHER A QUALIFIED RESIDENTIAL
3 STRUCTURE OR A QUALIFIED COMMERCIAL STRUCTURE.

4 (n) "REHABILITATION PLAN" MEANS CONSTRUCTION PLANS AND
5 SPECIFICATIONS FOR THE PROPOSED REHABILITATION OF A QUALIFIED
6 STRUCTURE THAT IS IN SUFFICIENT DETAIL TO ENABLE THE OFFICE OR THE
7 REVIEWING ENTITY, AS APPLICABLE, TO EVALUATE WHETHER THE
8 STRUCTURE IS IN COMPLIANCE WITH THE STANDARDS DEVELOPED UNDER
9 SUBSECTION (4) OF THIS SECTION.

10 (o) "REVIEWING ENTITY" MEANS:

11 (I) A CERTIFIED LOCAL GOVERNMENT THAT HAS DECIDED
12 PURSUANT TO SUBSECTION (10) OF THIS SECTION TO PERFORM THE DUTIES
13 SPECIFIED UNDER THIS SECTION; OR

14 (II) THE HISTORICAL SOCIETY IF THE QUALIFIED RESIDENTIAL
15 STRUCTURE EITHER IS NOT LOCATED WITHIN THE TERRITORIAL
16 BOUNDARIES OF ANY CERTIFIED LOCAL GOVERNMENT OR IS LOCATED
17 WITHIN THE TERRITORIAL BOUNDARIES OF A CERTIFIED LOCAL
18 GOVERNMENT THAT HAS DECIDED PURSUANT TO SUBSECTION (10) OF THIS
19 SECTION NOT TO PERFORM THE DUTIES SPECIFIED UNDER THIS SECTION.

20 (p) "SUBSTANTIAL REHABILITATION" MEANS:

21 (I) WITH RESPECT TO A QUALIFIED COMMERCIAL STRUCTURE,
22 REHABILITATION FOR WHICH THE QUALIFIED REHABILITATION
23 EXPENDITURES EXCEED TWENTY-FIVE PERCENT OF THE OWNER'S ORIGINAL
24 PURCHASE PRICE OF THE QUALIFIED COMMERCIAL STRUCTURE LESS THE
25 VALUE ATTRIBUTED TO THE LAND; AND

26 (II) WITH RESPECT TO A QUALIFIED RESIDENTIAL STRUCTURE,
27 REHABILITATION FOR WHICH THE QUALIFIED REHABILITATION

1 EXPENDITURES EXCEED FIVE THOUSAND DOLLARS.

2 (3) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
3 1, 2016, BUT PRIOR TO JANUARY 1, 2020, THERE SHALL BE ALLOWED A
4 CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED PURSUANT TO THIS
5 ARTICLE TO EACH OWNER OF A QUALIFIED STRUCTURE THAT COMPLIES
6 WITH THE REQUIREMENTS OF THIS SECTION.

7 (4) THE OFFICE, IN CONSULTATION WITH THE HISTORICAL SOCIETY,
8 SHALL DEVELOP STANDARDS FOR THE APPROVAL OF THE SUBSTANTIAL
9 REHABILITATION OF QUALIFIED STRUCTURES FOR WHICH A TAX CREDIT
10 UNDER THIS SECTION IS BEING CLAIMED. THE STANDARDS MUST CONSIDER
11 WHETHER THE SUBSTANTIAL REHABILITATION OF A QUALIFIED STRUCTURE
12 IS CONSISTENT WITH THE STANDARDS FOR REHABILITATION ADOPTED BY
13 THE UNITED STATES DEPARTMENT OF THE INTERIOR.

14 (5) (a) THE OWNER SHALL SUBMIT AN APPLICATION AND
15 REHABILITATION PLAN TO THE OFFICE FOR A QUALIFIED COMMERCIAL
16 STRUCTURE OR TO THE REVIEWING ENTITY FOR A QUALIFIED RESIDENTIAL
17 STRUCTURE, ALONG WITH AN ESTIMATE OF THE QUALIFIED
18 REHABILITATION EXPENDITURES UNDER THE REHABILITATION PLAN. THE
19 OWNER, AT THE OWNER'S OWN RISK, MAY INCUR QUALIFIED
20 REHABILITATION EXPENDITURES NO EARLIER THAN TWENTY-FOUR MONTHS
21 PRIOR TO THE SUBMISSION OF THE APPLICATION AND REHABILITATION
22 PLAN BUT ONLY IF SATISFACTORY DOCUMENTATION IS SUBMITTED TO THE
23 OFFICE OR THE REVIEWING ENTITY, AS APPLICABLE, INDICATING THE
24 CONDITION OF THE QUALIFIED STRUCTURE PRIOR TO COMMENCEMENT OF
25 THE REHABILITATION, INCLUDING BUT NOT LIMITED TO PHOTOGRAPHS OF
26 THE QUALIFIED STRUCTURE AND WRITTEN DECLARATIONS FROM PERSONS
27 KNOWLEDGEABLE ABOUT THE QUALIFIED STRUCTURE. IN CONNECTION

1 WITH ANY APPLICATION SUBMITTED ON OR AFTER JULY 1, 2015, ANY
2 EXPENSES THE OWNER INCURS BEFORE JULY 1, 2015, SHALL NOT BE
3 COUNTED TOWARDS THE OWNER'S QUALIFIED REHABILITATION
4 EXPENDITURES. AN OWNER MAY SUBMIT AN APPLICATION AND
5 REHABILITATION PLAN AND MAY COMMENCE REHABILITATION BEFORE THE
6 PROPERTY:

7 (I) IS LISTED INDIVIDUALLY OR AS A CONTRIBUTING PROPERTY IN
8 A DISTRICT INCLUDED WITHIN THE NATIONAL REGISTER OF HISTORIC
9 PLACES;

10 (II) IS LISTED INDIVIDUALLY OR AS A CONTRIBUTING PROPERTY IN
11 A DISTRICT INCLUDED WITHIN THE STATE REGISTER OF HISTORIC
12 PROPERTIES PURSUANT TO ARTICLE 80.1 OF TITLE 24, C.R.S.;

13 (III) HAS BEEN DESIGNATED AS A LANDMARK BY A CERTIFIED
14 LOCAL GOVERNMENT; OR

15 (IV) IS LISTED AS A CONTRIBUTING PROPERTY WITHIN A
16 DESIGNATED HISTORIC DISTRICT OF A CERTIFIED LOCAL GOVERNMENT.

17 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
18 THIS SUBSECTION (5), AN OWNER MAY INCUR QUALIFIED REHABILITATION
19 EXPENDITURES AT THE OWNER'S OWN RISK.

20 (c) WITHIN NINETY DAYS AFTER RECEIPT OF THE APPLICATION AND
21 REHABILITATION PLAN, THE OFFICE AND THE HISTORICAL SOCIETY, IN THE
22 CASE OF A QUALIFIED COMMERCIAL STRUCTURE, AND THE REVIEWING
23 ENTITY, IN THE CASE OF A QUALIFIED RESIDENTIAL STRUCTURE, SHALL
24 NOTIFY THE OWNER IN WRITING IF THE REHABILITATION PLAN IS
25 PRELIMINARILY DETERMINED TO BE A CERTIFIED REHABILITATION.

26 (6) (a) FOR A QUALIFIED COMMERCIAL STRUCTURE, THE OFFICE
27 MAY IMPOSE A REASONABLE APPLICATION FEE THAT DOES NOT EXCEED

1 FIVE HUNDRED DOLLARS.

2

3 (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
4 THE OFFICE SHALL NOT IMPOSE AN APPLICATION FEE UNDER PARAGRAPH
5 (a) OF THIS SUBSECTION (6) FOR A PROJECT FOR WHICH THE AMOUNT OF
6 TAX CREDIT REQUESTED UNDER THIS SECTION IS TWO HUNDRED FIFTY
7 THOUSAND DOLLARS OR LESS.

8 (c) THE OFFICE MAY IMPOSE ON THE OWNER A REASONABLE
9 ISSUANCE FEE OF UP TO THREE PERCENT OF THE AMOUNT OF THE TAX
10 CREDIT ISSUED, WHICH MUST BE PAID BEFORE THE TAX CREDIT IS ISSUED
11 TO THE OWNER. WITH RESPECT TO BOTH AN APPLICATION FEE AND AN
12 ISSUANCE FEE, THE OFFICE SHALL SHARE ON AN EQUAL BASIS ANY SUCH
13 FEES COLLECTED WITH THE HISTORICAL SOCIETY AND THE DEPARTMENT.
14 MONEYS COLLECTED FROM SUCH FEES MUST BE APPLIED TO THE
15 ADMINISTRATION OF THE TAX CREDIT CREATED BY THIS SECTION.

16 (d) IN THE CASE OF A QUALIFIED RESIDENTIAL STRUCTURE, THE
17 REVIEWING ENTITY MAY IMPOSE A REASONABLE APPLICATION FEE.
18 HOWEVER, THE REVIEWING ENTITY MAY REDUCE OR ELIMINATE THE
19 APPLICATION FEE IF THE QUALIFIED REHABILITATION EXPENDITURES FOR
20 THE PROJECT ARE LESS THAN FIFTEEN THOUSAND DOLLARS.

21 (7) (a) IN THE CASE OF A QUALIFIED COMMERCIAL STRUCTURE, A
22 RESERVATION OF TAX CREDITS IS PERMITTED IN ACCORDANCE WITH THE
23 PROVISIONS OF THIS SUBSECTION (7). THE OFFICE AND THE HISTORICAL
24 SOCIETY SHALL REVIEW THE APPLICATION AND REHABILITATION PLAN FOR
25 A QUALIFIED COMMERCIAL STRUCTURE TO DETERMINE THAT THE
26 INFORMATION CONTAINED IN THE APPLICATION AND PLAN IS COMPLETE. IF
27 THE OFFICE AND THE HISTORICAL SOCIETY DETERMINE THAT THE

1 APPLICATION AND REHABILITATION PLAN ARE COMPLETE, THE OFFICE
2 SHALL RESERVE FOR THE BENEFIT OF THE OWNER AN ALLOCATION OF A
3 TAX CREDIT AS PROVIDED IN PARAGRAPH (a) OF SUBSECTION (12) OF THIS
4 SECTION AND THE OFFICE SHALL NOTIFY THE OWNER IN WRITING OF THE
5 AMOUNT OF THE RESERVATION. THE RESERVATION OF TAX CREDITS DOES
6 NOT ENTITLE THE OWNER TO AN ISSUANCE OF ANY TAX CREDITS UNTIL THE
7 OWNER COMPLIES WITH ALL OF THE OTHER REQUIREMENTS SPECIFIED IN
8 THIS SECTION FOR THE ISSUANCE OF THE TAX CREDIT. THE OFFICE MUST
9 RESERVE TAX CREDITS IN THE ORDER IN WHICH IT RECEIVES COMPLETED
10 APPLICATIONS AND REHABILITATION PLANS. THE OFFICE SHALL ISSUE ANY
11 SUCH RESERVATION OF TAX CREDITS AUTHORIZED BY THIS SUBSECTION (7)
12 WITHIN A REASONABLE TIME, NOT TO EXCEED NINETY DAYS AFTER THE
13 FILING OF A COMPLETED APPLICATION AND REHABILITATION PLAN. THE
14 OFFICE SHALL USE A LOTTERY PROCESS TO DETERMINE THE ORDER IN
15 WHICH IT WILL REVIEW APPLICATIONS AND PLANS RECEIVED BY THE OFFICE
16 ON THE SAME DAY. THE OFFICE SHALL ONLY REVIEW AN APPLICATION AND
17 PLAN SUBMITTED IN CONNECTION WITH A PROPERTY FOR WHICH A
18 PROPERTY ADDRESS, LEGAL DESCRIPTION, OR OTHER SPECIFIC LOCATION
19 IS PROVIDED IN THE APPLICATION AND PLAN. THE OWNER SHALL NOT
20 REQUEST THE REVIEW OF ANOTHER PROPERTY FOR APPROVAL IN THE
21 PLACE OF THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION AND
22 PLAN. ANY APPLICATION AND PLAN DISAPPROVED BY THE OFFICE WILL BE
23 REMOVED FROM THE REVIEW PROCESS, AND THE OFFICE SHALL NOTIFY THE
24 OWNER IN WRITING OF THE DECISION TO REMOVE THE PROPERTY FROM THE
25 REVIEW PROCESS. DISAPPROVED APPLICATIONS AND PLANS LOSE THEIR
26 PRIORITY IN THE REVIEW PROCESS. AN OWNER MAY RESUBMIT A
27 DISAPPROVED APPLICATION AND PLAN, BUT SUCH RESUBMITTED

1 APPLICATION AND PLAN IS DEEMED TO BE A NEW SUBMISSION FOR
2 PURPOSES OF THE PRIORITY PROCEDURES DESCRIBED IN THIS PARAGRAPH
3 (a). THE OFFICE MAY CHARGE A RESUBMITTED APPLICATION AND PLAN A
4 NEW APPLICATION FEE IN AN AMOUNT SPECIFIED IN ACCORDANCE WITH
5 SUBSECTION (6) OF THIS SECTION.

6 (b) IF, FOR ANY ONE STATE FISCAL YEAR, THE AGGREGATE
7 AMOUNT OF RESERVATIONS FOR TAX CREDITS THE OFFICE HAS APPROVED
8 IS EQUAL TO THE TOTAL AMOUNT OF TAX CREDITS AVAILABLE FOR
9 RESERVATION DURING THAT STATE FISCAL YEAR, THE OFFICE SHALL
10 NOTIFY ALL OWNERS WHO HAVE SUBMITTED APPLICATIONS AND
11 REHABILITATION PLANS THEN AWAITING APPROVAL OR SUBMITTED FOR
12 APPROVAL AFTER THE CALCULATION IS MADE THAT NO ADDITIONAL
13 APPROVALS OF APPLICATIONS AND PLANS FOR RESERVATIONS OF TAX
14 CREDITS WILL BE GRANTED DURING THAT FISCAL YEAR AND THE OFFICE
15 SHALL ADDITIONALLY NOTIFY THE OWNER OF THE PRIORITY NUMBER
16 GIVEN TO THE OWNER'S APPLICATION AND PLAN THEN AWAITING
17 APPROVAL. THE APPLICATIONS AND PLANS WILL REMAIN IN PRIORITY
18 STATUS FOR TWO YEARS FROM THE DATE OF THE ORIGINAL APPLICATION
19 AND PLAN AND WILL BE CONSIDERED FOR RESERVATIONS OF TAX CREDITS
20 IN THE PRIORITY ORDER ESTABLISHED IN THIS SUBSECTION (7) IN THE
21 EVENT THAT ADDITIONAL CREDITS BECOME AVAILABLE RESULTING FROM
22 THE RESCISSION OF APPROVALS UNDER PARAGRAPH (a) OF SUBSECTION (8)
23 OF THIS SECTION OR BECAUSE A NEW ALLOCATION OF TAX CREDITS FOR A
24 NEW STATE FISCAL YEAR BECOMES AVAILABLE.


25 (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
26 THIS SUBSECTION (7) DOES NOT APPLY TO A QUALIFIED RESIDENTIAL
27 STRUCTURE BECAUSE NO RESERVATION OF TAX CREDITS IS NECESSARY IN

1 THE CASE OF A QUALIFIED RESIDENTIAL STRUCTURE.

2 (8) (a) ANY OWNER RECEIVING A RESERVATION OF TAX CREDITS
3 UNDER PARAGRAPH (a) OF SUBSECTION (7) OF THIS SECTION SHALL
4 COMMENCE REHABILITATION OF THE QUALIFIED COMMERCIAL STRUCTURE,
5 IF REHABILITATION HAS NOT PREVIOUSLY BEGUN, WITHIN ONE YEAR AFTER
6 THE DATE OF ISSUANCE OF THE WRITTEN NOTICE FROM THE OFFICE TO THE
7 OWNER GRANTING THE RESERVATION OF TAX CREDITS. ANY OWNER
8 RECEIVING SUCH RESERVATION OF TAX CREDITS SHALL INCUR NOT LESS
9 THAN TWENTY PERCENT OF THE ESTIMATED COSTS OF REHABILITATION
10 CONTAINED IN THE APPLICATION AND REHABILITATION PLAN NOT LATER
11 THAN EIGHTEEN MONTHS AFTER THE DATE OF ISSUANCE OF THE WRITTEN
12 NOTICE FROM THE OFFICE TO THE OWNER GRANTING THE RESERVATION OF
13 TAX CREDITS. ANY OWNER RECEIVING A RESERVATION OF TAX CREDITS
14 SHALL SUBMIT EVIDENCE OF COMPLIANCE WITH THE PROVISIONS OF THIS
15 PARAGRAPH (a). IF THE OFFICE DETERMINES THAT AN OWNER HAS FAILED
16 TO COMPLY WITH THE REQUIREMENTS OF THIS PARAGRAPH (a), THE OFFICE
17 MAY RESCIND THE ISSUANCE IT PREVIOUSLY GAVE THE OWNER APPROVING
18 THE RESERVATION OF TAX CREDITS AND, IF SO, THE TOTAL AMOUNT OF TAX
19 CREDITS MADE AVAILABLE FOR THE STATE FISCAL YEAR FOR WHICH
20 RESERVATIONS MAY BE GRANTED MUST BE INCREASED BY THE AMOUNT OF
21 THE TAX CREDITS RESCINDED. THE OFFICE SHALL PROMPTLY NOTIFY ANY
22 OWNER WHOSE RESERVATION OF TAX CREDITS HAS BEEN RESCINDED AND,
23 UPON RECEIPT OF THE NOTICE, THE OWNER MAY SUBMIT A NEW
24 APPLICATION AND PLAN FOR WHICH THE OFFICE MAY CHARGE A NEW
25 APPLICATION FEE IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION.

26 (b) FOLLOWING THE COMPLETION OF A REHABILITATION OF A
27 QUALIFIED COMMERCIAL STRUCTURE, THE OWNER SHALL NOTIFY THE

1 OFFICE THAT THE REHABILITATION HAS BEEN COMPLETED AND SHALL
2 CERTIFY THE QUALIFIED REHABILITATION EXPENDITURES INCURRED BY
3 THE OWNER UNDER THE REHABILITATION PLAN. IN ADDITION, THE OWNER
4 SHALL PROVIDE THE OFFICE WITH A COST AND EXPENSE CERTIFICATION,
5 PREPARED BY A LICENSED CERTIFIED PUBLIC ACCOUNTANT THAT IS NOT
6 AFFILIATED WITH THE OWNER, CERTIFYING THE TOTAL QUALIFIED
7 REHABILITATION EXPENDITURES AND THE TOTAL AMOUNT OF TAX CREDITS
8 FOR WHICH THE OWNER IS ELIGIBLE. IF THE TOTAL AMOUNT OF THE
9 ANTICIPATED TAX CREDITS TO BE AWARDED THE OWNER EXCEEDS TWO
10 HUNDRED FIFTY THOUSAND DOLLARS, THE COST AND EXPENSE
11 CERTIFICATION MUST BE AUDITED BY A LICENSED CERTIFIED PUBLIC
12 ACCOUNTANT. THE OFFICE AND THE HISTORICAL SOCIETY SHALL REVIEW
13 THE DOCUMENTATION OF THE REHABILITATION AND THE HISTORICAL
14 SOCIETY SHALL VERIFY THAT THE DOCUMENTATION SATISFIES THE
15 REHABILITATION PLAN. WITHIN NINETY DAYS AFTER RECEIPT OF SUCH
16 DOCUMENTATION FROM THE OWNER, THE OFFICE SHALL ISSUE A TAX
17 CREDIT CERTIFICATE IN AN AMOUNT EQUAL TO THE FOLLOWING SUBJECT
18 TO PARAGRAPH (c) OF THIS SUBSECTION (8):

19 
20 (I) TWENTY-FIVE PERCENT OF THE ACTUAL QUALIFIED
21 REHABILITATION EXPENDITURES THAT ARE LESS THAN TWO MILLION
22 DOLLARS; PLUS

23 (II) TWENTY PERCENT OF THE ACTUAL QUALIFIED REHABILITATION
24 EXPENDITURES IN EXCESS OF TWO MILLION DOLLARS.


25 (c) NOTWITHSTANDING PARAGRAPH (b) OF THIS SUBSECTION (8):

26 (I) THE TOTAL AMOUNT OF THE TAX CREDIT CERTIFICATE ISSUED
27 FOR ANY PARTICULAR PROJECT MUST NOT EXCEED THE AMOUNT OF THE

1 TAX CREDIT RESERVATION ISSUED FOR THE PROJECT UNDER PARAGRAPH
2 (a) OF SUBSECTION (7) OF THIS SECTION;

3 (II) THE AMOUNT OF A TAX CREDIT CERTIFICATE TO BE ISSUED FOR
4 ANY ONE QUALIFIED COMMERCIAL STRUCTURE SHALL NOT EXCEED ONE
5 MILLION DOLLARS IN ANY ONE STATE FISCAL YEAR; AND

6 (III) WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE THAT IS
7 LOCATED IN AN AREA THAT THE PRESIDENT OF THE UNITED STATES HAS
8 DETERMINED TO BE A MAJOR DISASTER AREA UNDER SECTION 102 (2) OF
9 THE FEDERAL "ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY
10 ASSISTANCE ACT", 42 U.S.C. SEC. 5121 ET SEQ., OR THAT IS LOCATED IN
11 AN AREA THAT THE GOVERNOR HAS DETERMINED TO BE A DISASTER AREA
12 UNDER THE "COLORADO DISASTER EMERGENCY ACT", PART 7 OF ARTICLE
13 33.5 OF TITLE 24, C.R.S., THE TAX CREDIT AMOUNTS SPECIFIED IN
14 SUBPARAGRAPHS (I) TO (III) OF PARAGRAPH (b) OF THIS SUBSECTION (8)
15 MUST BE INCREASED AS FOLLOWS FOR AN APPLICATION THAT IS FILED
16 WITHIN SIX YEARS AFTER THE DISASTER DETERMINATION:

17 
18 (A) THE TWENTY-FIVE PERCENT CREDIT AMOUNT SPECIFIED IN
19 SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (8) IS
20 INCREASED TO THIRTY PERCENT; AND

21 (B) THE TWENTY PERCENT CREDIT AMOUNT SPECIFIED IN
22 SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (8) IS
23 INCREASED TO TWENTY-FIVE PERCENT.

24 (d) IF THE AMOUNT OF QUALIFIED REHABILITATION EXPENDITURES
25 INCURRED BY THE OWNER WOULD RESULT IN AN OWNER BEING ISSUED AN
26 AMOUNT OF TAX CREDITS THAT EXCEEDS THE AMOUNT OF TAX CREDITS
27 RESERVED FOR THE OWNER UNDER PARAGRAPH (a) OF SUBSECTION (7),

1 THE OWNER MAY APPLY TO THE OFFICE FOR THE ISSUANCE OF AN AMOUNT
2 OF TAX CREDITS THAT EQUALS THE EXCESS. THE OWNER MUST SUBMIT ITS
3 APPLICATION FOR ISSUANCE OF SUCH EXCESS TAX CREDITS ON A FORM
4 PRESCRIBED BY THE OFFICE. THE OFFICE SHALL AUTOMATICALLY APPROVE
5 THE APPLICATION, WHICH IT SHALL ISSUE BY MEANS OF A SEPARATE
6 CERTIFICATE, SUBJECT ONLY TO THE AVAILABILITY OF TAX CREDITS AND
7 THE PROVISIONS CONCERNING PRIORITY PROVIDED IN PARAGRAPH (a) OF
8 SUBSECTION (7) OF THIS SECTION.

9 (e) (I) FOLLOWING THE COMPLETION OF A REHABILITATION OF A
10 QUALIFIED RESIDENTIAL STRUCTURE, THE OWNER SHALL NOTIFY THE
11 REVIEWING ENTITY THAT THE REHABILITATION HAS BEEN COMPLETED AND
12 SHALL CERTIFY THAT THE QUALIFIED REHABILITATION EXPENDITURES
13 INCURRED IN CONNECTION WITH THE REHABILITATION PLAN. THE OWNER
14 SHALL ALSO PROVIDE THE REVIEWING ENTITY WITH A COST AND EXPENSE
15 CERTIFICATION CERTIFYING THE TOTAL QUALIFIED REHABILITATION
16 EXPENDITURES AND THE TOTAL AMOUNT OF TAX CREDITS FOR WHICH THE
17 OWNER IS ELIGIBLE. THE REVIEWING ENTITY SHALL REVIEW THE
18 DOCUMENTATION OF THE REHABILITATION AND VERIFY ITS COMPLIANCE
19 WITH THE REHABILITATION PLAN. EXCEPT AS OTHERWISE PROVIDED IN
20 SUBPARAGRAPH (II) OF THIS PARAGRAPH (e), WITHIN NINETY DAYS AFTER
21 RECEIPT OF THE FOREGOING DOCUMENTATION FROM THE OWNER, THE
22 REVIEWING ENTITY SHALL ISSUE A TAX CREDIT CERTIFICATE IN AN
23 AMOUNT EQUAL TO TWENTY PERCENT OF THE ACTUAL QUALIFIED
24 REHABILITATION EXPENDITURES; EXCEPT THAT THE AMOUNT OF THE TAX
25 CREDIT CERTIFICATE SHALL NOT EXCEED FIFTY THOUSAND DOLLARS FOR
26 EACH QUALIFIED RESIDENTIAL STRUCTURE, WHICH AMOUNT IS TO BE
27 CALCULATED OVER A TEN-YEAR ROLLING PERIOD THAT COMMENCES WITH

1 EACH CHANGE IN OWNERSHIP OF THE QUALIFIED RESIDENTIAL STRUCTURE.

2 (II) WITH RESPECT TO A QUALIFIED RESIDENTIAL STRUCTURE
3 LOCATED IN AN AREA THAT THE PRESIDENT OF THE UNITED STATES HAS
4 DETERMINED TO BE A MAJOR DISASTER AREA UNDER SECTION 102 (2) OF
5 THE FEDERAL "ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY
6 ASSISTANCE ACT", 42 U.S.C. SEC. 5121 ET SEQ., OR THAT IS LOCATED IN
7 AN AREA THAT THE GOVERNOR HAS DETERMINED TO BE A DISASTER AREA
8 UNDER THE "COLORADO DISASTER EMERGENCY ACT", PART 7 OF ARTICLE
9 33.5 OF TITLE 24, C.R.S., THE AMOUNT OF THE TAX CREDIT SPECIFIED IN
10 SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) IS INCREASED TO TWENTY-FIVE
11 PERCENT FOR AN APPLICATION THAT IS FILED WITHIN SIX YEARS AFTER THE
12 DISASTER DETERMINATION.

13 (9) IN ORDER TO CLAIM THE CREDIT AUTHORIZED BY THIS SECTION,
14 THE OWNER SHALL FILE THE TAX CREDIT CERTIFICATE WITH THE OWNER'S
15 STATE INCOME TAX RETURN. THE AMOUNT OF THE CREDIT CLAIMED THAT
16 THE OWNER MAY CLAIM UNDER THIS SECTION IS THE AMOUNT STATED ON
17 THE TAX CREDIT CERTIFICATE.

18 (10) FOR THE PURPOSES OF THIS SECTION, A CERTIFIED LOCAL
19 GOVERNMENT MAY ACT AS A REVIEWING ENTITY ONLY FOR A QUALIFIED
20 RESIDENTIAL STRUCTURE. EACH CERTIFIED LOCAL GOVERNMENT SHALL
21 ADOPT A RESOLUTION OR ORDINANCE STATING WHETHER THE
22 GOVERNMENT WILL ACT AS A REVIEWING ENTITY FOR THE PURPOSES OF
23 THIS SECTION. THE LOCAL GOVERNMENT SHALL SEND A COPY OF THE
24 RESOLUTION OR ORDINANCE TO THE HISTORICAL SOCIETY. ANY CERTIFIED
25 LOCAL GOVERNMENT THAT DECIDES TO ACT AS A REVIEWING ENTITY FOR
26 ANY GIVEN YEAR FOR THE PURPOSES OF THIS SECTION SHALL PERFORM ALL
27 DUTIES AND RESPONSIBILITIES IN CONNECTION WITH A CERTIFIED

1 REHABILITATION THAT RECEIVES PRELIMINARY APPROVAL FROM SUCH
2 ENTITY DURING THE YEAR.

3 (11) THE ENTIRE TAX CREDIT TO BE AWARDED UNDER THIS
4 SECTION MAY BE CLAIMED BY THE OWNER IN THE TAXABLE YEAR IN WHICH
5 THE CERTIFIED REHABILITATION IS PLACED IN SERVICE. IF THE AMOUNT OF
6 THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE AMOUNT OF
7 INCOME TAXES OTHERWISE DUE ON THE INCOME OF THE OWNER IN THE
8 INCOME TAX YEAR FOR WHICH THE CREDIT IS BEING CLAIMED, THE
9 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES
10 IN SAID INCOME TAX YEAR MAY BE CARRIED FORWARD AS A CREDIT
11 AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT
12 TO EXCEED TEN YEARS AND WILL BE APPLIED TO THE EARLIEST INCOME
13 TAX YEARS POSSIBLE. ANY AMOUNT OF THE CREDIT THAT IS NOT USED
14 AFTER SUCH PERIOD SHALL NOT BE REFUNDED TO THE OWNER.

15 (12) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE
16 AGGREGATE AMOUNT OF ALL TAX CREDITS IN ANY TAX YEAR THAT MAY
17 BE RESERVED BY THE OFFICE UPON THE CERTIFICATION OF ALL
18 REHABILITATION PLANS UNDER PARAGRAPH (a) OF SUBSECTION (7) OF THIS
19 SECTION MUST NOT EXCEED:

20 (I) FOR QUALIFIED COMMERCIAL STRUCTURES ESTIMATING
21 QUALIFIED REHABILITATION EXPENDITURES IN THE AMOUNT OF TWO
22 MILLION DOLLARS OR LESS, TWO AND ONE-HALF MILLION DOLLARS IN THE
23 AGGREGATE FOR THE 2016 CALENDAR YEAR, AND FIVE MILLION DOLLARS
24 IN THE AGGREGATE FOR EACH OF THE 2017, 2018, AND 2019 CALENDAR
25 YEARS, IN ADDITION TO THE AMOUNT OF ANY PREVIOUSLY RESERVED TAX
26 CREDITS THAT WERE RESCINDED UNDER PARAGRAPH (a) OF SUBSECTION
27 (8) OF THIS SECTION DURING THE APPLICABLE CALENDAR YEAR;

1 (II) FOR QUALIFIED COMMERCIAL STRUCTURES ESTIMATING
2 QUALIFIED REHABILITATION EXPENDITURES IN EXCESS OF TWO MILLION
3 DOLLARS, TWO AND ONE-HALF MILLION DOLLARS IN THE AGGREGATE FOR
4 THE 2016 CALENDAR YEAR AND FIVE MILLION DOLLARS IN THE
5 AGGREGATE FOR EACH OF THE 2017, 2018, AND 2019 CALENDAR YEARS,
6 IN ADDITION TO THE AMOUNT OF ANY PREVIOUSLY RESERVED TAX CREDITS
7 THAT WERE RESCINDED UNDER PARAGRAPH (a) OF SUBSECTION (8) OF THIS
8 SECTION DURING THE APPLICABLE CALENDAR YEAR.

9 (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
10 SUBSECTION (12), IF THE ENTIRETY OF THE ALLOWABLE TAX CREDIT
11 AMOUNT FOR ANY TAX YEAR IS NOT REQUESTED AND RESERVED UNDER
12 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (a) OF THIS SUBSECTION (12),
13 THE OFFICE MAY USE ANY SUCH UNRESERVED TAX CREDITS IN AWARDING
14 TAX CREDITS IN ANOTHER CATEGORY FOR THAT SAME INCOME TAX YEAR,
15 AND THE OFFICE MAY ALSO USE ANY REMAINING UNRESERVED TAX
16 CREDITS FOR THAT TAX YEAR IN AWARDING TAX CREDITS IN SUBSEQUENT
17 INCOME TAX YEARS.

18 (c) ANY TAX CREDITS GRANTED UNDER THIS SECTION TO A
19 PARTNERSHIP, A LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP,
20 OR MULTIPLE OWNERS OF A PROPERTY MUST BE PASSED THROUGH TO THE
21 PARTNERS, MEMBERS, OR OWNERS, INCLUDING ANY NONPROFIT ENTITY
22 THAT IS A PARTNER, MEMBER, OR OWNER, RESPECTIVELY, ON A PRO RATA
23 BASIS OR PURSUANT TO AN EXECUTED AGREEMENT AMONG THE PARTNERS,
24 MEMBERS, OR OWNERS DOCUMENTING AN ALTERNATE DISTRIBUTION
25 METHOD.

26 (d) ANY TAX CREDITS AWARDED UNDER THIS SECTION FOR A
27 QUALIFIED COMMERCIAL STRUCTURE ARE FREELY TRANSFERABLE AND

1 ASSIGNABLE, SUBJECT TO ANY NOTICE AND VERIFICATION REQUIREMENTS
2 TO BE DETERMINED BY THE OFFICE. ANY TRANSFEREE OF A TAX CREDIT
3 AWARDED UNDER THIS SECTION MAY USE THE AMOUNT OF TAX CREDITS
4 TRANSFERRED TO OFFSET AGAINST ANY OTHER TAX DUE UNDER THIS
5 ARTICLE OR THE TRANSFEREE MAY FREELY TRANSFER AND ASSIGN ALL OR
6 ANY PORTION OF THE TAX CREDITS TO ANY OTHER PERSON OR ENTITY,
7 INCLUDING AN ENTITY THAT IS EXEMPT FROM FEDERAL INCOME TAXATION
8 PURSUANT TO SECTION 501 (c) OF THE INTERNAL REVENUE CODE, AS
9 AMENDED, AND THE OTHER PERSON OR ENTITY MAY FREELY TRANSFER
10 AND ASSIGN ALL OR ANY PORTION OF THE TAX CREDITS TO ANY OTHER
11 PERSON OR ENTITY. THE TAX CREDITS MAY BE TRANSFERRED OR ASSIGNED
12 ON MULTIPLE OCCASIONS UNTIL SUCH TIME AS THE CREDIT IS CLAIMED ON
13 A STATE TAX RETURN BY ANY OWNER. THE TRANSFEROR AND THE
14 TRANSFEREE OF THE TAX CREDITS SHALL JOINTLY FILE A COPY OF THE
15 WRITTEN TRANSFER AGREEMENT WITH THE OFFICE WITHIN THIRTY DAYS
16 AFTER THE TRANSFER. ANY FILING OF THE WRITTEN TRANSFER
17 AGREEMENT WITH THE OFFICE PERFECTS THE TRANSFER. THE OFFICE
18 SHALL DEVELOP A SYSTEM TO TRACK THE TRANSFERS OF TAX CREDITS AND
19 TO CERTIFY THE OWNERSHIP OF TAX CREDITS, AND THE OFFICE SHALL
20 PROMULGATE RULES TO PERMIT VERIFICATION OF THE OWNERSHIP OF THE
21 TAX CREDITS; EXCEPT THAT, ANY RULES PROMULGATED SHALL NOT
22 UNDULY RESTRICT OR HINDER THE TRANSFER OF THE TAX CREDITS.

23 (e) (I) IF, DURING THE FIVE-YEAR PERIOD AFTER THE TAX CREDITS
24 ARE AWARDED, THE INITIAL OWNER WHO WAS AWARDED THE TAX CREDIT
25 CERTIFICATE DEMOLISHES OR SIGNIFICANTLY ALTERS THE CERTIFIED
26 REHABILITATION UPON WHICH THE CREDIT WAS BASED OR MAKES
27 MATERIAL CHANGES TO THE CERTIFIED REHABILITATION UPON WHICH THE

1 CREDIT WAS BASED THAT ARE INCONSISTENT WITH THE STANDARDS FOR
2 REHABILITATION PROMULGATED BY THE UNITED STATES SECRETARY OF
3 THE INTERIOR, THE INITIAL OWNER SHALL REFUND TO THE DEPARTMENT
4 THE FOLLOWING AMOUNT OF THE TAX CREDIT:

5 (A) IF THE DEMOLITION, ALTERATION, OR CHANGE OCCURS WITHIN
6 THE FIRST YEAR, AN AMOUNT EQUAL TO EIGHTY PERCENT OF THE AMOUNT
7 OF THE TAX CREDIT AWARDED;

8 (B) IF THE DEMOLITION, ALTERATION, OR CHANGE OCCURS WITHIN
9 THE SECOND YEAR, AN AMOUNT EQUAL TO SIXTY PERCENT OF THE
10 AMOUNT OF THE TAX CREDIT AWARDED;

11 (C) IF THE DEMOLITION, ALTERATION, OR CHANGE OCCURS WITHIN
12 THE THIRD YEAR, AN AMOUNT EQUAL TO FORTY PERCENT OF THE AMOUNT
13 OF THE TAX CREDIT AWARDED; AND

14 (D) IF THE DEMOLITION, ALTERATION, OR CHANGE OCCURS WITHIN
15 THE FOURTH YEAR, AN AMOUNT EQUAL TO TWENTY PERCENT OF THE
16 AMOUNT OF THE TAX CREDIT AWARDED.

17 (II) IF THE CHANGES TO THE QUALIFIED STRUCTURE DESCRIBED IN
18 SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) TAKE PLACE IN THE FIFTH
19 YEAR, NO AMOUNT OF THE TAX CREDIT AWARDED MUST BE REFUNDED.

20 (III) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
21 ONLY THE OWNER INITIALLY AWARDED THE TAX CREDIT CERTIFICATE, AND
22 NOT ANY SUBSEQUENT TRANSFEREE OF THE TAX CREDIT CERTIFICATE, IS
23 REQUIRED TO REFUND ANY PORTION OF THE OF TAX CREDIT UNDER
24 SUBPARAGRAPH (I) OF THIS PARAGRAPH (e).

25 (f) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
26 THE AGGREGATE AMOUNT OF TAX CREDITS AWARDED UNDER THIS SECTION
27 MUST NOT EXCEED:

1 (A) FOR THE 2016-2017 STATE FISCAL YEAR, FIVE MILLION
2 DOLLARS;

3 (B) FOR THE 2017-2018 STATE FISCAL YEAR, TEN MILLION
4 DOLLARS;

5 (C) FOR THE 2018-2019 STATE FISCAL YEAR, TEN MILLION
6 DOLLARS; AND

7 (D) FOR THE 2019-2020 STATE FISCAL YEAR, TEN MILLION
8 DOLLARS.

9 (II) CREDITS AWARDED BUT NOT USED DURING THE 2016-2017
10 STATE FISCAL YEAR MAY BE USED IN THE 2017-2018 STATE FISCAL YEAR.

11 (III) A TAX CREDIT AUTHORIZED UNDER THIS SECTION MAY BE
12 EARNED BEFORE JULY 1, 2016, BUT THE DEPARTMENT SHALL NOT AWARD
13 A TAX CREDIT UNDER THIS SECTION PRIOR TO JULY 1, 2016.

14 (13) ANY OWNER OR ANY DULY AUTHORIZED REPRESENTATIVE OF
15 AN OWNER MAY APPEAL ANY FINAL DETERMINATION MADE BY THE OFFICE
16 OR THE DEPARTMENT, INCLUDING, WITHOUT LIMITATION, ANY
17 PRELIMINARY OR FINAL RESERVATION, OR ANY APPROVAL OR DENIAL, IN
18 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",
19 ARTICLE 4 OF TITLE 24, C.R.S. THE OWNER OR THE OWNER'S
20 REPRESENTATIVE SHALL SUBMIT ANY SUCH APPEAL WITHIN THIRTY DAYS
21 AFTER RECEIPT BY THE OWNER OR THE OWNER'S REPRESENTATIVE OF THE
22 FINAL DETERMINATION THAT IS THE SUBJECT OF THE APPEAL.

23 (14) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
24 THE TAX CREDITS AUTHORIZED BY THIS SECTION FOR THE SUBSTANTIAL
25 REHABILITATION OF A QUALIFIED STRUCTURE ARE NOT AVAILABLE TO AN
26 OWNER OF A QUALIFIED STRUCTURE THAT SUBMITS AN APPLICATION AND
27 REHABILITATION PLAN AFTER DECEMBER 31, 2019. NO ACTION OR

1 INACTION ON THE PART OF THE GENERAL ASSEMBLY HAS THE EFFECT OF
2 LIMITING OR SUSPENDING THE AWARDING OF TAX CREDITS AUTHORIZED BY
3 THIS SECTION IN ANY PAST OR FUTURE INCOME TAX YEAR WITH RESPECT
4 TO A QUALIFIED STRUCTURE IF THE OWNER OF THE STRUCTURE SUBMITS AN
5 APPLICATION AND REHABILITATION PLAN WITH THE OFFICE ON OR PRIOR TO
6 DECEMBER 31, 2019, EVEN IF THE QUALIFIED STRUCTURE IS PLACED INTO
7 SERVICE AFTER DECEMBER 31, 2019.

8 (15) (a) THE DEPARTMENT MAY AUDIT ANY CREDIT OBTAINED BY
9 THE OWNER; EXCEPT THAT ONLY THE OWNER INITIALLY AWARDED THE
10 TAX CREDIT CERTIFICATE, AND NOT ANY SUBSEQUENT TRANSFEREE OF THE
11 CERTIFICATE, IS LIABLE FOR ANY CREDIT IMPROPERLY OBTAINED BY THE
12 OWNER.

13 (b) THE OFFICE SHALL, IN CONSULTATION WITH THE DEPARTMENT,
14 REPORT TO THE GENERAL ASSEMBLY BY MARCH 1, 2017, AND BY MARCH
15 1, 2019, ON THE OVERALL ECONOMIC ACTIVITY, USAGE, AND IMPACT TO
16 THE STATE FROM THE SUBSTANTIAL REHABILITATION OF QUALIFIED
17 STRUCTURES FOR WHICH TAX CREDITS HAVE BEEN ALLOWED UNDER THIS
18 SECTION. ON OR BEFORE MARCH 15, 2016, AND ON A QUARTERLY BASIS
19 THEREAFTER, THE OFFICE SHALL PROVIDE A REPORT TO THE DEPARTMENT
20 SPECIFYING THE OWNERSHIP AND TRANSFERS OF CREDIT UNDER THIS
21 SECTION.

22 (c) THE OFFICE, IN CONSULTATION WITH THE HISTORICAL SOCIETY,
23 SHALL PROMULGATE ANY AND ALL RULES NECESSARY TO FURTHER
24 IMPLEMENT THIS SECTION AND SHALL SOLICIT ADVICE FROM THE
25 DEPARTMENT IN PROMULGATING RULES FOR TRANSFERS. ANY SUCH RULES
26 SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
27 C.R.S.

1 (d) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
2 TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION IN
3 CONNECTION WITH THE REHABILITATION OF A HISTORIC STRUCTURE FOR
4 WHICH THE TAXPAYER IS ALSO CLAIMING A CREDIT UNDER SECTION
5 39-22-514.

6 **SECTION 2.** In Colorado Revised Statutes, 39-21-113, **add** (23)
7 as follows:

8 **39-21-113. Reports and returns - rule - repeal.**

9 (23) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION:

10 (a) THE EXECUTIVE DIRECTOR MAY PROVIDE SUCH DETAILED
11 TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX
12 CREDIT FOR THE APPROVED REHABILITATION OF A HISTORIC STRUCTURE
13 PURSUANT TO SECTION 39-22-514.5 TO TAXPAYERS, INCLUDING OWNERS
14 AND TRANSFEREES, WITH CASES INVOLVING COMMON OR RELATED ISSUES
15 OF FACT OR LAW. WITH THE EXCEPTION OF TAXPAYER CONTACT
16 INFORMATION, ANY INFORMATION PROVIDED PURSUANT TO THIS
17 SUBSECTION (23) MUST REMAIN CONFIDENTIAL, AND ALL PERSONS ARE
18 SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (4) OF THIS
19 SECTION AND THE PENALTIES SPECIFIED IN SUBSECTION (6) OF THIS
20 SECTION.

21 (b) THE EXECUTIVE DIRECTOR MAY REQUIRE THAT SUCH DETAILED
22 TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX
23 CREDIT FOR THE APPROVED REHABILITATION OF A HISTORIC STRUCTURE
24 PURSUANT TO SECTION 39-22-514.5 AND ANY DOCUMENTATION IN
25 SUPPORT OF THE CREDIT CLAIMED BE GIVEN TO THE COLORADO OFFICE OF
26 ECONOMIC DEVELOPMENT AND THE STATE HISTORICAL SOCIETY OF
27 COLORADO AS THE EXECUTIVE DIRECTOR DETERMINES IS NECESSARY IN

1 THE PERFORMANCE OF THE DEPARTMENT'S FUNCTIONS RELATING TO THE
2 CREDIT. IN RESOLVING DISPUTES REGARDING THE CREDIT, THE EXECUTIVE
3 DIRECTOR MAY DISCLOSE SUCH DETAILED TAXPAYER INFORMATION AND
4 CONSULT WITH THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND
5 THE STATE HISTORICAL SOCIETY OF COLORADO. NOTWITHSTANDING PART
6 2 OF ARTICLE 72 OF TITLE 24, C.R.S., IN ORDER TO PROTECT THE
7 CONFIDENTIAL FINANCIAL INFORMATION OF A TAXPAYER, THE EXECUTIVE
8 DIRECTOR SHALL DENY THE RIGHT TO INSPECT ANY INFORMATION OR
9 DOCUMENTATION REQUIRED IN ACCORDANCE WITH THIS SUBSECTION (23).

10 **SECTION 3. Appropriation - adjustments to 2014 long bill.**

11 (1) For the implementation of this act, the general fund appropriation
12 made in the annual general appropriation act to the controlled
13 maintenance trust fund created in section 24-75-302.5 (2) (a), Colorado
14 Revised Statutes, for the fiscal year beginning July 1, 2014, is decreased
15 by \$106,283.

16 (2) In addition to any other appropriation, there is hereby
17 appropriated, out of any moneys in the general fund not otherwise
18 appropriated, to the governor - lieutenant governor - state planning and
19 budgeting, for the fiscal year beginning July 1, 2014, the sum of \$106,283
20 and 0.5 FTE, or so much thereof as may be necessary, to be allocated to
21 economic development programs for the development, implementation,
22 and management costs associated with the income tax credit program.

23 **SECTION 4. Applicability.** This act applies to costs for the
24 rehabilitation of historic structures incurred on or after July 1, 2015.

25 **SECTION 5. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.

