

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 18-0518.01 Bob Lackner x4350

HOUSE BILL 18-1190

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A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE "COLORADO JOB CREATION**
102 **AND MAIN STREET REVITALIZATION ACT".**

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://leg.colorado.gov>.)

The bill makes the following modifications to the existing "Colorado Job Creation and Main Street Revitalization Act":

- ! Adds a definition of a key term and streamlines and clarifies existing definitions;
- ! Adds subheadings to subsections to promote greater clarity;
- ! Extends the last income tax year for which the tax credit is

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

- available from 2019 to 2029;
- ! Separates subsections dealing solely with residential structures from subsections dealing solely with commercial structures to promote greater clarity;
 - ! Under the existing tax credit, the amount of the tax credit, measured by a percentage of the actual qualified rehabilitation expenditures, is increased when the historic structure, whether commercial or residential, is located in a disaster area. The bill also increases the amount of the tax credit when the structure is located in a rural community. The bill prohibits a taxpayer from claiming the benefits offered for a structure in a disaster area or in a rural community.
 - ! Authorizes the state historical society to promulgate rules as necessary to facilitate the certification of qualified residential structures;
 - ! In connection with the reservation of tax credits for qualified commercial structures, changes the existing requirements under which the Colorado office of economic opportunity (office) uses a lottery process to determine the order in which it will review applications and plans received on the same day to a process under which the office must date and timestamp each application and review a plan and application on the basis of the order in which such documents were submitted;
 - ! Streamlines procedures the owner of a qualified commercial structure is to follow upon the completion of rehabilitation of the structure to obtain a tax credit certificate;
 - ! For income tax years commencing on or after January 1, 2020 but prior to January 1, 2030, maintains the aggregate limit on the amount of a tax credit certificate issued for any one qualified commercial structure at \$1 million as for the 2016 through 2019 tax years;
 - ! For qualified commercial structures, regardless of the amount of estimated qualified rehabilitation expenditures, the bill maintains the aggregate amount of all tax credits that may be reserved for each of the 2020 through 2029 calendar years in the same amount as for the 2017 through 2019 tax years, at \$10 million, but specifies that the aggregate reservation amount must be equally split between large and small projects;
 - ! Deletes existing provisions specifying the aggregate amount of tax credits that may be issued for particular income tax years;

- ! Deletes a reporting requirement that is part of existing law; and
- ! Clarifies that certain requirements found in existing law are intended to apply only to tax credits issued for qualified commercial structures.

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

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

4 **39-22-514.5. Tax credit for qualified costs incurred in**
5 **preservation of historic structures - short title - definitions.** (1) **Short**
6 **title.** ~~This section is known and may be cited as~~ THE SHORT TITLE OF THIS
7 SECTION IS the "Colorado Job Creation and Main Street Revitalization
8 Act".

9 (2) **Definitions.** As used in this section, unless the context
10 otherwise requires:

11 (a) (I) "Certified historic structure" means a property located in
12 Colorado that has been certified by the historical society or other
13 reviewing entity because it has been:

14 ~~(I)~~ (A) Listed individually or as a contributing property in a
15 district included within the national register of historic places;

16 ~~(II)~~ (B) Listed individually or as a contributing property in a
17 district that is included within the state register of historic properties
18 pursuant to the provisions of article 80.1 of title 24; ~~C.R.S.~~; OR

19 ~~(III)~~ ~~Designated as a landmark by a certified local government; or~~

20 ~~(IV)~~ (C) Listed INDIVIDUALLY OR as a contributing property within
21 a designated historic district of a certified local government.

22 (II) "CERTIFIED HISTORIC STRUCTURE" MAY BE EITHER A
23 RESIDENTIAL OR COMMERCIAL STRUCTURE.

1 (b) "Certified local government" means any local government that
2 has been certified by the historical society pursuant to ~~16 U.S.C. sec. 470a~~
3 ~~(c)(1), as amended~~ IN ACCORDANCE WITH FEDERAL LAW.

4 (c) "Certified rehabilitation" means repairs or alterations to a
5 certified historic structure that have been certified by the historical society
6 or other reviewing entity as meeting the standards for rehabilitation of the
7 United States secretary of the interior.

8 (d) "Contributing property" means property that adds to the sense
9 of time, place, and historical development of a historic district as
10 determined by the historical society or other reviewing entity.

11 (d.3) "DENVER METROPOLITAN AREA" MEANS ALL OF THE LAND
12 AREA WITHIN THE BOUNDARIES OF THE COUNTIES OF ADAMS, ARAPAHOE,
13 BOULDER, AND JEFFERSON, ALL OF THE AREA WITHIN THE BOUNDARIES OF
14 THE CITY AND COUNTY OF BROOMFIELD AND THE CITY AND COUNTY OF
15 DENVER, AND ALL OF THE AREA WITHIN THE BOUNDARIES OF THE COUNTY
16 OF DOUGLAS; EXCEPT THAT THE AREA WITHIN THE BOUNDARIES OF THE
17 TOWN OF CASTLE ROCK AND THE AREA WITHIN THE BOUNDARIES OF THE
18 TOWN OF LARKSPUR IN THE COUNTY OF DOUGLAS SHALL NOT BE
19 INCLUDED IN SUCH AREA.

20 (e) "Department" means the Colorado department of revenue or
21 any successor entity.

22 (f) "Designated" means established by local preservation
23 ordinance.

24 (g) "Historical society" means the state historical society of
25 Colorado, also known as history Colorado, or any successor entity.

26 (g.5) "MUNICIPALITY" HAS THE SAME MEANING AS SPECIFIED IN
27 SECTION 31-1-101 (6) AND ALSO INCLUDES ANY UNINCORPORATED AREA

1 OF A COUNTY, INCLUDING WITHOUT LIMITATION AN UNINCORPORATED
2 COMMUNITY OR A CENSUS-DESIGNATED PLACE.

3 (h) "Office" means the Colorado office of economic development
4 or any successor entity.

5 (i) "Owner" means any taxpayer filing a state tax return or any
6 entity that is exempt from federal income taxation pursuant to section 501

7 (c) of the internal revenue code, as amended, that owns:

8 (I) Title to a qualified structure;

9 (II) Prospective title to a qualified structure in the form of a
10 purchase agreement or an option to purchase;

11 (III) A leasehold interest in a qualified commercial structure for
12 a term of not less than thirty-nine years; ~~or~~

13 (III.5) A LEASEHOLD INTEREST IN A QUALIFIED COMMERCIAL
14 STRUCTURE THAT IS LOCATED IN A RURAL COMMUNITY FOR A TERM OF NOT
15 LESS THAN FIVE YEARS; OR

16 (IV) A leasehold interest in a qualified residential structure for a
17 term of not less than five years.

18 (j) "Qualified commercial structure" means an income producing
19 or commercial property located in Colorado that is:

20 (I) At least fifty years old; and

21 (II) (A) Listed individually or as a contributing property in a
22 district included within the state register of historic properties pursuant
23 to article 80.1 of title 24; ~~C.R.S.~~ OR

24 (B) ~~Designated as a landmark by a certified local government; or~~

25 (C) Listed INDIVIDUALLY OR as a contributing property that is
26 included within a designated historic district of a certified local
27 government.

1 (k) "Qualified rehabilitation expenditures" means:

2 (I) With respect to a qualified commercial structure, any
3 expenditure as defined under section 47 (c)(2)(A) of the internal revenue
4 code, as amended, and the related regulations thereunder; and

5 (II) With respect to a qualified residential structure, exterior
6 improvements and interior improvements undertaken to restore,
7 rehabilitate, or preserve the historic character of a qualified property that
8 meet the standards for rehabilitation of the United States secretary of the
9 interior as adopted by the historical society or the certified local
10 government pursuant to federal law. As used in this ~~subparagraph (H)~~
11 SUBSECTION (2)(k)(II), "exterior improvements" is limited to any one or
12 more of the following: roof replacement or repair; exterior siding
13 replacement or repair; masonry repair, re-pointing, or replacement;
14 window repair or replacement; door repair or replacement; woodwork and
15 trim repair or replacement; foundation repair or replacement; and
16 excavation costs associated with foundation work. As used in this
17 ~~subparagraph (H)~~ SUBSECTION (2)(k)(II), "interior improvements" is
18 limited to one or more of the following: electrical repairs and upgrades;
19 plumbing repairs and upgrades; heating, venting, and air conditioning
20 repairs and upgrades; repair of existing interior walls, CEILINGs, and
21 finishes; repair or replacement of existing woodwork and trim; insulation;
22 refinishing or replacing historic floor materials in-kind, excluding
23 carpeting; and reconstructing missing historic elements when there is
24 sufficient historical documentation to guide the reconstruction.

25 (l) "Qualified residential structure" means a nonincome producing
26 and owner-occupied residential property located in Colorado that is:

27 (I) At least fifty years old; and

1 (II) (A) Listed individually or as a contributing property in a
2 district included within the state register of historic properties pursuant
3 to article 80.1 of title 24; ~~C.R.S.~~ OR

4 (B) ~~Designated as a landmark by a certified local government; or~~

5 (C) Listed INDIVIDUALLY OR as a contributing property that is
6 included within a designated historic district of a certified local
7 government.

8 (m) "Qualified structure" means a structure that satisfies the
9 definition of either a qualified residential structure or a qualified
10 commercial structure.

11 (n) "Rehabilitation plan" means construction plans and
12 specifications for the proposed rehabilitation of a qualified structure that
13 is in sufficient detail to enable the office or the reviewing entity, as
14 applicable, to evaluate whether the structure is in compliance with the
15 standards developed under subsection (4) of this section.

16 (o) "Reviewing entity" means:

17 (I) A certified local government that has decided pursuant to
18 ~~subsection (10)~~ SUBSECTION (5.5)(c) of this section to perform the duties
19 specified under this section; or

20 (II) The historical society if the qualified residential structure
21 either is not located within the territorial boundaries of any certified local
22 government or is located within the territorial boundaries of a certified
23 local government that has decided pursuant to ~~subsection (10)~~
24 SUBSECTION (5.5)(c) of this section not to perform the duties specified
25 under this section.

26 (o.5) "RURAL COMMUNITY" MEANS:

27 (I) A MUNICIPALITY WITH A POPULATION OF LESS THAN FIFTY

1 THOUSAND PEOPLE THAT IS NOT LOCATED WITHIN THE DENVER
2 METROPOLITAN AREA; OR

3 (II) AN UNINCORPORATED AREA OF ANY COUNTY THE TOTAL
4 POPULATION OF WHICH COUNTY IS LESS THAN FIFTY THOUSAND PEOPLE
5 THAT IS NOT LOCATED WITHIN THE DENVER METROPOLITAN AREA.

6 (p) "Substantial rehabilitation" means:

7 (I) With respect to a qualified commercial structure:

8 (A) FOR TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2020,
9 rehabilitation for which the qualified rehabilitation expenditures exceed
10 twenty-five percent of the owner's original purchase price of the qualified
11 commercial structure less the value attributed to the land; and

12 (B) FOR TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2020,
13 REHABILITATION FOR WHICH THE QUALIFIED REHABILITATION
14 EXPENDITURES ARE IN AN AGGREGATE AMOUNT OF AT LEAST TWENTY
15 THOUSAND DOLLARS; AND

16 (II) With respect to a qualified residential structure, rehabilitation
17 for which the qualified rehabilitation expenditures exceed five thousand
18 dollars.

19 (3) **General provisions.** For income tax years commencing on or
20 after January 1, 2016, but prior to ~~January 1, 2020~~ JANUARY 1, 2030, there
21 shall be allowed a credit with respect to the income taxes imposed
22 pursuant to this ~~article~~ ARTICLE 22 to each owner of a qualified structure
23 that complies with the requirements of this section.

24 (4) **Development of standards for approval of commercial or**
25 **residential rehabilitation projects.** (a) The office, in consultation with
26 the historical society, shall develop standards for the approval of the
27 substantial rehabilitation of qualified COMMERCIAL structures for which

1 a tax credit under this section is being claimed. The standards must
2 consider whether the substantial rehabilitation of a qualified COMMERCIAL
3 structure is consistent with the standards for rehabilitation adopted by the
4 United States department of the interior.

5 (b) THE HISTORICAL SOCIETY SHALL DEVELOP STANDARDS FOR THE
6 APPROVAL OF THE SUBSTANTIAL REHABILITATION OF QUALIFIED
7 RESIDENTIAL STRUCTURES FOR WHICH A TAX CREDIT UNDER THIS SECTION
8 IS BEING CLAIMED. THE STANDARDS MUST CONSIDER WHETHER THE
9 SUBSTANTIAL REHABILITATION OF A QUALIFIED RESIDENTIAL STRUCTURE
10 IS CONSISTENT WITH THE STANDARDS FOR REHABILITATION ADOPTED BY
11 THE UNITED STATES DEPARTMENT OF THE INTERIOR.

12 (5) **Submission by owner of application and rehabilitation**
13 **plan.** (a) The owner shall submit an application and rehabilitation plan
14 to EITHER the office for a qualified commercial structure or to the
15 reviewing entity for a qualified residential structure, along with an
16 estimate of the qualified rehabilitation expenditures under the
17 rehabilitation plan. The owner, at the owner's own risk, may incur
18 qualified rehabilitation expenditures no earlier than twenty-four months
19 prior to the submission of the application and rehabilitation plan but only
20 if satisfactory documentation is submitted to the office or the reviewing
21 entity, as applicable, indicating the condition of the qualified structure
22 prior to commencement of the rehabilitation, including but not limited to
23 photographs of the qualified structure and written declarations from
24 persons knowledgeable about the qualified structure. ~~In connection with~~
25 ~~any application submitted on or after July 1, 2015, any expenses the~~
26 ~~owner incurs before July 1, 2015, shall not be counted towards the~~
27 ~~owner's qualified rehabilitation expenditures.~~ An owner may submit an

1 application and rehabilitation plan and may commence rehabilitation
2 before the property:

3 (I) Is listed individually or as a contributing property in a district
4 included within the national register of historic places;

5 (II) Is listed individually or as a contributing property in a district
6 included within the state register of historic properties pursuant to article
7 80.1 of title 24; ~~C.R.S.~~; OR

8 (III) ~~Has been designated as a landmark by a certified local~~
9 ~~government; or~~

10 (IV) Is listed INDIVIDUALLY OR as a contributing property within
11 a designated historic district of a certified local government.

12 (b) Notwithstanding the provisions of ~~paragraph (a) of this~~
13 ~~subsection (5)~~ SUBSECTION (5)(a) OF THIS SECTION, an owner may incur
14 qualified rehabilitation expenditures at the owner's own risk.

15 (c) Within ninety days after receipt of the application and
16 rehabilitation plan, the office and the historical society, in the case of a
17 qualified commercial structure, and the reviewing entity, in the case of a
18 qualified residential structure, shall notify the owner in writing if the
19 rehabilitation plan is preliminarily determined to be a certified
20 rehabilitation.

21 **(5.5) Issuance of tax credit certificate for qualified residential**

22 **structures - rules.** (a) (I) FOLLOWING THE COMPLETION OF A
23 REHABILITATION OF A QUALIFIED RESIDENTIAL STRUCTURE, THE OWNER
24 SHALL NOTIFY THE REVIEWING ENTITY THAT THE REHABILITATION HAS
25 BEEN COMPLETED AND SHALL CERTIFY THAT THE QUALIFIED
26 REHABILITATION EXPENDITURES INCURRED IN CONNECTION WITH THE
27 REHABILITATION PLAN. THE OWNER SHALL ALSO PROVIDE THE REVIEWING

1 ENTITY WITH A COST AND EXPENSE CERTIFICATION FOR THE TOTAL
2 QUALIFIED REHABILITATION EXPENDITURES AND THE TOTAL AMOUNT OF
3 TAX CREDITS FOR WHICH THE OWNER IS ELIGIBLE. THE REVIEWING ENTITY
4 SHALL REVIEW THE DOCUMENTATION OF THE REHABILITATION AND VERIFY
5 ITS COMPLIANCE WITH THE REHABILITATION PLAN. EXCEPT AS OTHERWISE
6 PROVIDED IN SUBSECTION (5.5)(a)(II) OF THIS SECTION, WITHIN NINETY
7 DAYS AFTER RECEIPT OF THE FOREGOING DOCUMENTATION FROM THE
8 OWNER THE REVIEWING ENTITY SHALL ISSUE A TAX CREDIT CERTIFICATE
9 IN AN AMOUNT EQUAL TO TWENTY PERCENT OF THE ACTUAL QUALIFIED
10 REHABILITATION EXPENDITURES; EXCEPT THAT THE AMOUNT OF THE TAX
11 CREDIT CERTIFICATE SHALL NOT EXCEED FIFTY THOUSAND DOLLARS FOR
12 EACH QUALIFIED RESIDENTIAL STRUCTURE, WHICH AMOUNT IS TO BE
13 CALCULATED OVER A TEN-YEAR ROLLING PERIOD THAT COMMENCES WITH
14 EACH CHANGE IN OWNERSHIP OF THE QUALIFIED RESIDENTIAL STRUCTURE.

15 (II) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1,
16 2030, WITH RESPECT TO A QUALIFIED RESIDENTIAL STRUCTURE LOCATED
17 IN AN AREA THAT THE PRESIDENT OF THE UNITED STATES HAS
18 DETERMINED TO BE A MAJOR DISASTER AREA UNDER SECTION 102 (2) OF
19 THE FEDERAL "ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY
20 ASSISTANCE ACT", 42 U.S.C. SEC. 5121 ET SEQ., OR THAT IS LOCATED IN
21 AN AREA THAT THE GOVERNOR HAS DETERMINED TO BE A DISASTER AREA
22 UNDER THE "COLORADO DISASTER EMERGENCY ACT", PART 7 OF ARTICLE
23 33.5 OF TITLE 24, THE AMOUNT OF THE TAX CREDIT SPECIFIED IN
24 SUBSECTION (5.5)(a)(I) OF THIS SECTION IS INCREASED TO TWENTY-FIVE
25 PERCENT FOR AN APPLICATION THAT IS FILED WITHIN SIX YEARS AFTER THE
26 DISASTER DETERMINATION.

27 (III) FOR INCOME TAX YEARS COMMENCING ON AND AFTER

1 JANUARY 1, 2020, WITH RESPECT TO A QUALIFIED RESIDENTIAL
2 STRUCTURE LOCATED IN A RURAL COMMUNITY, THE AMOUNT OF THE TAX
3 CREDIT SPECIFIED IN SUBSECTION (5.5)(a)(I) OF THIS SECTION IS
4 INCREASED TO THIRTY-FIVE PERCENT FOR AN APPLICATION THAT IS
5 PROPERLY FILED IN ACCORDANCE WITH THIS SECTION.

6 (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
7 TAXPAYER MAY CLAIM THE BENEFITS OFFERED BY EITHER SUBSECTION
8 (5.5)(a)(II) OR (5.5)(a)(III) OF THIS SECTION BUT SHALL NOT CLAIM THE
9 BENEFITS OFFERED BY BOTH SUBSECTIONS (5.5)(a)(II) AND (5.5)(a)(III) OF
10 THIS SECTION.

11 (c) FOR THE PURPOSES OF THIS SECTION, A CERTIFIED LOCAL
12 GOVERNMENT MAY ACT AS A REVIEWING ENTITY ONLY FOR A QUALIFIED
13 RESIDENTIAL STRUCTURE. EACH CERTIFIED LOCAL GOVERNMENT SHALL
14 ADOPT A RESOLUTION OR ORDINANCE STATING WHETHER THE
15 GOVERNMENT WILL ACT AS A REVIEWING ENTITY FOR THE PURPOSES OF
16 THIS SECTION. THE LOCAL GOVERNMENT SHALL SEND A COPY OF THE
17 RESOLUTION OR ORDINANCE TO THE HISTORICAL SOCIETY. ANY CERTIFIED
18 LOCAL GOVERNMENT THAT DECIDES TO ACT AS A REVIEWING ENTITY FOR
19 THE PURPOSES OF THIS SECTION SHALL PERFORM ALL DUTIES AND
20 RESPONSIBILITIES IN CONNECTION WITH A CERTIFIED REHABILITATION
21 THAT RECEIVES PRELIMINARY APPROVAL FROM SUCH ENTITY DURING THE
22 YEAR. THE HISTORICAL SOCIETY SHALL PROMULGATE RULES ON
23 STANDARDS AND REPORTING, IN ACCORDANCE WITH ARTICLE 4 OF TITLE
24 24, AS IT DEEMS NECESSARY TO FACILITATE THE EFFECTIVE
25 IMPLEMENTATION OF THIS SUBSECTION (5.5)(c).

26 (d) IN THE CASE OF A QUALIFIED RESIDENTIAL STRUCTURE, THE
27 REVIEWING ENTITY MAY IMPOSE A REASONABLE APPLICATION FEE.

1 (e) THE HISTORICAL SOCIETY SHALL PROMULGATE ANY AND ALL
2 RULES NECESSARY TO FURTHER IMPLEMENT THE TAX CREDITS TO BE
3 CLAIMED FOR THE SUBSTANTIAL REHABILITATION OF QUALIFIED
4 RESIDENTIAL STRUCTURES UNDER THIS SECTION. ANY RULES MUST BE
5 PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24.

6 (6) **Application and issuance fees for qualified commercial**
7 **structures.** (a) For a qualified commercial structure FOR WHICH THE
8 AMOUNT OF TAX CREDIT REQUESTED UNDER THIS SECTION IS TWO
9 HUNDRED FIFTY THOUSAND DOLLARS OR MORE, the office may impose a
10 reasonable application fee that does not exceed five hundred dollars. FOR
11 A QUALIFIED COMMERCIAL STRUCTURE FOR WHICH THE AMOUNT OF TAX
12 CREDIT REQUESTED UNDER THIS SECTION IS LESS THAN TWO HUNDRED
13 FIFTY THOUSAND DOLLARS, THE OFFICE MAY IMPOSE A REASONABLE
14 APPLICATION FEE THAT DOES NOT EXCEED TWO HUNDRED FIFTY DOLLARS.

15 (b) ~~Notwithstanding any other provision of this section, the office~~
16 ~~shall not impose an application fee under paragraph (a) of this subsection~~
17 ~~(6) for a project for which the amount of tax credit requested under this~~
18 ~~section is two hundred fifty thousand dollars or less.~~

19 (c) The office may impose on the owner a reasonable issuance fee
20 of up to three percent of the amount of the tax credit issued, which must
21 be paid before the tax credit is issued to the owner. With respect to both
22 an application fee and an issuance fee, the office shall share on an equal
23 basis any such fees collected with the historical society and the
24 department. Moneys collected from such fees must be applied to the
25 administration of the tax credit created by this section.

26 (d) ~~In the case of a qualified residential structure, the reviewing~~
27 ~~entity may impose a reasonable application fee. However, the reviewing~~

1 ~~entity may reduce or eliminate the application fee if the qualified~~
2 ~~rehabilitation expenditures for the project are less than fifteen thousand~~
3 ~~dollars.~~

4 **(7) Reservation of tax credits for qualified commercial**
5 **structures.** (a) In the case of a qualified commercial structure, a
6 reservation of tax credits is permitted in accordance with the provisions
7 of this subsection (7). The office and the historical society shall review
8 the application and rehabilitation plan for a qualified commercial
9 structure to determine that the information contained in the application
10 and plan is complete. If the office and the historical society determine that
11 the application and rehabilitation plan are complete, the office shall
12 reserve for the benefit of the owner an allocation of a tax credit as
13 provided in ~~paragraph (a) of subsection (12)~~ SUBSECTION (12)(a) of this
14 section and the office shall notify the owner in writing of the amount of
15 the reservation. The reservation of tax credits does not entitle the owner
16 to an issuance of any tax credits until the owner complies with all of the
17 other requirements specified in this section for the issuance of the tax
18 credit. The office must reserve tax credits in the order in which it receives
19 completed applications and rehabilitation plans. The office shall issue any
20 such reservation of tax credits authorized by this subsection (7) within a
21 reasonable time, not to exceed ninety days after the filing of a completed
22 application and rehabilitation plan. The office shall ~~use a lottery process~~
23 ~~to determine the order in which it will review applications and plans~~
24 ~~received by the office on the same day~~ STAMP EACH COMPLETED
25 APPLICATION AND PLAN WITH THE DATE AND TIME IT RECEIVES THE
26 APPLICATION AND PLAN AND SHALL REVIEW A PLAN AND APPLICATION ON
27 THE BASIS OF THE ORDER IN WHICH SUCH DOCUMENTS WERE SUBMITTED

1 BY DATE AND TIME. The office shall only review an application and plan
2 submitted in connection with a property for which a property address,
3 legal description, or other specific location is provided in the application
4 and plan. The owner shall not request the review of another property for
5 approval in the place of the property that is the subject of the application
6 and plan. Any application and plan disapproved by the office will be
7 removed from the review process, and the office shall notify the owner
8 in writing of the decision to remove the property from the review process.
9 Disapproved applications and plans lose their priority in the review
10 process. An owner may resubmit a disapproved application and plan, but
11 such resubmitted application and plan is deemed to be a new submission
12 for purposes of the priority procedures described in this ~~paragraph (a).~~
13 ~~The office may charge~~ THIS SUBSECTION (7)(a). IF a resubmitted
14 application and plan ARE SUBMITTED, THE OFFICE MAY CHARGE a new
15 application fee in an amount specified in accordance with subsection (6)
16 of this section.

17 (b) If, for any calendar year, the aggregate amount of reservations
18 for tax credits the office has approved is equal to the total amount of tax
19 credits available for reservation during that calendar year, the office shall
20 notify all owners who have submitted applications and rehabilitation
21 plans then awaiting approval or submitted for approval after the
22 calculation is made that no additional approvals of applications and plans
23 for reservations of tax credits will be granted during that calendar year
24 and the office shall additionally notify the owner of the priority number
25 given to the owner's application and plan then awaiting approval. The
26 applications and plans will remain in priority status for two years from the
27 date of the original application and plan and will be considered for

1 reservations of tax credits in the priority order established in this
2 subsection (7) in the event that additional credits become available
3 resulting from the rescission of approvals under ~~paragraph (a) of~~
4 ~~subsection (8)~~ SUBSECTION (8)(a) of this section or because a new
5 allocation of tax credits for a calendar year becomes available.

6 (c) Notwithstanding any other provision of this section, this
7 subsection (7) does not apply to a qualified residential structure because
8 no reservation of tax credits is necessary in the case of a qualified
9 residential structure.

10 (8) **Deadline for incurring specified amount of estimated costs**
11 **of rehabilitation - proof of compliance - audit of cost and expense**
12 **certification - issuance of tax credit certificate - commercial**
13 **structures.** (a) ~~Any owner receiving a reservation of tax credits under~~
14 ~~paragraph (a) of subsection (7) of this section shall commence~~
15 ~~rehabilitation of the qualified commercial structure, if rehabilitation has~~
16 ~~not previously begun, within one year after the date of issuance of the~~
17 ~~written notice from the office to the owner granting the reservation of tax~~
18 ~~credits.~~ Any owner receiving such A reservation of tax credits UNDER
19 SUBSECTION (7)(a) of this section shall incur not less than twenty percent
20 of the estimated costs of rehabilitation contained in the application and
21 rehabilitation plan not later than eighteen months after the date of
22 issuance of the written notice from the office to the owner granting the
23 reservation of tax credits. Any owner receiving a reservation of tax credits
24 shall submit evidence of compliance with the provisions of this ~~paragraph~~
25 ~~(a)~~ SUBSECTION (8)(a). If the office determines that an owner has failed
26 to comply with the requirements of this ~~paragraph (a)~~ SUBSECTION (8)(a),
27 the office may rescind the issuance it previously gave the owner

1 approving the reservation of tax credits and, if so, the total amount of tax
2 credits made available for the calendar year for which reservations may
3 be granted must be increased by the amount of the tax credits rescinded.
4 The office shall promptly notify any owner whose reservation of tax
5 credits has been rescinded and, upon receipt of the notice, the owner may
6 submit a new application and plan for which the office may charge a new
7 application fee in accordance with subsection (6) of this section.

8 (b) Following the completion of a rehabilitation of a qualified
9 commercial structure, the owner shall notify the office that the
10 rehabilitation has been completed and shall certify the qualified
11 rehabilitation expenditures incurred by the owner under the rehabilitation
12 plan. In addition, the owner shall provide the office with a cost and
13 expense certification, prepared by a licensed certified public accountant
14 that is not affiliated with the owner, certifying the total qualified
15 rehabilitation expenditures and the total amount of tax credits for which
16 the owner is eligible. If the total amount of the anticipated tax credits to
17 be issued the owner exceeds two hundred fifty thousand dollars COSTS
18 AND EXPENSES. The cost and expense certification must be audited by a
19 licensed certified public accountant THAT IS NOT AFFILIATED WITH THE
20 OWNER. The office and the historical society shall review the
21 documentation of the rehabilitation and the historical society shall verify
22 that the documentation satisfies the rehabilitation plan. Within ninety days
23 after receipt of such documentation from the owner, the office shall issue
24 a tax credit certificate in an amount equal to the following subject to
25 ~~paragraph (c) of this subsection (8)~~ SUBSECTION (8)(c) OF THIS SECTION:

26 (I) Twenty-five percent of the actual qualified rehabilitation
27 expenditures that are less than two million dollars; plus

1 (II) Twenty percent of the actual qualified rehabilitation
2 expenditures in excess of two million dollars.

3 (c) Notwithstanding ~~paragraph (b) of this subsection (8)~~
4 SUBSECTION (8)(b) OF THIS SECTION:

5 (I) The total amount of the tax credit certificate issued for any
6 particular project ~~must~~ SHALL not exceed the amount of the tax credit
7 reservation issued for the project under ~~paragraph (a) of subsection (7)~~
8 SUBSECTION (7)(a) of this section;

9 (II) The amount of a tax credit certificate to be issued for any one
10 qualified commercial structure ~~must~~ SHALL not exceed one million dollars
11 in any one calendar year; and

12 (III) With respect to a certified historic structure that IS A
13 QUALIFIED COMMERCIAL STRUCTURE THAT is located in an area that the
14 president of the United States has determined to be a major disaster area
15 under section 102 (2) of the federal "Robert T. Stafford Disaster Relief
16 and Emergency Assistance Act", 42 U.S.C. sec. 5121 et seq., or that is
17 located in an area that the governor has determined to be a disaster area
18 under the "Colorado Disaster Emergency Act", part 7 of article 33.5 of
19 title 24, C.R.S., the tax credit amounts specified in ~~subparagraphs (I) to~~
20 ~~(II) of paragraph (b) of this subsection (8)~~ SUBSECTIONS (8)(b)(I) AND
21 (8)(b)(II) OF THIS SECTION must be increased as follows for an application
22 that is filed within six years after the disaster determination:

23 (A) The twenty-five percent credit amount specified in
24 ~~subparagraph (I) of paragraph (b) of this subsection (8)~~ SUBSECTION
25 (8)(b)(I) OF THIS SECTION is increased to thirty percent; and

26 (B) The twenty percent credit amount specified in ~~subparagraph~~
27 ~~(II) of paragraph (b) of this subsection (8)~~ SUBSECTION (8)(b)(II) OF THIS

1 SECTION is increased to twenty-five percent.

2 (IV) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
3 JANUARY 1, 2020, WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE
4 THAT IS A QUALIFIED COMMERCIAL STRUCTURE THAT IS LOCATED IN A
5 RURAL COMMUNITY, THE TAX CREDIT AMOUNTS SPECIFIED IN SUBSECTIONS
6 (8)(b)(I) TO (8)(b)(II) OF THIS SECTION MUST BE INCREASED AS FOLLOWS
7 FOR AN APPLICATION THAT IS PROPERLY FILED IN ACCORDANCE WITH THIS
8 SECTION:

9 (A) THE TWENTY-FIVE PERCENT CREDIT AMOUNT SPECIFIED IN
10 SUBSECTION (8)(b)(I) OF THIS SECTION IS INCREASED TO THIRTY-FIVE
11 PERCENT; AND

12 (B) THE TWENTY PERCENT CREDIT AMOUNT SPECIFIED IN
13 SUBSECTION (8)(b)(II) OF THIS SECTION IS INCREASED TO THIRTY PERCENT.

14 (d) If the amount of qualified rehabilitation expenditures incurred
15 by the owner would result in an owner being issued an amount of tax
16 credits that exceeds the amount of tax credits reserved for the owner
17 under ~~paragraph (a) of subsection (7)~~ SUBSECTION (7)(a) OF THIS SECTION,
18 the owner may apply to the office for the issuance of an amount of tax
19 credits that equals the excess. The owner must submit its application for
20 issuance of such excess tax credits on a form prescribed by the office. The
21 office shall automatically approve the application, which it shall issue by
22 means of a separate certificate, subject only to the availability of tax
23 credits and the provisions concerning priority provided in ~~paragraph (a)~~
24 ~~of subsection (7)~~ SUBSECTION (7)(a) of this section.

25 ~~(e) (f) Following the completion of a rehabilitation of a qualified~~
26 ~~residential structure, the owner shall notify the reviewing entity that the~~
27 ~~rehabilitation has been completed and shall certify that the qualified~~

1 rehabilitation expenditures incurred in connection with the rehabilitation
2 plan. The owner shall also provide the reviewing entity with a cost and
3 expense certification certifying the total qualified rehabilitation
4 expenditures and the total amount of tax credits for which the owner is
5 eligible. The reviewing entity shall review the documentation of the
6 rehabilitation and verify its compliance with the rehabilitation plan.
7 Except as otherwise provided in subparagraph (H) of this paragraph (e),
8 within ninety days after receipt of the foregoing documentation from the
9 owner, the reviewing entity shall issue a tax credit certificate in an
10 amount equal to twenty percent of the actual qualified rehabilitation
11 expenditures; except that the amount of the tax credit certificate shall not
12 exceed fifty thousand dollars for each qualified residential structure,
13 which amount is to be calculated over a ten-year rolling period that
14 commences with each change in ownership of the qualified residential
15 structure.

16 (H) ~~With respect to a qualified residential structure located in an~~
17 ~~area that the president of the United States has determined to be a major~~
18 ~~disaster area under section 102 (2) of the federal "Robert T. Stafford~~
19 ~~Disaster Relief and Emergency Assistance Act", 42 U.S.C. sec. 5121 et~~
20 ~~seq., or that is located in an area that the governor has determined to be~~
21 ~~a disaster area under the "Colorado Disaster Emergency Act", part 7 of~~
22 ~~article 33.5 of title 24, C.R.S., the amount of the tax credit specified in~~
23 ~~subparagraph (I) of this paragraph (e) of this section is increased to~~
24 ~~twenty-five percent for an application that is filed within six years after~~
25 ~~the disaster determination.~~

26 (f) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
27 TAXPAYER MAY CLAIM THE BENEFITS OFFERED BY EITHER SUBSECTION

1 (8)(c)(III) OR (8)(c)(IV) OF THIS SECTION BUT SHALL NOT CLAIM THE
2 BENEFITS OFFERED BY BOTH SUBSECTIONS (8)(c)(III) AND (8)(c)(IV) OF
3 THIS SECTION.

4 (9) **Filing tax credit certificate with income tax return.** In order
5 to claim the credit authorized by this section, the owner shall file the tax
6 credit certificate with the owner's state income tax return. The amount of
7 the credit claimed that the owner may claim under this section is the
8 amount stated on the tax credit certificate.

9 ~~(10) For the purposes of this section, a certified local government~~
10 ~~may act as a reviewing entity only for a qualified residential structure.~~
11 ~~Each certified local government shall adopt a resolution or ordinance~~
12 ~~stating whether the government will act as a reviewing entity for the~~
13 ~~purposes of this section. The local government shall send a copy of the~~
14 ~~resolution or ordinance to the historical society. Any certified local~~
15 ~~government that decides to act as a reviewing entity for any given year for~~
16 ~~the purposes of this section shall perform all duties and responsibilities~~
17 ~~in connection with a certified rehabilitation that receives preliminary~~
18 ~~approval from such entity during the year.~~

19 (11) **Residential and commercial - carryforward - no refund**
20 **to owner.** The entire tax credit to be issued under this section FOR EITHER
21 A QUALIFIED RESIDENTIAL STRUCTURE OR A QUALIFIED COMMERCIAL
22 STRUCTURE may be claimed by the owner in the taxable year in which the
23 certified rehabilitation is placed in service. If the amount of the credit
24 allowed under this section exceeds the amount of income taxes otherwise
25 due on the income of the owner in the income tax year for which the
26 credit is being claimed, the amount of the credit not used as an offset
27 against income taxes in said income tax year may be carried forward as

1 a credit against subsequent years' income tax liability for a period not to
2 exceed ten years and will be applied to the earliest income tax years
3 possible. Any amount of the credit that is not used after such period shall
4 not be refunded to the owner.

5 (12) **Limit on aggregate amount of all tax credits that may be**
6 **reserved for qualified commercial structures - assignability and**
7 **transferability of tax credits for qualified commercial structures.**

8 (a) Except as otherwise provided in this ~~section~~ SUBSECTION (12), the
9 aggregate amount of all tax credits in any tax year that may be reserved
10 FOR QUALIFIED COMMERCIAL STRUCTURES by the office upon the
11 certification of all rehabilitation plans under ~~paragraph (a) of subsection~~
12 ~~(7)~~ SUBSECTION (7)(a) of this section FOR SUCH STRUCTURES must not
13 exceed:

14 (I) For qualified commercial structures estimating qualified
15 rehabilitation expenditures in the amount of two million dollars or less,
16 two and one-half million dollars in the aggregate for the 2016 calendar
17 year, ~~and~~ five million dollars in the aggregate for each of the 2017, 2018,
18 and 2019 calendar years, in addition to the amount of any previously
19 reserved tax credits that were rescinded under ~~paragraph (a) of subsection~~
20 ~~(8)~~ SUBSECTION (8)(a) of this section during the applicable calendar year;

21 (II) For qualified commercial structures estimating qualified
22 rehabilitation expenditures in excess of two million dollars, two and
23 one-half million dollars in the aggregate for the 2016 calendar year, ~~and~~
24 five million dollars in the aggregate for each of the 2017, 2018, and 2019
25 calendar years, in addition to the amount of any previously reserved tax
26 credits that were rescinded under ~~paragraph (a) of subsection (8)~~
27 SUBSECTION (8)(a) of this section during the applicable calendar year;

1 (III) FOR QUALIFIED COMMERCIAL STRUCTURES ESTIMATING
2 QUALIFIED REHABILITATION EXPENDITURES IN ANY AMOUNT, TEN MILLION
3 DOLLARS IN THE AGGREGATE FOR EACH OF THE 2020 THROUGH 2029
4 CALENDAR YEARS, IN ADDITION TO THE AMOUNT OF ANY PREVIOUSLY
5 RESERVED TAX CREDITS THAT WERE RESCINDED UNDER SUBSECTION (8)(a)
6 OF THIS SECTION DURING THE APPLICABLE CALENDAR YEAR; EXCEPT THAT
7 THE AGGREGATE AMOUNT OF ALL TAX CREDITS IN ANY TAX YEAR THAT
8 MAY BE RESERVED BY THE OFFICE MUST BE EQUALLY SPLIT BETWEEN
9 QUALIFIED COMMERCIAL STRUCTURES FOR WHICH THE ESTIMATED
10 QUALIFIED REHABILITATION EXPENDITURES ARE EQUAL TO OR LESS THAN
11 TWO MILLION DOLLARS AND QUALIFIED COMMERCIAL STRUCTURES FOR
12 WHICH THE ESTIMATED QUALIFIED REHABILITATION EXPENDITURES ARE IN
13 EXCESS OF TWO MILLION DOLLARS.

14 (b) Notwithstanding any other provision of this subsection (12),
15 if the entirety of the allowable tax credit amount for any tax year is not
16 requested and reserved under ~~subparagraphs (I) and (II) of paragraph (a)~~
17 ~~SUBSECTION (12)(a)(I) OR (12)(a)(II) of this subsection (12)~~ SECTION, the
18 office may use any such unreserved tax credits in issuing tax credits in
19 another category for that same income tax year, and the office may also
20 use any remaining unreserved tax credits for that tax year in issuing tax
21 credits in subsequent income tax years.

22 (c) Any tax credits issued under this section to a partnership, a
23 limited liability company taxed as a partnership, or multiple owners of a
24 property must be passed through to the partners, members, or owners,
25 including any nonprofit entity that is a partner, member, or owner,
26 respectively, on a pro rata basis or pursuant to an executed agreement
27 among the partners, members, or owners documenting an alternate

1 distribution method.

2 (d) Any tax credits issued under this section for a qualified
3 commercial structure are freely transferable and assignable, subject to any
4 notice and verification requirements to be determined by the office;
5 except that the owner or a subsequent transferee may only transfer the
6 portion of the tax credit that has neither been applied against the income
7 tax imposed by this ~~article~~ ARTICLE 22 nor used to obtain a refund. Any
8 transferee of a tax credit FOR A QUALIFIED COMMERCIAL STRUCTURE
9 issued under this section may use the amount of tax credits transferred to
10 offset against any other tax due under this ~~article~~ ARTICLE 22 or the
11 transferee may freely transfer and assign all or any portion of the tax
12 credits that have neither been applied against the income taxes imposed
13 by this ~~article~~ ARTICLE 22 nor used to obtain a refund to any other person
14 or entity, including an entity that is exempt from federal income taxation
15 pursuant to section 501 (c) of the internal revenue code, as amended, and
16 the other person or entity may freely transfer and assign all or any portion
17 of the tax credits that have neither been applied against the income taxes
18 imposed by this ~~article~~ ARTICLE 22 nor used to obtain a refund to any
19 other person or entity. The tax credits may be transferred or assigned on
20 multiple occasions until such time as the credit is claimed on a state tax
21 return. The transferor and the transferee of the tax credits shall jointly file
22 a copy of the written transfer agreement with the office within thirty days
23 after the transfer. Any filing of the written transfer agreement with the
24 office perfects the transfer. The office shall develop a system to track the
25 transfers of tax credits and to certify the ownership of tax credits. A
26 certification by the office of the ownership and the amount of tax credits
27 may be relied on by the department and the transferee as being accurate,

1 and the office shall not adjust the amount of tax credits as to the
2 transferee; except that the office retains any remedies it may have against
3 the owner. The office shall promulgate rules to permit verification of the
4 ownership and amount of the tax credits; except that, any rules
5 promulgated shall not unduly restrict or hinder the transfer of the tax
6 credits. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ONLY
7 TAX CREDITS ISSUED UNDER THIS SECTION FOR A QUALIFIED COMMERCIAL
8 STRUCTURE, AND NOT TAX CREDITS ISSUED UNDER THIS SECTION FOR A
9 QUALIFIED RESIDENTIAL STRUCTURE, ARE FREELY TRANSFERABLE AND
10 ASSIGNABLE IN ACCORDANCE WITH THIS SUBSECTION (12)(d).

11 ~~(e) (f) Notwithstanding any other provision of this section, the~~
12 ~~aggregate amount of tax credits issued under this section must not exceed:~~

13 ~~(A) For the tax year beginning January 1, 2016, five million~~
14 ~~dollars;~~

15 ~~(B) For the tax year beginning January 1, 2017, ten million~~
16 ~~dollars;~~

17 ~~(C) For the tax year beginning January 1, 2018, ten million~~
18 ~~dollars; and~~

19 ~~(D) For the tax year beginning January 1, 2019, ten million~~
20 ~~dollars;~~

21 ~~(H) A tax credit authorized under this section may be earned~~
22 ~~before July 1, 2016, but the office shall not issue a tax credit under this~~
23 ~~section prior to July 1, 2016.~~

24 (13) **Appeal.** Any owner or any duly authorized representative of
25 an owner may appeal any final determination made by the office, THE
26 HISTORICAL SOCIETY, or the department, including, without limitation, any
27 preliminary or final reservation, or any approval or denial, in accordance

1 with the "State Administrative Procedure Act", article 4 of title 24. C.R.S.
2 The owner or the owner's representative shall submit any such appeal
3 within thirty days after receipt by the owner or the owner's representative
4 of the final determination that is the subject of the appeal.

5 (14) **Deadline for submitting application and rehabilitation**
6 **plan.** Notwithstanding any other provision of this section, the tax credits
7 authorized by this section for the substantial rehabilitation of a qualified
8 structure are not available to an owner of a qualified structure that
9 submits an application and rehabilitation plan after ~~December 31, 2019~~
10 DECEMBER 31, 2029. No action or inaction on the part of the general
11 assembly has the effect of limiting or suspending the issuing of tax credits
12 authorized by this section in any past or future income tax year with
13 respect to a qualified structure if the owner of the structure submits an
14 application and rehabilitation plan with the office on or prior to ~~December~~
15 ~~31, 2019~~ DECEMBER 31, 2029, even if the qualified structure is placed
16 into service after ~~December 31, 2019~~ DECEMBER 31, 2029. ANY TAX
17 CREDITS THAT HAVE BEEN RESERVED FOR A QUALIFIED COMMERCIAL
18 STRUCTURE IN ACCORDANCE WITH SUBSECTION (7)(a) OF THIS SECTION
19 AND ANY APPLICABLE RULES PROMULGATED UNDER THIS SECTION PRIOR
20 TO DECEMBER 31, 2029, MAY STILL BE ISSUED BY THE OFFICE THROUGH
21 AND INCLUDING DECEMBER 31, 2032.

22 (15) **Rules - qualified commercial structures.** (a) ~~The office~~
23 ~~shall, in consultation with the department, report to the general assembly~~
24 ~~by March 1, 2017, and by March 1, 2019, on the overall economic~~
25 ~~activity, usage, and impact to the state from the substantial rehabilitation~~
26 ~~of qualified structures for which tax credits have been allowed under this~~
27 ~~section. On or before March 15, 2016, and on a quarterly basis thereafter,~~

1 ~~the office shall provide a report to the department specifying the~~
2 ~~ownership and transfers of tax credits under this section.~~

3 (b) The office, in consultation with the historical society, shall
4 promulgate any and all rules necessary to further implement THE TAX
5 CREDITS TO BE CLAIMED FOR THE SUBSTANTIAL REHABILITATION OF
6 QUALIFIED COMMERCIAL STRUCTURES UNDER this section and shall solicit
7 advice from the department in promulgating rules for transfers OF SUCH
8 TAX CREDITS. Any such rules must be promulgated in accordance with
9 article 4 of title 24. ~~C.R.S.~~

10 (c) Notwithstanding any other provision of law, a taxpayer shall
11 not claim a credit under this section in connection with the rehabilitation
12 of a historic structure for which the taxpayer is also claiming a credit
13 under section 39-22-514.

14 **SECTION 2. Effective date.** This act takes effect upon passage;
15 except that section (8)(c)(IV)(A), Colorado Revised Statutes, as enacted
16 in section 1 of this act, takes effect January 1, 2020.

17 **SECTION 3. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.