

# SENATE BILL NO. 961

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

4795S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 253.544, 253.545, 253.550, 253.557, and 253.559, RSMo, and to enact in lieu thereof five new sections relating to facilities of historic significance.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 253.544, 253.545, 253.550, 253.557,  
2 and 253.559, RSMo, are repealed and five new sections enacted  
3 in lieu thereof, to be known as sections 253.544, 253.545,  
4 253.550, 253.557, and 253.559, to read as follows:

253.544. Sections 253.544 to 253.559 [shall] **may** be  
2 known and [may be] cited as the "Missouri Historic, Rural  
3 Revitalization, and Regulatory Streamlining Act".

253.545. As used in sections 253.544 to 253.559, the  
2 following terms mean, unless the context requires otherwise:

3 (1) "Applicable percentage":

4 (a) For the rehabilitation of a property that receives  
5 or intends to receive a state tax credit under sections  
6 135.350 to 135.363, twenty-five percent;

7 (b) For the rehabilitation of a property located in a  
8 qualifying county approved for a state tax credit and that  
9 is not a property that receives or intends to receive a  
10 state tax credit under sections 135.350 to 135.363, thirty-  
11 five percent; [or]

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

(c) For the rehabilitation of a property not located in a qualifying county approved for a tax credit, twenty-five percent; **or**

**(d) For the rehabilitation of a property that is a historic school, thirty five percent;**

(2) "Certified historic structure", a building located in Missouri and either:

(a) Listed individually on the National Register of Historic Places; or

(b) Located in a National Register-listed historic district or a local district that has been certified by the United States Department of the Interior and certified by the Secretary of the Interior or the state historic preservation office as a contributing resource in the district;

(3) "Deed in lieu of foreclosure or voluntary conveyance", a transfer of title from a borrower to the lender to satisfy the mortgage debt and avoid foreclosure;

(4) "Department", the department of economic development;

(5) "Eligible property", property located in Missouri and offered or used for residential or business purposes;

(6) "Eligible recipient", an individual taxpayer or nonprofit entity incurring expenses in connection with an eligible property;

(7) "Historic theater", any historic theater that is a certified historic structure or is located in a historic district;

(8) "Historic school", any historic school that is a certified historic structure or that is located in a historic district;

43           (9) "Leasehold interest", a lease in an eligible  
44 property for a term of not less than thirty years;

45           (10) "Principal", a managing partner, general partner,  
46 or president of a taxpayer;

47           (11) "Qualified census tract", a census tract or  
48 census block with a poverty rate of twenty percent or higher  
49 as determined by a map and listing of census tracts which  
50 shall be published by the department and updated on a five-  
51 year cycle, and which map and listing shall depict census  
52 tracts with twenty percent poverty rate or higher, grouped  
53 by census tracts with twenty percent to forty-two percent  
54 poverty, and forty-two percent to eighty-one percent poverty  
55 as determined by the most current five-year figures  
56 published by the American Community Survey conducted by the  
57 United States Census Bureau;

58           (12) "Qualified rehabilitation standards", the  
59 Secretary of the Interior's Standards for Rehabilitation,  
60 codified under 36 CFR 67;

61           (13) "Qualifying county", any county or portion  
62 thereof in this state that is not:

63           (a) Within a city with more than four hundred thousand  
64 inhabitants and located in more than one county; or

65           (b) A city not within a county;

66           (14) "Taxpayer", any person, firm, partnership, trust,  
67 estate, limited liability company, or corporation.

253.550. 1. (1) Any taxpayer incurring costs and  
2 expenses for the rehabilitation of eligible property, which  
3 is a certified historic structure or structure in a  
4 certified historic district, may, subject to the provisions  
5 of this section and section 253.559, receive a credit  
6 against the taxes imposed pursuant to chapters 143 and 148,  
7 except for sections 143.191 to 143.265, on such taxpayer in

8 an amount equal to twenty-five percent of the total costs  
9 and expenses of rehabilitation incurred after January 1,  
10 1998, which shall include, but not be limited to, qualified  
11 rehabilitation expenditures as defined under Section  
12 47(c)(2)(A) of the Internal Revenue Code of 1986, as  
13 amended, and the related regulations thereunder, provided  
14 the rehabilitation costs associated with rehabilitation and  
15 the expenses exceed fifty percent of the total basis in the  
16 property and the rehabilitation meets standards consistent  
17 with the standards of the Secretary of the United States  
18 Department of the Interior for rehabilitation as determined  
19 by the state historic preservation officer of the Missouri  
20 department of natural resources.

21 (2) Any taxpayer incurring costs and expenses for the  
22 rehabilitation of eligible property that is in a qualifying  
23 county and is a certified historic structure shall, subject  
24 to the provisions of this section and section 253.559,  
25 receive a credit against the taxes imposed under chapters  
26 143 and 148, excluding withholding tax imposed under  
27 sections 143.191 to 143.265, on such taxpayer in an amount  
28 equal to thirty-five percent of the total costs and expenses  
29 of rehabilitation incurred on or after July 1, [2024] 2026.  
30 Ten percent of the total costs and expenses of  
31 rehabilitation upon which the tax credit is based may be  
32 incurred for investigation assessments and building  
33 stabilization before the taxpayer submits the application  
34 for tax credits under sections 253.544 to 253.559. Such  
35 total costs and expenses of rehabilitation shall include,  
36 but not be limited to, qualified rehabilitation expenditures  
37 as defined under 26 U.S.C. Section 47(c)(2)(A), as amended,  
38 and related regulations, if:

39           (a) Such qualified rehabilitation expenditures exceed  
40 fifty percent of the total basis in the property; and

41           (b) The rehabilitation meets the qualified  
42 rehabilitation standards of the Secretary of the United  
43 States Department of the Interior for rehabilitation of  
44 historic structures.

45           (3) State historic rehabilitation standards shall not  
46 be more restrictive than the Secretary of the Interior's  
47 Standards for Rehabilitation set forth under 36 CFR 67.

48           2. (1) The department shall not approve applications  
49 for tax credits for properties not located in a qualified  
50 census tract under the provisions of subsections 5 and 11 of  
51 section 253.559 which, in the aggregate, exceed ninety  
52 million dollars, increased by any amount of tax credits for  
53 which approval shall be rescinded under the provisions of  
54 section 253.559. The limitations provided under this  
55 subsection shall not apply to applications approved under  
56 the provisions of subsection 5 of section 253.559 for  
57 projects to receive less than [two hundred seventy-five]  
58 **four hundred ninety-five** thousand dollars in tax credits.

59           (2) For each fiscal year beginning on or after July 1,  
60 2018, the department shall authorize an amount up to, but  
61 not to exceed, an additional thirty million dollars in tax  
62 credits issued under subsections 5 and 11 of section  
63 253.559, provided that such tax credits are authorized  
64 solely for projects located in a qualified census tract.  
65 Projects that receive preliminary approval that are located  
66 within a qualified census tract may receive an authorization  
67 of tax credit under either subdivision (1) of this  
68 subsection or this subdivision, but such projects shall  
69 first be authorized from the tax credit amount in this

subdivision before being authorized from the tax credit amount in subdivision (1) of this subsection.

(3) For each fiscal year beginning on or after July 1, 2018, if the maximum amount of tax credits allowed in any fiscal year as provided under subdivisions (1) and (2) of this subsection is authorized, the maximum amount of tax credits allowed under subdivisions (1) and (2) of this subsection shall be adjusted by the percentage increase in the Consumer Price Index for All Urban Consumers, or its successor index, as such index is defined and officially reported by the United States Department of Labor, or its successor agency. Only one such adjustment shall be made for each instance in which the provisions of this subdivision apply. The director of the department shall publish such adjusted amount.

3. (1) For all applications for tax credits approved on or after January 1, 2010, no more than two hundred fifty thousand dollars in tax credits may be issued for eligible costs and expenses incurred in the rehabilitation of an eligible property that is a nonincome-producing single-family residential property occupied by the taxpayer applicant or any relative within the third degree of consanguinity or affinity of such applicant and that is either a certified historic structure or a structure in a certified historic district.

(2) For all applications for tax credits, an amount equal to the applicable percentage may be issued for eligible costs and expenses incurred in the rehabilitation of an eligible property that is a nonincome-producing single-family residential property occupied by the taxpayer applicant or any relative within the third degree of consanguinity or affinity of such applicant and that is

either a certified historic structure or a structure in a certified historic district. For properties not located in a qualifying county, tax credits shall not be issued under this subdivision unless the property is located in a distressed community, as defined under section 135.530.

4. The limitations on tax credit authorization provided under the provisions of subsection 2 of this section shall not apply to:

(1) Any application submitted by a taxpayer, which has received approval from the department prior to October 1, 2018; or

(2) Any taxpayer applying for tax credits, provided under this section, which, on or before October 1, 2018, has filed an application with the department evidencing that such taxpayer:

(a) Has incurred costs and expenses for an eligible property which exceed the lesser of five percent of the total project costs or one million dollars and received an approved Part I from the Secretary of the United States Department of Interior; or

(b) Has received certification, by the state historic preservation officer, that the rehabilitation plan meets the qualified rehabilitation standards, and the rehabilitation costs and expenses associated with such rehabilitation shall exceed fifty percent of the total basis in the property.

5. A single-resource certified historic structure of more than one million gross square feet with a Part I approval or on the National Register before January 1, **[2024] 2026**, shall be subject to the dollar caps under subsection 2 of this section, provided that, for any such projects that are eligible for tax credits in an amount exceeding sixty million dollars, the total amount of tax

credits for such project counted toward the annual limits provided in subsection 2 of this section shall be spread over a period of six years with one-sixth of such amount allocated each year if:

(1) The project otherwise meets all the requirements of this section;

(2) The project meets the ten percent incurred costs test under subsection 9 of section 253.559 within thirty-six months after an award is issued; and

(3) The taxpayer agrees with the department of economic development, on a form prescribed by the department, to then claim the entire award of the original "state historical tax credits" over three state fiscal years with the initial year being the calendar year when the tax credits are issued.

253.557. 1. If the amount of such credit exceeds the total tax liability for the year in which the rehabilitated property is placed in service, the amount that exceeds the state tax liability may be carried back to any of the three preceding years and carried forward for credit against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first. Not-for-profit entities including, but not limited to, corporations organized as not-for-profit corporations pursuant to chapter 355 shall be eligible for the tax credits authorized under sections 253.544 to 253.559. Taxpayers eligible for tax credits may transfer, sell, or assign the credits. Credits granted to a partnership, a limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners respectively pro



18 rata or pursuant to an executed agreement among the  
19 partners, members, or owners documenting an alternate  
20 distribution method.

21 2. The assignee of the tax credits, hereinafter the  
22 assignee for purposes of this subsection, may use acquired  
23 credits to offset up to one hundred percent of the tax  
24 liabilities otherwise imposed pursuant to chapter 143 and  
25 chapter 148, except for sections 143.191 to 143.265. The  
26 assignor shall perfect such transfer by notifying the  
27 department in writing within thirty calendar days following  
28 the effective date of the transfer and shall provide any  
29 information as may be required by the department **of natural**  
30 **resources** to administer and carry out the provisions of this  
31 section.

253.559. 1. To obtain approval for tax credits  
2 allowed under sections 253.544 to 253.559, a taxpayer shall  
3 submit an application for tax credits to the department **of**  
4 **natural resources**. The department shall establish an  
5 application cycle that allows for year-round submission and  
6 year-round receipt and review of such applications. Each  
7 application for approval, including any applications  
8 received for supplemental allocations of tax credits as  
9 provided under subsection 11 of this section, shall be  
10 prioritized for review and approval, in the order of the  
11 date on which the application was postmarked, with the  
12 oldest postmarked date receiving priority. Applications  
13 postmarked on the same day shall go through a lottery  
14 process to determine the order in which such applications  
15 shall be reviewed.

16 2. Each application shall be reviewed by the  
17 department for approval. In order to receive approval, an

18 application, other than applications submitted under the  
19 provisions of subsection 11 of this section, shall include:

20 (1) Proof of ownership or site control. Proof of  
21 ownership shall include evidence that the taxpayer is the  
22 fee simple owner of the eligible property, such as a  
23 warranty deed or a county assessor record as proof of  
24 ownership. Proof of site control may be evidenced by a  
25 leasehold interest or an option to acquire such an  
26 interest. If the taxpayer is in the process of acquiring  
27 fee simple ownership, proof of site control shall include an  
28 executed sales contract or an executed option to purchase  
29 the eligible property;

30 (2) Floor plans of the existing structure,  
31 architectural plans, and, where applicable, plans of the  
32 proposed alterations to the structure, as well as proposed  
33 additions;

34 (3) The estimated cost of rehabilitation, the  
35 anticipated total costs of the project, the actual basis of  
36 the property, as shown by proof of actual acquisition costs,  
37 the anticipated total labor costs, the estimated project  
38 start date, and the estimated project completion date;

39 (4) Proof that the property is an eligible property  
40 and a certified historic structure or a structure in a  
41 certified historic district or part 1 of a federal  
42 application or a draft National Register of Historic Places  
43 nomination has been submitted to the state historic  
44 preservation office. In such instances, the application may  
45 proceed as a preliminary application concurrent with the  
46 associated federal process for nomination to the National  
47 Register of Historic Places;

48 (5) A copy of land use plans; and

49           (6) Any other information the department may  
50 reasonably require to review the project for approval.

51 Only the property for which a property address is provided  
52 in the application shall be reviewed for approval. Once  
53 selected for review, a taxpayer shall not be permitted to  
54 request the review of another property for approval in the  
55 place of the property contained in such application. Any  
56 disapproved application shall be removed from the review  
57 process. If an application is removed from the review  
58 process, the department shall notify the taxpayer in writing  
59 of the decision to remove such application. Disapproved  
60 applications shall lose priority in the review process. A  
61 disapproved application, which is removed from the review  
62 process, may be resubmitted, but shall be deemed to be a new  
63 submission for purposes of the priority procedures described  
64 in this section.

65           3. (1) In evaluating an application for tax credits  
66 submitted under this section, the department shall also  
67 consider:

68           (a) The amount of projected net fiscal benefit of the  
69 project to the state and local municipality as calculated  
70 based on reasonable methods;

71           (b) The overall size and quality of the proposed  
72 project, including, but not limited to:

73               a. The estimated number of new jobs or housing units,  
74 or both, to be created by the project;

75               b. The estimated number of construction jobs and  
76 professional jobs associated with the project that are  
77 included in total project costs;

78               c. Capital improvements created by a project and the  
79 potential of future community investments and improvements;

- d. Increased revenues from sales or property taxes;
- e. The potential multiplier effect of the project; and
- f. Other similar factors; and

(c) Input from the local elected officials in the local municipality in which the proposed project is located as to the importance of the proposed project to the municipality.

(2) The provisions of this subsection shall not apply to historic schools or theaters or applications for projects to receive less than two hundred seventy-five thousand dollars in tax credits.

4. (1) The department shall promptly notify the state historic preservation office of each preliminary application for tax credits. After receipt of such notice, the state historic preservation office shall determine whether a rehabilitation satisfies the qualified rehabilitation standards within sixty days of a taxpayer filing an initial application for tax credits. The determination shall be based upon evidence that the rehabilitation will meet qualified rehabilitation standards, and that evidence shall consist of one of the following:

(a) Preliminary approval by the state historic preservation office; or

(b) An approved part 2 of the federal application, which the state historic preservation office shall forward directly to the department without any additional review by such office.

(2) If the state historic preservation office approves the application for tax credits within the sixty-day determination period established in subdivision (1) of this subsection, such office shall forward the application with any review comments to the National Park Service and shall

forward any such review comments to the applicant. If such office fails to approve the application within the sixty-day determination period, such office shall forward the application without any comments to the National Park Service and shall have no further opportunity to submit any comments on such application.

(3) Conditions on a state preliminary application or on part 2 of a federal application shall not delay preliminary state approval but shall be addressed by the applicant for final approval of such application.

(4) Any application for state tax credits that does not include an application for federal tax credits or a nomination to the federal National Register of Historic Places shall be reviewed by the state historic preservation office within sixty days of a notice received under subdivision (1) of this subsection.

(5) (a) An application for state tax credits may provide information indicating that the project is a phased rehabilitation project as described under 26 U.S.C. Section 47, as amended. Such application for a phased rehabilitation project shall include at least the following:

a. A schedule of the phases of the project with a beginning and end date for each phase and the expected costs for the whole project. The applicant may submit detailed plans for the project at a later time within the application process;

b. The adjusted total basis of such project, which shall be submitted with the schedule of phases of the project; and

c. A statement that the applicant agrees to begin each phase of such project within twelve months of the start date for such phase listed in the schedule of the phases.

144 (b) The applicant may submit a preliminary  
145 certification of costs upon the completion of each phase of  
146 the project.

147 (c) Upon approval of the cost certification submitted  
148 and the work completed on each phase of such project, the  
149 department shall issue eighty percent of the amount of the  
150 state tax credit for which the taxpayer is approved under  
151 this section. The remaining twenty percent of the amount of  
152 the state tax credit for which the taxpayer is approved  
153 under this section shall be issued upon the final approval  
154 of the project under this section.

155 (6) If the department determines that the amount of  
156 tax credits issued to a taxpayer under subdivision (5) of  
157 this subsection is in excess of the total amount of tax  
158 credits such taxpayer is eligible to receive, the department  
159 shall notify such taxpayer, and such taxpayer shall repay  
160 the department an amount equal to such excess.

161 5. If the department deems the application sufficient,  
162 the taxpayer shall be notified in writing of the approval  
163 for an amount of tax credits equal to the amount provided  
164 under section 253.550 less any amount of tax credits  
165 previously approved. Such approvals shall be granted to  
166 applications in the order of priority established under this  
167 section and shall require full compliance thereafter with  
168 all other requirements of law as a condition to any claim  
169 for such credits. If the department disapproves an  
170 application, the taxpayer shall be notified in writing of  
171 the reasons for such disapproval. A disapproved application  
172 may be resubmitted. If the scope of a project for which an  
173 application has been approved under this section materially  
174 changes, the taxpayer shall be eligible to receive  
175 additional tax credits in the year in which the department

is notified of and approves of such change in scope, subject to the provisions of subsection 2 of section 253.550 and subsection 7 of this section, if applicable; however, if such project was originally approved prior to August 28, 2018, the department shall evaluate the change in scope of the project under the criteria in effect prior to such date. A change in project scope shall be considered material under this subsection if:

(1) The project was not previously subject to a material change in scope for which additional tax credits were approved; and

(2) The requested amount of tax credits for the project after the change in scope is higher than the originally approved amount of tax credits.

6. Following approval of an application, the identity of the taxpayer contained in such application shall not be modified except:

(1) The taxpayer may add partners, members, or shareholders as part of the ownership structure, so long as the principal remains a principal of the taxpayer, provided however, that subsequent to the commencement of renovation and the expenditure of at least ten percent of the proposed rehabilitation budget, removal of the principal for failure to perform duties and the appointment of a new principal thereafter shall not constitute a change of the principal; or

(2) Where the ownership of the project is changed due to a foreclosure, deed in lieu of a foreclosure or voluntary conveyance, or a transfer in bankruptcy.

7. In the event that the department grants approval for tax credits equal to the total amount available or authorized, as applicable, under subsection 2 of section 253.550, or sufficient that when totaled with all other

208 approvals, the amount available or authorized, as  
209 applicable, under subsection 2 of section 253.550 is  
210 exhausted, all taxpayers with applications then awaiting  
211 approval or thereafter submitted for approval shall be  
212 notified by the department that no additional approvals  
213 shall be granted during the fiscal year and shall be  
214 notified of the priority given to such taxpayer's  
215 application then awaiting approval. Such applications shall  
216 be kept on file by the department and shall be considered  
217 for approval for tax credits in the order established in  
218 this section in the event that additional credits become  
219 available due to the rescission of approvals or when a new  
220 fiscal year's allocation of credits becomes available for  
221 approval or authorized, as applicable.

222       8. All taxpayers with applications receiving approval  
223 on or after July 1, 2019, shall submit within one hundred  
224 twenty days following the award of credits evidence of the  
225 capacity of the applicant to finance the costs and expenses  
226 for the rehabilitation of the eligible property in the form  
227 of a line of credit or letter of commitment subject to the  
228 lender's termination for a material adverse change impacting  
229 the extension of credit. If the department determines that  
230 a taxpayer has failed to comply with the requirements under  
231 this subsection, then the department shall notify the  
232 applicant of such failure and the applicant shall have a  
233 thirty-day period from the date of such notice to submit  
234 additional evidence to remedy the failure.

235       9. All taxpayers with applications receiving approval  
236 on or after the effective date of this act shall commence  
237 rehabilitation within twenty-four months of the date of  
238 issuance of the letter from the department granting the  
239 approval for tax credits. "Commencement of rehabilitation"



shall mean that as of the date in which actual physical work, contemplated by the architectural plans submitted with the application, has begun, the taxpayer has incurred no less than ten percent of the estimated costs of rehabilitation provided in the application. Taxpayers with approval of a project shall submit evidence of compliance with the provisions of this subsection. Taxpayers shall notify the department of any loss of site control or of any failure to exercise any option to obtain site control within the prescribed time period within ten days of such loss or failure. If the department determines that a taxpayer has lost or failed to obtain site control of the eligible property or otherwise failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded. A taxpayer may voluntarily forfeit such approval at any time by written notice to the department. Any approval rescinded or forfeited under this subsection shall then be included in the total amount of tax credits available in the year of such rescission or forfeiture, provided under subsection 2 of section 253.550, from which approvals may be granted. Any taxpayer whose approval is rescinded or forfeited under this subsection shall be notified of such from the department and, upon receipt of such notice, may submit a new application for the project. If a taxpayer's approval is rescinded or forfeited under this subsection and such taxpayer later submits a new application for the same project, any expenditures eligible for tax credits under section 253.550 that are incurred by such taxpayer from and after the date of the rescinded or forfeited approval shall remain eligible expenditures for the purposes of determining

the amount of tax credits that may be approved under section 253.550.

10. (1) (a) To claim the credit authorized under sections 253.544 to 253.559, a taxpayer with approval shall apply for final approval and issuance of tax credits from the department, which shall determine the final amount of eligible rehabilitation costs and expenses and whether the completed rehabilitation meets the qualified rehabilitation standards.

(b) Evidence that the completed rehabilitation meets the qualified rehabilitation standards shall be shown by one of the following:

a. Final approval by the state historic preservation office; or

b. An approved part 3 of the federal application.

(c) The state historic preservation office shall review each final application within sixty days and then forward the application to the National Park Service and send copies of any review comments to the applicant. If the state historic preservation office fails to review the application within sixty days, the application shall be forwarded without comments to the National Park Service and the state historic preservation office shall have no further opportunity to submit comments on such application.

(d) An award of tax credits under sections 253.544 to 253.559 shall be contingent on and awarded upon the listing of such eligible property on the National Register of Historic Places.

(2) Within seventy-five days of the department's receipt of all materials required by the department for an application for final approval and issuance of tax credits, which shall include a state approval by the state historic

303 preservation office or an approved part 3 of the federal  
304 application for projects receiving federal rehabilitation  
305 credits, the department shall issue to the taxpayer tax  
306 credit certificates in the amount of seventy-five percent of  
307 the lesser of:

308 (a) The total amount of the tax credits for which the  
309 taxpayer is eligible as provided in the taxpayer's  
310 certification of qualified expenses submitted with an  
311 application for final approval; or

312 (b) The total amount of tax credits approved for such  
313 project under subsection 3 of this section, including any  
314 amounts approved in connection with a material change in the  
315 scope of the project.

316 (3) Within one hundred twenty days of the department's  
317 receipt of all materials required by the department for an  
318 application of final approval and issuance of tax credits  
319 for a project, the department shall, unless such project is  
320 under appeal under subsection 13 of this section:

321 (a) Make a final determination of the total costs and  
322 expenses of rehabilitation and the amount of tax credits to  
323 be issued for such costs and expenses;

324 (b) Notify the taxpayer in writing of its final  
325 determination; and

326 (c) Issue to the taxpayer tax credit certificates in  
327 an amount equal to the remaining amount of tax credits such  
328 taxpayer is eligible to receive, as determined by the  
329 department, but was not issued in the initial tax credit  
330 issuance under subdivision (2) of this subsection.

331 (4) If the department determines that the amount of  
332 tax credits issued to a taxpayer in the initial tax credit  
333 issuance under subdivision (2) of this subsection is in  
334 excess of the total amount of tax credits such taxpayer is

335 eligible to receive, the department shall notify such  
336 taxpayer, and such taxpayer shall repay the department an  
337 amount equal to such excess.

338 (5) For financial institutions credits authorized  
339 pursuant to sections 253.544 to 253.559 shall be deemed to  
340 be economic development credits for purposes of section  
341 148.064. The approval of all applications and the issuing  
342 of certificates of eligible credits to taxpayers shall be  
343 performed by the department. The department shall inform a  
344 taxpayer of final approval by letter and shall issue, to the  
345 taxpayer, tax credit certificates. The taxpayer shall  
346 attach the certificate to all Missouri income tax returns on  
347 which the credit is claimed.

348 11. Except as expressly provided in this subsection,  
349 tax credit certificates shall be issued in the final year  
350 that costs and expenses of rehabilitation of the project are  
351 incurred, or within the twelve-month period immediately  
352 following the conclusion of such rehabilitation. In the  
353 event the amount of eligible rehabilitation costs and  
354 expenses incurred by a taxpayer would result in the issuance  
355 of an amount of tax credits in excess of the amount provided  
356 under such taxpayer's approval granted under subsection 5 of  
357 this section, such taxpayer may apply to the department for  
358 issuance of tax credits in an amount equal to such excess.  
359 Applications for issuance of tax credits in excess of the  
360 amount provided under a taxpayer's application shall be made  
361 on a form prescribed by the department. Such applications  
362 shall be subject to all provisions regarding priority  
363 provided under subsection 1 of this section.

364 12. The department shall determine, on an annual  
365 basis, the overall economic impact to the state from the  
366 rehabilitation of eligible property.

13. (1) With regard to an application submitted under sections 253.544 to 253.559, an applicant or an applicant's duly authorized representative may appeal any official decision, including all preliminary or final approvals, denials of approvals, or dollar amounts of issued tax credits, made by the department of economic development or the state historic preservation office. Such an appeal shall constitute an administrative review of the decision and shall not be conducted as an adjudicative proceeding.

(2) The department shall establish an equitable appeals process.

(3) The appeals process shall incorporate an independent review panel consisting of members of the private sector and the department.

(4) The department shall name an independent appeals officer as chair.

(5) An appeal shall be submitted to the designated appeals officer or review panel in writing within thirty days of receipt by the applicant or the applicant's duly authorized representative of the decision that is the subject of the appeal and shall include all information the appellant wishes the appeals officer or review panel to consider in deciding the appeal.

(6) Within fourteen days of receipt of an appeal, the appeals officer or review panel shall notify the department of economic development or the state historic preservation office that an appeal is pending, identify the decision being appealed, and forward a copy of the information submitted by the appellant. The department of economic development or the state historic preservation office may submit a written response to the appeal within thirty days.

398           (7) The appellant shall be entitled to one meeting  
399 with the appeals officer or review panel to discuss the  
400 appeal, and the appeals officer or review panel may schedule  
401 additional meetings at the officer's or panel's discretion.  
402 The department of economic development or the state historic  
403 preservation office may appear at any such meeting.

404           (8) The appeals officer or review panel shall consider  
405 the record of the decision in question; any further written  
406 submissions by the appellant, department of economic  
407 development, or state historic preservation office; and  
408 other available information and shall deliver a written  
409 decision to all parties as promptly as circumstances permit  
410 but no later than ninety days after the initial receipt of  
411 an appeal by the appeals officer or review panel.

412           (9) The appeals officer and the members of the review  
413 panel shall serve without compensation.

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