

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 884

AN ACT

To repeal sections 253.545, 253.550, 253.557, 253.559, and 620.1900, RSMo, and to enact in lieu thereof six new sections relating to facilities of historic significance.

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

Section A. Sections 253.545, 253.550, 253.557, 253.559, and 620.1900, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 253.544, 253.545, 253.550, 253.557, 253.559, and 620.1900, to read as follows:

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

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

(1) "Applicable percentage":

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

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

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

(2) "Certified historic structure", a [property] 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;

[(2)] (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;

[(3)] (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;

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

[(5)] (10) "Principal", a managing partner, general partner, or president of a taxpayer;

[(6)] "Projected net fiscal benefit", the total net fiscal benefit to the state or municipality, less any state or local benefits offered to the taxpayer for a project, as determined by the department of economic development;

(7)] (11) "Qualified census tract", a census tract or census block with a poverty rate of twenty percent or higher as determined by a map and listing of census tracts which shall be published by the department [of economic development] and updated on a five-year cycle, and which map and listing shall depict census tracts with twenty percent poverty rate or higher, grouped by census tracts with twenty percent to forty-two percent poverty, and forty-two percent to eighty-one percent poverty as determined by the most current five-year figures published by the American Community Survey conducted by the United States Census Bureau;

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

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

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

(b) A city not within a county;

[(8) "Structure in a certified historic district", a structure located in Missouri which is certified by the department of natural resources as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been certified by the United States Department of the Interior;

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

253.550. 1. (1) Any taxpayer incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, may, subject to the provisions

of this section and section 253.559, receive a credit against the taxes imposed pursuant to chapters 143 and 148, except for sections 143.191 to 143.265, on such taxpayer in an amount equal to twenty-five percent of the total costs and expenses of rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs associated with rehabilitation and the expenses exceed fifty percent of the total basis in the property and the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources.

(2) Any taxpayer incurring costs and expenses for the rehabilitation of eligible property that is in a qualifying county and is a certified historic structure shall, subject to the provisions of this section and section 253.559, receive a credit against the taxes imposed under chapters 143 and 148, excluding withholding tax imposed under sections 143.191 to 143.265, on such taxpayer in an amount equal to thirty-five percent of the total costs and expenses of rehabilitation incurred on or after July 1, 2024. Ten percent of the total costs and expenses of rehabilitation upon which the tax credit is based may be incurred for investigation assessments and building stabilization before the taxpayer submits the application for tax credits under sections 253.544 to 253.559. Such total costs and expenses of rehabilitation shall include, but not be limited to, qualified rehabilitation expenditures as defined under 26

U.S.C. Section 47(c)(2)(A), as amended, and related regulations, if:

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

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

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

2. (1) [During the period beginning on January 1, 2010, but ending on or after June 30, 2010, the department of economic development shall not approve applications for tax credits under the provisions of subsections 4 and 10 of section 253.559 which, in the aggregate, exceed seventy million dollars, increased by any amount of tax credits for which approval shall be rescinded under the provisions of section 253.559. For each fiscal year beginning on or after July 1, 2010, but ending before June 30, 2018, the department of economic development shall not approve applications for tax credits under the provisions of subsections 4 and 10 of section 253.559 which, in the aggregate, exceed one hundred forty million dollars, increased by any amount of tax credits for which approval shall be rescinded under the provisions of section 253.559. For each fiscal year beginning on or after July 1, 2018,] The department [of economic development] shall not approve applications for tax credits for properties not located in a qualified census tract under the provisions of subsections [4] 6 and [10] 12 of section 253.559 which, in the aggregate, exceed ninety million dollars, increased by any amount of tax credits for which approval shall be rescinded

under the provisions of section 253.559. The limitations provided under this subsection shall not apply to applications approved under the provisions of subsection [4] 6 of section 253.559 for projects to receive less than [two] four hundred seventy-five thousand dollars in tax credits, which number shall be annually 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.

(2) For each fiscal year beginning on or after July 1, 2018, the department shall authorize an amount up to, but not to exceed, an additional thirty million dollars in tax credits issued under subsections [4] 6 and [10] 12 of section 253.559, provided that such tax credits are authorized solely for projects located in a qualified census tract. Projects that receive preliminary approval that are located within a qualified census tract may receive an authorization of tax credit under either subdivision (1) of this subsection or this subdivision, but such projects shall 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. The thirty million dollars in tax credits provided in this subdivision shall be annually 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.

(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 [subdivision (1)] 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 [of economic development] 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 [which] that is a [nonincome] non-income-producing single-family[, owner-occupied] 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 non-income-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 [consistent with the standards of the Secretary of the United States Department of the Interior], 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 before January 1, 2024, shall not be subject to the dollar caps under subsection 2 of section 253.550 if:

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

(2) The project meets the ten percent incurred costs test under subsection 10 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 claim 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 [ineligible] eligible for the tax credits authorized under sections [253.545 through 253.561] 253.544 to 253.559. Taxpayers eligible for [such] 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 rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method.

2. The assignee of the tax credits, hereinafter the assignee for purposes of this subsection, may use acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to 143.265. The assignor shall perfect such transfer by notifying the department [of economic development] in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be

required by the department [of economic development] to administer and carry out the provisions of this section.

253.559. 1. To obtain approval for tax credits allowed under sections [253.545] 253.544 to 253.559, a taxpayer shall submit an application for tax credits to the department [of economic development]. The department shall establish an application cycle that allows for year-round submission and year-round receipt and review of such applications. Each application for approval, including any applications received for supplemental allocations of tax credits as provided under subsection [10] 12 of this section, shall be prioritized for review and approval, in the order of the date on which the application was postmarked, with the oldest postmarked date receiving priority. Applications postmarked on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed.

2. Each application shall be reviewed by the department [of economic development] for approval. In order to receive approval, an application, other than applications submitted under the provisions of subsection [10] 12 of this section, shall include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property, such as a warranty deed or a [closing statement] county assessor record as proof of ownership. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest. If the taxpayer is in the process of acquiring fee simple ownership, proof of site control shall include an executed sales contract or an executed option to purchase the eligible property;

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

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

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

(5) A copy of [all] land use [and building approvals reasonably necessary for the commencement of the project] plans; and

(6) Any other information [which] the department [of economic development] may reasonably require to review the project for approval.

Only the property for which a property address is provided in the application shall be reviewed for approval. Once selected for review, a taxpayer shall not be permitted to request the review of another property for approval in the place of the property contained in such application. Any disapproved application shall be removed from the review process. If an application is removed from the review process, the department [of economic development] shall notify the taxpayer in writing of the decision to remove

such application. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

3. (1) In evaluating an application for tax credits submitted under this section, the department [of economic development] shall also consider:

(a) The amount of projected net fiscal benefit of the project to the state and local municipality[, and the period in which the state and municipality would realize such net fiscal benefit] as calculated based on reasonable methods, which shall exclude proprietary computer models;

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

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

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

c. Capital improvements created by a project and the 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) [The level of economic distress in the area; and

(d)] 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. [For any proposed project in any city not within a county, input from the local elected officials

shall include, but shall not be limited to, the president of the board of aldermen.]

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

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.

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

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

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

[4.] 5. If the department [of economic development] deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits equal to the amount provided under section 253.550 less any amount of tax credits previously approved. Such approvals shall be granted to applications in the order of priority established under this section and shall require full compliance thereafter with all other requirements of law as a condition to any claim for such credits. If the department [of economic development] disapproves an application, the taxpayer shall be notified in writing of the reasons for such disapproval. A disapproved application may be resubmitted. If the scope of a project for which an application has been approved under this section materially changes, the taxpayer shall be eligible to receive 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.

**[5.]** 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 **[the same]** 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.

**[6.]** 7. In the event that the department **[of economic development]** 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 approvals, the amount available or authorized, as applicable, under subsection 2 of section 253.550 is exhausted, all taxpayers with applications then



awaiting approval or thereafter submitted for approval shall be notified by the department [of economic development] that no additional approvals shall be granted during the fiscal year and shall be notified of the priority given to such taxpayer's application then awaiting approval. Such applications shall be kept on file by the department [of economic development] and shall be considered for approval for tax credits in the order established in this section in the event that additional credits become available due to the rescission of approvals or when a new fiscal year's allocation of credits becomes available for approval or authorized, as applicable.

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

[8.] 9. All taxpayers with applications receiving approval on or after the effective date of this act shall commence rehabilitation within [nine] eighteen months of the date of issuance of the letter from the department [of economic development] granting the 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 [of economic development] 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 [and such amount of tax credits]. 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 [shall be subject to rescission] is rescinded or forfeited under this subsection shall be notified of such from the department [of economic development] 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.

[9.] 10. (1) (a) To claim the credit authorized under sections [253.550] 253.544 to 253.559, a taxpayer with approval shall apply for final approval and issuance of tax credits from the department [of economic development], which[, in consultation with the department of natural resources,] shall determine the final amount of eligible rehabilitation costs and expenses and whether the completed rehabilitation meets the qualified rehabilitation standards [of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources].

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

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

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

(3) Within one hundred twenty days of the department's receipt of all materials required by the department for an application of final approval and issuance of tax credits for a project, the department shall, unless such project is under appeal under subsection 14 of this section:

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

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

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

(4) If the department determines that the amount of tax credits issued to a taxpayer in the initial tax credit issuance under subdivision (2) of this subsection is in excess of the total amount of tax credits such taxpayer is eligible to receive, the department shall notify such taxpayer, and such taxpayer shall repay the department an amount equal to such excess.

(5) For financial institutions credits authorized pursuant to sections [253.550 to 253.561] 253.544 to 253.559 shall be deemed to be economic development credits for purposes of section 148.064. The approval of all applications and the issuing of certificates of eligible credits to taxpayers shall be performed by the department [of economic development]. The department [of economic development] shall inform a taxpayer of final approval by letter and shall issue, to the taxpayer, tax credit certificates. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed.

[10.] 11. Except as expressly provided in this subsection, tax credit certificates shall be issued in the final year that costs and expenses of rehabilitation of the project are incurred, or within the twelve-month period immediately following the conclusion of such rehabilitation. In the event the amount of eligible rehabilitation costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsection [4] 6 of this section, such taxpayer may apply to the department for issuance of tax credits in an amount equal to such excess. Applications for issuance of tax credits in excess of the amount provided under a taxpayer's application shall be made on a form

prescribed by the department. Such applications shall be subject to all provisions regarding priority provided under subsection 1 of this section.

~~11.~~ 12. The department ~~[of economic development]~~ shall determine, on an annual basis, the overall economic impact to the state from the 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.

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

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

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

620.1900. 1. The department of economic development may charge a fee to the recipient of any tax credits issued by the department, in an amount up to two and one-half percent of the amount of tax credits issued, or for tax credits issued under sections [253.545] 253.544 to 253.559 in an amount equal to four percent of the amount of tax credits issued. The fee shall be paid by the recipient upon the issuance of the tax credits, and such fee shall be considered a qualified rehabilitation expenditure. However, no fee shall be charged for the tax credits issued under section 135.460, [or] section 208.770, or [under] sections 32.100 to 32.125, if issued for community services, crime

prevention, education, job training, or physical revitalization.

2. (1) All fees received by the department of economic development under this section shall be deposited solely to the credit of the economic development advancement fund, created under subsection 3 of this section.

(2) Thirty-seven and one-half percent of the revenue derived from the four percent fee charged on tax credits issued under sections 253.545 to 253.559 shall be appropriated from the economic development advancement fund for business recruitment and marketing. The provisions of subdivision (1) of this subsection notwithstanding, the fees received by the department of economic development from the four percent fee charged on tax credits issued under sections 253.544 to 253.559 shall be distributed as follows:

(a) Thirty-seven and one-half percent of such revenue shall be deposited in the economic development advancement fund and shall be appropriated for business recruitment and marketing;

(b) Forty-two and one-half percent of such revenue shall be deposited in the economic development advancement fund for the purposes described in subsection 5 of this section.

3. There is hereby created in the state treasury the "Economic Development Advancement Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the



general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. Such fund shall consist of any fees charged under subsection 1 of this section, any gifts, contributions, grants, or bequests received from federal, private, or other sources, fees or administrative charges from private activity bond allocations, moneys transferred or paid to the department in return for goods or services provided by the department, and any appropriations to the fund.

5. At least fifty percent of the fees and other moneys deposited in the fund shall be appropriated for marketing, technical assistance, and training, contracts for specialized economic development services, and new initiatives and pilot programming to address economic trends. The remainder may be appropriated toward the costs of staffing and operating expenses for the program activities of the department of economic development, and for accountability functions.