**ALABAMA HISTORICAL COMMISSION**
**ADMINISTRATIVE CODE**

# CHAPTER 460-X-25
# 2017-2027 ALABAMA HISTORIC REHABILITATION TAX CREDIT

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## 460-X-25-.01 2017-2027 Alabama Historic Rehabilitation Tax Credit.

The Purpose of Act 2017-380, Act 2021-431, and Act 2023-522 of the Alabama legislature is to provide a twenty-five percent (25%) refundable income tax credit against the tax liability of the taxpayer for the rehabilitation of historic buildings. The Rule Amendments arising from Act 2021-431 are retroactive to the effective date of Act 2021-431, May 14, 2021. The Rule Amendments arising from Act 2023-522 are retroactive to the effective date of Act 2023-522, June 14, 2023.

**Author:** Chloe Mercer; Lee Anne Hewett
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**460-X-25-.02 Definitions.**

(1) Act. Act 2017-380, Act 2021-431, and Act 2023-522 of the Alabama legislature and its amendments and successor legislation.

(2) Aggregate Tax Credit Allocation Amount. The cumulative limit on tax credit allocations as set forth in the Act per calendar year. As of January 1, 2018, the aggregate amount shall be twenty million dollars ($20,000,000) per year plus any amount of previous reservations of tax credits that were rescinded. For tax years 2024 through 2027, for counties with 175,000 or more in population, the Commission may utilize the original yearly allocation amount of $12 million plus an additional $5 million, provided that in no event shall a total of $200 million be reserved by the Commission during May 25, 2017, through December 31, 2027.

(3) Applicant. For the purpose of this Program, the Applicant shall be the Owner of the Certified Historic Structure for which tax credits are being applied.

(4) Application. The Application shall consist of three parts: Part A: Evaluation of Program Eligibility, to be used by the Commission for making a determination whether a project meets the basic criteria for the 2017-2027 Alabama Historic Rehabilitation Tax Credit Program and to determine if a building is a Certified Historic Structure; Part B: Description of Rehabilitation, to be used by the Commission for reviewing proposed Projects for compliance with the Secretary of the Interior's Standards (Standards); and Part C: Request for Certification of Completed Work, to be used by the Commission for reviewing completed Projects for compliance with the Standards and Rehabilitation Plan approved under Part B. The Commission staff will develop the parts of the Application and may modify them as needed over time. All required forms, including Parts A, B, C, and Amendment Sheet, are available from the Commission at no cost.

(5) Application Period. The duration of receiving Complete Applications, as provided in Rule 460-X-25-.12, to be considered in the following Review Cycle.

(6) Appraisal. An opinion of value for the Property after rehabilitation is complete, prepared by a licensed real estate appraiser who is a Member of the Appraisal Institute.

(7) Certified Historic Structure. A building located in Alabama which is at least seventy-five years old, unless the building is an historic building located within the boundaries of a National Monument or Park as declared by the United States Congress or the President of the United States, in which case the federal age

provisions shall apply, and that is certified by the Commission as being individually listed in the National Register, eligible for listing in the National Register, or certified by the Commission as contributing to the significance of a Registered Historic District. For the purpose of this Program, this term refers to a structure that is not occupied by an Owner and is not used exclusively as a primary or secondary residence.

(8) Certified Rehabilitation. Repairs or alterations to a Certified Historic Structure that is certified by the Commission as meeting the Standards, which means that it is consistent with the historic character of such property or the district in which such property is located.

(9) Commencement of Rehabilitation. Within 18 months of the date of issuance of written notice of a Tax Credit Allocation Reservation, the Applicant shall incur no less than 20 percent of the estimated costs of rehabilitation described in the Application. Within 36 months of the date of issuance of the written notice of a Tax Credit Allocation Reservation, the Applicant must have incurred an additional 50 percent of the estimated costs of rehabilitation provided in the application. Within 60 months of the date of issuance of the written notice of a Tax Credit Allocation Reservation, the Project must be completed.

(10) Commission. The Executive Director and staff of the Alabama Historical Commission, a state agency, and or any successor to the Alabama Historical Commission. For the purpose of notifications or filing of any Applications or other correspondence, delivery shall be made to: Alabama Historic Rehabilitation Tax Credit Program, Alabama Historical Commission, 468 South Perry Street, Montgomery, Alabama 36130-0900 (US Mail) or 36104 (Courier delivery).

(11) Committee. The Historic Tax Credit Evaluating Committee which reviews Qualifying Projects, approves credits for Projects, and ranks Projects in the order in which the projects should receive tax credit reservations. Members shall consist of the following: Director of the Governor’s Office of Minority Affairs, Executive Director of the Alabama Historical Commission, Finance Director, Director of the Alabama Department of Economic and Community Affairs (ADECA), Secretary of Commerce, one Republican House member, one Democrat House Member, one Republican Senator, one Democrat Senator, the Chair of the Senate Finance Taxation Education Committee, and the Chair of the House Ways and Means Education Committee, and the Commissioner of Revenue (non-voting advisory member). The Committee shall meet quarterly unless no credits remain or no Qualifying Projects are recommended by the Commission.

(12) Complete Application. Submission of completely filled out Parts A and B that are signed and dated by the Applicant and accompanied by the Application fee, as provided in Rule 460-X-25-.

05, photographs and site plan(s), floor plan(s), elevation drawings, and any other supporting exhibits necessary to accurately convey to the Commission the significance of the building and the scope of all work that is proposed to the building.

(13) Condition of Work. A qualifier for the approval of proposed work based on the Commission staff's review of an Application where the staff determines that certain aspects of the proposed Rehabilitation Plan shall be modified or deleted before a determination can be made to consider it a Qualifying Project.

(14) Cost and Expense Certification. Based upon a complete schedule of qualified and non-qualified expenditures, grouped by categories of work; a licensed and independent Certified Public Accountant prepares the certification report.

(15) Department. The Alabama Department of Revenue or its successor.

(16) Disqualifying Use. Any use of a certified historic residential structure that is occupied by an Owner and used exclusively as a primary or secondary residence.

(17) National Register. The National Register of Historic Places, which is the official list of the nation's historic places worthy of preservation authorized by the National Historic Preservation Act of 1966 and administered by the National Park Service, a bureau of the U.S. Department of the Interior.

(18) Owner. A taxpayer filing a State of Alabama tax return or any entity that is exempt from federal income taxation pursuant to Section 501(c) of the Internal Revenue Code, as amended, that owns title to a Certified Historic Structure or owns a leasehold interest in a Certified Historic Structure for a term of not less than 39 years. An Owner shall not be considered a private user as defined in Section 40-9A-1, Code of Ala. 1975.

(19) Project. A Project includes all work to a Certified Historic Structure and its site and landscape features, the scope of which is fully described in a Part B and a Rehabilitation Plan. For the purpose of this Program, all work completed on a building and its site and landscape features is subject to review for compliance with the Standards during the period beginning six (6) months before the Application is submitted and continuing through the end of the recapture period.

(20) Program. The Alabama Historic Rehabilitation Tax Credit Program as authorized by Act 2017-380 and Act 2021-431 and described in these regulations.

(21) Qualified Rehabilitation Expenditures. Any expenditure as defined under Section 47(c)(2)(A) of the Internal Revenue Code, as

amended, and the related regulations thereunder, and other reasonable expenses and costs expended in the rehabilitation of a Certified Historic Structure. For Certified Historic Structures, this term shall mean expenses incurred by the taxpayer in the Certified Rehabilitation of a Certified Historic Structure, including but not limited to: preservation and rehabilitation work done to the exterior of a Certified Historic Structure; repair and stabilization of historic structural systems; restoration of historic plaster; energy efficiency measures except insulation in frame walls; repairs or rehabilitation of heating, air conditioning, or ventilation systems; repairs or rehabilitation of electrical or plumbing systems exclusive of new electrical appliances and electrical or plumbing fixtures; and architectural, engineering, and land surveying fees. Qualified Rehabilitation Expenditures do not include the cost of acquisition of the Certified Historic Structure, the personal labor by the Applicant, enlargement of the Certified Historic Structure, or any cost associated with the rehabilitation of an outbuilding of the Certified Historic Structure, unless the outbuilding is certified by the Commission to contribute to the historical significance of the Certified Historic Structure.

(22) Qualified Structure. Certified Historic Structures that have been substantially rehabilitated.

(23) Qualifying Project. A Certified Historic Structure with a Complete Application and a Rehabilitation Plan that the Commission determines will meet the Standards, either as submitted or with Conditions of Work, and is recommended to the Committee for approval and ranking.

(24) Recapture Period: the 5-year period of time that a rehabilitation tax credit can be taken back by the Department if the property is disposed of, ceases to be investment credit property, or fails to meet the definition of a Certified Historic Structure during the recapture period. The recapture percentage is 100 percent for property that ceases to be investment credit property within one full year after it is placed in service, reduced by 20 percentage points for each year held during the 5-year recapture period. Recapture and any related adjustments of basis due to recapture shall be governed by principles which correspond to those applicable to the Federal Historic Credit under Title 26 Section 50 of the Internal Revenue Code pursuant to the Department’s Administrative Code Chapter 810-3-137.03.

(25) Rehabilitation. The process of returning a building or buildings to a state of enhanced utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment which are significant as defined by Part A of the Application approved by the Commission.

(26) Rehabilitation Plan. Descriptions, construction plans, and specifications for the proposed rehabilitation of a Certified Historic Structure in sufficient detail to enable the Commission to evaluate compliance with the Standards.

(27) Registered Historic District. Any district listed in the National Register or any district which is: a) designated under Alabama or local law as containing criteria which substantially achieves the purpose of preserving and rehabilitating buildings of historic significance to the district; or b) certified by the U.S. Secretary of the Interior as meeting substantially all of the requirements for the listing of districts in the National Register of Historic Places.

(28) Request for a Tax Credit Allocation Reservation. The submittal of Parts A and B of the Application and Application fee, as provided in Rule 460-X-25-.05.

(29) Review Cycle. The continuous review of Complete Applications in preparation for and including the quarterly meetings of the Committee to evaluate Qualifying Projects.

(30) Standards. The Secretary of the Interior's Standards for Rehabilitation as defined by Title 36 Code of Federal Regulations (CFR) Part 67.7. The Standards are as follows:

(a) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(d) Most properties change over time; those changes that have acquired historical significance in their own right shall be retained and preserved.

(e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

(f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall

match the old in design, color, texture, or other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(h) Significant archaeological resources affected by a Project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize a property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(j) New Additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(31) Substantial Rehabilitation. Rehabilitation of a Certified Historic Structure for which the qualified rehabilitation expenditures exceed 50 percent of the Owner's original purchase price of the building or twenty-five thousand dollars ($25,000), whichever is greater. For the purpose of this Program, the Owner's original purchase price of the Certified Historic Structure shall mean the original purchase price minus the value of the underlying land and any buildings other than the Certified Historic Structure for which rehabilitation tax credits are being applied.

(32) Tax Credit Allocation. The dollar amount of tax credits apportioned for the Substantial Rehabilitation of a Qualified Structure based on a Rehabilitation Plan approved by the Commission.

(33) Tax Credit Allocation Reservation. A portion of the Aggregate Tax Credit Allocation Amount reserved by the Commission after approval and ranking of projects by the Committee. The Commission notifies the Owner in writing of the amount of the reservation.

(34) Tax Credit Certificate. A certificate issued by the Commission via a written form or letter to the Applicant providing information about the Project and the amount of its Tax Credit Allocation to be filed with the Applicant’s Alabama state tax return.

**Author:** Chloe Mercer; Lee Anne Hewett
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**460-X-25-.03 Tax Credit.**

(1) A tax credit of twenty-five percent (25%) of Qualified Rehabilitation Expenditures is available against any state income tax due that is specified in the Act for the Certified Rehabilitation of Certified Historic Structures. This credit is available for income-producing buildings. It is not available to any residential structure that meets the definition of Disqualifying Use, as described in 460-X-25-.02.

(2) Rehabilitation of a Certified Historic Structure shall be substantial as defined by the term Substantial Rehabilitation.

(3) The tax credit may be earned by the Owner of the Certified Historic Structure. The Applicant shall not be permitted to request the review of another property in the place of the property contained in the Application.

(4) Eligible expenditures include reasonable expenses and costs expended in the Certified Rehabilitation of a Certified Historic Structure as defined by the term Qualified Rehabilitation Expenditures. Eligible expenditures do not include: the cost of acquiring any interest in a Certified Historic Structure or its Property; any expenditure attributable to the enlargement of an existing building; and site work expenditures, including any landscaping, sidewalks, parking lots, paving, decks, outdoor lighting remote from the building, fencing, retaining walls, or similar expenditures because they are not considered made in connection with the rehabilitation of a Certified Historic Structure.

(5) Tax credits granted to a partnership, a limited liability company, S Corporations, trusts, or estates shall be claimed at the entity level and shall not pass through to the partners, members, or owners.

(6) A copy of the completed Certificate shall be filed with the taxpayer’s Alabama state tax return. The entire tax credit must be claimed by the taxpayer for the taxable year in which the certified rehabilitation is placed into service. Where the taxes owed by the taxpayer are less than the tax credit, the taxpayer shall be entitled to claim a refund for the difference.

(7) All or any portion of the tax credits under this Act shall be transferable and assignable, subject to any notice and

verification requirements to be determined by the Department, without the requirement of transferring any ownership interest in the Qualified Structure. Any tax credits transferred shall be at a value of at least eighty-five percent (85%) of the present value of the credits. However, once a credit is transferred, only the transferee may utilize such credit and the credit cannot be transferred again. The transferee of the tax credits may use the amount of tax credits transferred to offset any income tax due under Chapter 18 of Title 40.

(8) For the purpose of this Program, dates of notification or issuance of any decisions, actions, requests for information, and other correspondence by the Commission shall be in writing, and the date of the notification or issuance shall be stated. The notification or issuance is effective as of the stated date and not the date of receipt by the Applicant.
**Author:** Chloe Mercer; Lee Anne Hewett
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
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**460-X-25-.04 Restrictions On Previous Work.**

Before beginning any substantial rehabilitation work on a Certified Historic Structure, the Applicant shall submit a Complete Application and Rehabilitation Plan to the Commission and an estimate of the Qualified Rehabilitation Expenditures under the Rehabilitation Plan. The Applicant may incur Qualified Rehabilitation Expenditures, no earlier than six months before the submission of the Application and Rehabilitation Plan, that are limited to architectural, engineering, and land surveying fees and related soft costs and any costs related to the protection of the Certified Historic Structure from deterioration. All such work shall be described in the Part B Application and shall meet the Standards. If the Commission determines that any of said work is not consistent with the Standards, the Part B will be denied. For the purpose of this Program, the protection of the Certified Historic Structure from deterioration shall mean emergency or temporary measures necessary to prevent water penetration, deter vandalism, or provide interim measures to stabilize building components that will otherwise collapse. Emergency of temporary measures included as Qualified Rehabilitation Expenditures and performed no earlier than six months prior to the Application submission must be justified and certified by a licensed architect or engineer and submitted to the Commission with the Complete Application and Rehabilitation Plan.
**Author:** Chloe Mercer; Lee Anne Hewett
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.

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**460-X-25-.05 Application Requirements.**

(1) A Complete Application, including both Parts A and B and the Application fee, as described below in (2), shall be submitted to the Commission for all Projects before commencing rehabilitation. Complete Applications are required in order for the Commission to recommend Qualifying Projects to the Committee for review and ranking and in order for the Commission to issue a Tax Credit Allocation Reservation based on that ranking. Part C of the Application shall be submitted to the Commission at the completion of work and as a requisite for the Commission issuing a Tax Credit Certificate. Applications are available from the Alabama Historical Commission. The Applicant shall sign each part of the Application, which certifies that the information provided is, to the best of the Applicant's knowledge, correct. Specific Application requirements are included in the Instructions and on each part of the Application.

(a) Application Part A - Evaluation of Significance: The Part A Application shall be completed for all buildings to be included in the Project and certifies that a Project is a Certified Historic Structure. Part A must demonstrate that the building is at least seventy-five years old, unless it is located within the boundaries of a National Monument or Park as declared by the United States Congress or the President of the United States, in which case the federal age provisions apply. A building, at least seventy-five years old, is evaluated against criteria for significance and integrity issued by the National Park Service for the National Register. Areas of significance include an association with events, activities, or developments that were important in the past or; with the lives of people who were important in the past or; with significant architectural history, design, or engineering achievements.

1. An Applicant must file Part A with the Commission simultaneously with the Part B and the Application fee, as described below in (2). If a property is not listed in the National Register of Historic Places, Applicants may consult with the Commission prior to submitting a Complete Application in order to determine if a property is eligible for listing in the National Register and meets the age requirements of this Program. Early consultation to determine National Register eligibility

does not require a fee and does not replace a Part A Application.

2. Part A shall include enough information to determine whether a building is eligible for designation as a Certified Historic Structure. Part A shall include, among other information: an accurate street address or description of the location of the building; the name of the building's Applicant and the Applicant's address and telephone number; a description of the general setting and an architectural description of the building, including the exterior and the interior; a brief history of the building; a statement describing why the building is eligible for designation as a Certified Historic Structure; color photographs keyed to plans, showing general views and all features discussed in the description; and a map indicating the location of the building.

3. Functionally Related Structures. For rehabilitation projects involving more than one Certified Historic Structure where the structures are judged by the Commission to have been functionally related historically to serve an overall purpose, these buildings will be treated and reviewed as functionally related structures per guidance provided in applicable Department of the Interior regulations Title 36 Code of Federal Regulations (CFR) Part 67.4 relating to functionally related structures.

(b) Application Part B – Description of Rehabilitation: The Part B Application certifies that a Project is eligible for the Program and proposed rehabilitation work is consistent with the Standards and shall be completed for all Projects. Part B must demonstrate through the Rehabilitation Plan that all work follows the Standards.

1. An Applicant must file Part B with the Commission simultaneously with the Part A and the Application fee, as described below in (2).

2. Part B shall include enough information to determine that the Rehabilitation Plan is consistent with the Standards. Part B of the Application shall include, among other information: an accurate street address or description of the location of the building; a Rehabilitation Plan including a description of the rehabilitation and drawings of the site plan and the building's floor plans showing existing conditions and all proposed work with elevation drawings if applicable to illustrate any new construction, alterations, or additions; and additional photos, as necessary, printed on photographic paper and keyed to plans, to completely

illustrate all areas of the building that will be affected by the Rehabilitation Plan. Drawings of the existing building condition and drawings of proposed rehabilitation are necessary to review the Part B Application for all Projects.

3. The Part B shall also include information to demonstrate eligibility for the Program and state the timeframe by which all work included in the Project will be completed. The Application will state a projected starting date and completion date for the Project; the purchase price of the property minus the value of the underlying land and any buildings other than the Certified Historic Structure for which rehabilitation tax credits are being applied; estimated cost of project; the Fair Market Value of the property before rehabilitation as assessed by the local revenue commissioner; and answers to questions related to the economic impact and value of the Project.

4. Part B and Rehabilitation Plans are reviewed by Commission staff for eligibility for the Program and consistency with the Standards. See the Definition for the Standards.

(c) Application Part C – Request for Certification of Completed Work: The Part C Application certifies the completed work follows the Standards and the Rehabilitation Plan as approved by the Commission in the Part B review.

1. Part C must be submitted after the substantial rehabilitation is complete, which must be within sixty (60) months after the date of issuance of the written notice of a Tax Credit Allocation Reservation.

2. Part C of the Application shall include, among other information: an accurate street address or description of the location of the building; the name of the building's Applicant and the Applicant's address and telephone number, and taxpayer identification number or social security number; photographs, printed on photographic paper and keyed to plans, of completed work showing similar views of the photographs provided in Parts A and B; the number of actual jobs created during rehabilitation; and the approximate number of jobs created post-rehabilitation. A complete Part C also requires the submittal by the Owner of a Cost and Expense Certification and an Appraisal.

3. The Applicant must provide a Cost and Expense Certification, prepared by a licensed certified public accountant that is not an affiliate of the Owner, certifying the total Qualified Rehabilitation

Expenditures and the total amount of tax credits against any state tax due. For the purposes of this Program, the affiliate shall mean independence for accounting purposes. The cost and expense certification shall include a certification by the licensed certified public accountant that the costs and expenses meet the requirements of this Program.

4. The Application must provide an Appraisal of the Qualified Structure prepared by an independent appraiser who is a Member of the Appraisal Institute (MAI) and is a licensed real estate appraiser.

(d) Amendment Sheet: Additional information for incomplete Applications and changes to Qualifying Projects shall be submitted to the Commission on an Amendment Sheet. The Amendment Sheet shall include, among other information: an accurate street address or description of the location of the building; the name of the building's Applicant and the Applicant's address and telephone number; indication regarding which part of the Application is being amended; and photographs or other drawings or exhibits that illustrate the proposed changes to the incomplete Application or Qualifying Project.

(2) This Program requires an Application fee. The fee is based on the amount of estimated Qualified Rehabilitation Expenditures listed by the Applicant on the Part B Application. For Qualified Rehabilitation Expenditures of one million dollars or less (Tier One), a fee of one percent (1%) of the Qualified Rehabilitation Expenditures is due. For Qualified Rehabilitation Expenditures from one million and one dollars to ten million dollars (Tier Two), a fee of fifteen thousand dollars ($15,000) is due. For Qualified Rehabilitation Expenditures over ten million dollars (Tier Three), a fee of twenty thousand dollars ($20,000) is due. Half of the Application fee is due with the simultaneous submission of Part A and Part B Applications. The remaining half is due when the Commission notifies the Applicant that their Project will receive a full or partial Tax Credit Allocation Reservation. The fee is not refundable.

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**460-X-25-.06 Application Review Process.**

(1) Delivery. Applications for the Program will be accepted beginning November 1, 2017, and continuously thereafter through the final Application Period in 2027, provided the $200,000,000 cap for the program has not been reached. Printed and signed Applications must be delivered to the Commission. Emailed and faxed versions of the Application are not accepted. It is strongly encouraged that all Applications and other documents be mailed via a method that confirms delivery. The Commission will not be held responsible for materials that are mailed but not received.

(2) Staff Review. Commission staff shall review Applications for all projects submitted during the Application Period and forward Qualifying Projects to the Committee. If Part A or Part B Applications do not provide requested information or sufficient information to determine whether or not a property is a Certified Historic Structure or whether or not the Rehabilitation Plan is consistent with the Standards, the Applicant will have an opportunity to provide additional information within a timeframe determined by Commission staff. If the Applicant fails to provide the requested information in the timeframe determined by staff, the Project will be considered incomplete and will not be recommended to the Committee as a Qualifying Project from that Application Period. The Applicant will have one additional opportunity to provide requested information to staff during the following Application Period, and if it is not received during this timeframe, the Application will be disapproved. A new Application may be resubmitted but shall be charged a new Application fee.

(a) Commission staff will review Part A as more fully described below to determine whether or not the building in question is a Certified Historic Structure. The commission will require an Owner to confirm that the property does not meet the definition of Disqualifying Use, as described in 460-X-25-.02.

(b) Commission staff will then review Part B as more fully described below to determine whether or not the Project meets the eligibility requirements for the Program and for the Project's compliance with the Standards.

(3) Application Part A. The Part A Application will be reviewed to determine if a Property is eligible for designation as a Certified Historic Structure. The Applicant shall be responsible for providing sufficient information to the Commission by which Commission staff may make a determination. For buildings that are not already listed in the National Register of Historic Places,

the Applicant may consult with the Commission prior to the Part A being submitted.

(a) Refer to (2) Staff Review above for details on incomplete Applications.

(b) If Commission staff determines that the building does not meet the definition of a Certified Historic Structure, the Application will be disapproved and not recommended to the Committee as a Qualifying Project from that Application Period.

(c) The Applicant must notify the Commission if circumstances will change the eligibility of the building by amending their Part A Application. The Applicant may amend a Part A during the following Application Period with no new Application fee. New eligibility information provided to the Commission after the following Application Period must be submitted with a new Part A and new Application fee.

(4) Application Part B. The Part B Application will be reviewed to determine if a Property meets the eligibility requirements for the Program and if the proposed rehabilitation meets the Standards. The Applicant shall be responsible for providing sufficient information to the Commission by which the Commission's staff may make a determination.

(a) Refer to (2) Staff Review above for details on incomplete Applications.

(b) In reviewing Part B, the Commission shall determine if the Part B and the Rehabilitation Plan are:

1. consistent with the Standards;

2. consistent with the Standards with Conditions of Work; Applications found to be consistent with the Standards with Conditions of Work shall provide written acceptance to the Commission of all Conditions of Work, otherwise the Application will be determined to be not consistent with the Standards; Applications found to be consistent with the Standards with Conditions of Work will only be eligible for the credits if the conditions listed are met as part of the rehabilitation work, and failure to follow the conditions may result in a determination by the Commission that the project is not consistent with the Standards; or

3. not consistent with the Standards; the Application is disapproved and will not be recommended to the Committee.

(c) If Commission staff determines that specific work is not consistent with the Standards, staff shall notify the

Applicant of the deficient work and allow the Applicant to amend the Application in order to comply with the Standards. If the Applicant does not respond with a revised scope of work that meets the Standards within the timeframe determined by staff, the Application is considered incomplete and will not be recommended to the Committee as a Qualifying Project from that Application Period. The Applicant may amend their Part B during the following Application Period with no new review fee. Applicants with a revised scope of work after the following Application Period must submit a new Part B Application and will be subject to a new Application fee.

(d) Applications will be recommended by the Commission to the Committee as a Qualifying Project if work described in the Part B is consistent with the Standards or consistent with the Standards with specific Conditions of Work if the Applicant accepts the Conditions of Work in writing within the timeframe determined by Commission staff. If the Applicant does not accept the Conditions of Work within the timeframe determined by staff, the Application is considered incomplete and will not be recommended to the Committee as a Qualifying Project from that Application Period.

(5) Application Part C. The Part C Application must be submitted by the Applicant within a reasonable time after completion of the Project. The Commission shall review the Part C to determine that the Substantial Rehabilitation is consistent with the Standards and the Rehabilitation Plan as approved in the Part B review and met all the Conditions of Work imposed on the Project. The Project shall meet all other requirements of these regulations before the Commission can issue a Tax Credit Certificate for the Project.

(a) The Commission will review the Part C to confirm it is complete and will verify compliance with the approved Rehabilitation Plan. The Owner must provide a Cost and Expense Certification, prepared by a licensed and independent certified public accountant that is not an affiliate of the Owner, certifying the total Qualified Rehabilitation Expenses match the amount provided on the Part C Application. The Commission will confirm that it was prepared by a licensed certified public accountant. The Commission will review the Appraisal to confirm that it was prepared by an MAI-designated and licensed real estate appraiser after the Project was completed. If the completed Project is found to be in compliance with the Standards and approved Rehabilitation Plan and any conditions, and the other documentation is correct, the Commission shall approve the Project. The Commission shall notify the Applicant in writing of any determination it makes upon completing the review of the Part C Application.

(b) Within ninety (90) days of receipt and approval of the Part C Application, the Commission shall issue to the Applicant a Tax Credit Certificate via a written form or

letter in an amount equivalent to the lesser of the amount of the Tax Credit Allocation Reservation or twenty-five percent (25%) of the actual Qualified Rehabilitation Expenditures for Certified Historic Structures.

(c) If the Project is also a federal tax credit project, the Commission will hold approval of the Part C until the National Park Service certifies the federal application Part 3.

(d) If the submitted Part C is not consistent with the approved Rehabilitation Plan and the Project cannot, in the opinion of the Commission, be brought into compliance, then the Commission shall deny the Project and the Tax Credit Allocation Reservation will be rescinded. No refund of fees shall be allowed.

(e) If the submitted Part C is not consistent with the approved Rehabilitation Plan and the Project can, in the opinion of the Commission, be brought into compliance, the Commission may issue remedial conditions that will bring the Project into compliance with the approved Rehabilitation Plan. The Applicant shall complete the remedial work and file an Amendment to Part C within a time period agreed upon by the Commission and Applicant. If the remedial work is completed so that the Qualified Rehabilitation is consistent with the approved Rehabilitation Plan, then the Commission shall, within ninety (90) days, issue a Tax Credit Certificate in an amount equivalent to the lesser of: (1) the amount of the Tax Credit Allocation Reservation or (2) twenty-five percent (25%) of the actual Qualified Rehabilitation Expenditures for Certified Historic Structures.

(6) Amendment Sheet. Additional information for incomplete Applications and changes to Qualifying Projects shall be submitted to the Commission on an Amendment Sheet and must be approved by the Commission as consistent with the Standards before they are included in the Project. The Commission shall review the Amendment Sheet and issue a determination in writing regarding whether or not the proposed change in the Project is consistent with the Program.

(7) Scope of Review. For purposes of the review of Applications for this Program, the Project scope includes the entire building, along with any historically associated property under the same ownership. Individual condominiums or commercial spaces within a larger historic building are not considered individual properties apart from the whole. The scope of review for a Project is not limited to the work that qualifies as an eligible expense. The review encompasses the building’s site and environment, as well as any buildings that were functionally related historically. Therefore, any new construction and site improvements occurring on the historic property are considered part of the Project. Likewise, all work completed six (6) months before the submission

of the Application and Rehabilitation Plan is considered part of the Project, as is any work completed during the recapture period for the credit.

(8) Consideration of National Park Service Decisions on Commission Review. Determinations that a building is a Certified Historic Structure and that a Project is a Certified Rehabilitation apply to the Alabama Rehabilitation Tax Credit Program and if applicable, to projects participating in the National Park Service's federal tax credit program. Determinations made by the National Park Service for National Register eligibility or for compliance with the Secretary of the Interior's Standards for federal rehabilitation tax credit projects are binding on the Commission and the Commission will take the determinations into account during the life of a Project. If National Park Service determinations will have an effect on the Commission's review of an Application, the Applicant must notify the Commission by submitting a new Application. There is no fee if the new Application is submitted during the Application Period following the original submittal. A fee will be charged if the new Application is submitted after the following Application Period.
**Author:** Chloe Mercer; Lee Anne Hewett
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published May 29, 2020; effective July 13, 2020. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published June 30, 2023; effective August 14, 2023. **Amended:** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.07 Historic Tax Credit Evaluating Committee.**

A Committee, as established by the Act, shall review Qualifying Projects, approve credits for projects, and rank projects in the order in which the projects should receive tax credit reservations based on criteria established by the Commission.
**Author:** Chloe Mercer; Lee Anne Hewett; Clara Nobles
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended (Updated Author & Stat. Auth. ONLY):** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.08 Members Of The Committee.**

Members shall consist of the following: Director of the Governor's Office of Minority Affairs, Executive Director of the Alabama Historical Commission, Finance Director, Director of the Alabama Department of Economic and Community Affairs (ADECA), Secretary of

Commerce, one Republican House member—appointed by Speaker of the House, one Democrat House Member—appointed by Speaker of the House, one Republican Senator—appointed by the President Pro Tempore, one Democrat Senator—appointed by the President Pro Tempore, the Chair of the Senate Finance Taxation Education Committee, the Chair of the House Ways and Means Education Committee, and the Commissioner of Revenue (non-voting advisory member).
**Author:** Chloe Mercer; Lee Anne Hewett; Clara Nobles
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.09 Committee Review Process.**

(1) The Tax Credit Evaluating Committee shall only review qualifying historic rehabilitation tax credit projects recommended by the Commission. When the Commission determines that Applications are Qualifying Projects, the Commission shall recommend a list of Qualifying Projects to the Committee. The Committee will approve credits for Projects and rank them in the order in which the Projects should receive tax credit reservations for each applicable Application Period. The Committee may establish a minimum threshold that a project must exceed before the project will receive a tax credit reservation. For the purpose of this Program, reservations will be 25% of the Qualified Rehabilitation Expenditures as listed on the Applicant's Part B Application. The Commission shall establish the criteria for the evaluating Committee based on:

(a) the relative value of the proposed project to the community and the maintenance of the historic fabric of the community;

(b) possible return on investment for the community;

(c) geographic distribution of projects;

(d) the likelihood of the project proceeding without the state historic tax credit;

(e) strength of local support for the proposed project;

(f) any additional tax credits or state, federal, or local government grants the applicant expects to utilize for the construction of the project.

(g) the number of new net jobs the project will create in the state;

(h) the likelihood of the project proceeding without the historic tax credit;

(i) the amount of overall project financing for which the applicant has firm, secured commitments prior to submitting an application.

(2) The Commission shall provide the Committee with a list of all Qualifying Projects and Projects that were determined to be incomplete applications. Prior to each Committee meeting, the Commission will provide the Committee with a summary sheet for each Qualifying Project and ranking sheets, which the Committee shall use to score each Project. Prior to each Committee meeting, members of the Committee shall score the Qualifying Projects according to established criteria. During the Committee meeting, members may ask questions about the Projects for clarification and amend their ranking sheets as necessary; discuss the Project scores; and gain Committee consensus for the final ranking order for the applicable Application Period.

(3) If more than one Qualifying Project receives the same score on their ranking sheet, a random drawing will be held during the Committee meeting to determine the final ranking order for each Application Period. If the Committee approves a Project for tax credits, the Commission shall reserve, for the benefit of the owner, an allocation for a tax credit, as provided in 460-X-25-. 14, and the Commission shall notify the owner in writing of the amount of the reservation.
**Author:** Chloe Mercer; Lee Anne Hewett; Clara Nobles
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.10 Criteria Descriptions.**

The Committee shall rank the Qualifying Projects based on the established criteria for each Application Period. Projects shall be ranked in order by their total score.

(a) What is the relative value of the proposed project to the community? Relative value is a method of determining a Project's merit when considering the similar Projects in the area. How will this project maintain or improve the historic fabric of the community? Will buildings be rehabilitated that are underutilized or vacant? 0 to 10 points.

(b) What is the possible return on investment for the community? Does the Project address a specific community need? Will the Project lead to the development of public/private

partnerships? Will the Project create economic growth in distressed areas? 0 to 10 points.

(c) Is the Project located in a set-aside or non-set-aside county? Non-set aside counties include Baldwin, Jefferson, Madison, Mobile, Montgomery, Shelby, and Tuscaloosa. 0 to 10 points.

(d) What is the likelihood of the project proceeding without the state historic tax credit? 0 to 10 points.

(e) Has the project received support from the local municipality, county, legislative delegation or community stakeholders? 0 to 10 points.

(f) What is the leveraged investment ratio of the project, as determined by the total project investment divided by the amount of tax credits requested? Total project investment is all costs associated with the project from the beginning of the involvement by the applicant. This figure includes acquisition costs, holding costs, marketing, parking lots or structures, new construction, additions, landscaping, site work, furniture and fixtures, and other investments directly related to the project and to be undertaken by the applicant. Total Project Investment ÷ Tax Credit Requested = Leveraged Investment Ratio? 0 to 15 points

(g) How many net new jobs will be created in Alabama because of this project? 0 to 15 points.

(h) Will this project receive any additional tax credits or state, federal, or local government grants for the construction of this project? 0 to 5 points.

(i) Explain the overall project financing for which the applicant has firm, secured commitments prior to submitting an application. 0 to 15 points.

**Author:** Chloe Mercer; Lee Anne Hewett; Clara Nobles
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History:** **New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.11 Disapproved Applications.**

Any Application disapproved by the Commission, disapproved by the Committee or if the Application cannot receive an allocation due to the $200,000,000 cap, they shall be removed from the review process. A disapproved Application may be resubmitted, but shall

be deemed to be a new submission and charged a new Application fee by the Commission.
**Author:** Chloe Mercer; Lee Anne Hewett; Clara Nobles
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.12 Meetings And Review Cycle.**

The Executive Director of the Alabama Historical Commission shall by October 30, 2017, contact the President Pro Tempore of the Senate and the Speaker of the House of Representatives for the names of their appointees to the Historic Tax Credit Evaluating Committee.

(1) The Commission shall call the first meeting of the Tax Credit Evaluating Committee before December 31, 2017, and it shall be an organizational meeting to select a chair and vice-chair to serve for 2018, to determine the location of Committee meetings, and to orient Committee members to the Program. In the following years, the selection of officers shall be in the first quarter of the calendar year in which they are to serve. The officers of the Committee shall be a chairman and a vice-chairman. The Commission shall serve as secretary of the Committee. The officers shall be selected by a majority vote of members present. The chair and vice-chair positions shall serve for one-year terms. The House and Senate members are appointed or reappointed annually.

(2) All notices and meetings of the Committee shall be conducted in accordance with the Alabama Open Meetings Act, Chapter 25A, Title 36, Code of Ala. 1975. The Commission will post all required public notices about the date, time, and location of the Committee meetings. A majority of the members of the Committee present shall constitute a quorum. The Committee may meet at any place within the state of Alabama. The Committee may meet in person, remotely, or by using a hybrid model where some members attend in person and others attend remotely.

(3) The Committee shall meet at least quarterly unless no Qualifying Projects are recommended by the Commission, or if there are no tax credits available because of the $200,000,000 cap. The Committee may also meet at the call of the chair or any majority of the membership. The Committee shall perform all duties prescribed by this Act and by Robert’s Rules of Order.

(4) Applications will be accepted beginning November 1, 2017. The Review Cycle is as follows:

(a) Quarter 1
Application Period: Applications received by December 31 will be reviewed by the Commission and, if determined to be a Qualifying Project, will be considered in the first quarter Committee meeting. The Commission reserves tax credits as available based on Committee recommendations no later than 30 days after the first quarter Committee meeting.

(b) Quarter 2
Application Period: Applications received by March 31 will be reviewed by the Commission and, if determined to be a Qualifying Project, will be considered in the second quarter Committee meeting. The Commission reserves tax credits as available based on Committee recommendations no later than 30 days after the second quarter Committee meeting.

(c) Quarter 3
Application Period: Applications received by June 30 will be reviewed by the Commission and, if determined to be a Qualifying Project, will be considered in the third quarter Committee meeting. The Commission reserves tax credits as available based on Committee recommendations no later than 30 days after the third quarter Committee meeting.

(d) Quarter 4
Application Period: Applications received by September 30 will be reviewed by the Commission and, if determined to be a Qualifying Project, will be considered in the fourth quarter Committee meeting. The Commission reserves tax credits as available based on Committee recommendations no later than 30 days after the fourth quarter Committee meeting.

**Author:** Chloe Mercer; Lee Anne Hewett; Clara Nobles
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.13 Records Custodian.**

The Alabama Historical Commission shall be custodian of the records of the Committee.
**Author:** Chloe Mercer; Lee Anne Hewett; Clara Nobles
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended (Updated Author & Stat. Auth. ONLY):** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.14 Tax Credit Allocation Reservation.**

(1) Committee Ranking List of Qualifying Projects. Once the Historic Tax Credit Evaluating Committee reviews Qualifying Projects, approves credits for Projects, and ranks Projects in the order in which Projects should receive tax credit reservations based on established criteria, the Commission will issue a Tax Credit Allocation Reservation in the amount based on the estimated Qualified Rehabilitation Expenditures provided by the Applicant on the Part B Application. Tax Credit Allocation Reservations will be issued in the order in which the Committee has ranked Complete Applications and Rehabilitation Plans for each Application Period. The Committee ranking list will be maintained by the Commission on an Application Period by Application Period basis, and a Qualifying Project approved by the Committee in an earlier Application Period will receive a Tax Credit Allocation Reservation before a Qualifying Project approved by the Committee in a subsequent Application Period (regardless of such Project's score determined under Rule 460-X-25-.10). The only exception to maintaining the Committee's ranking list on an Application Period basis is when the Commission must allocate credits to certain Projects eligible for the 40% annual set-aside described in (4) below.

(2) Commission Tracking. The Commission shall track the cumulative amount of Tax Credit Allocation Reservations and will discontinue issuing Tax Credit Allocation Reservations once the total has reached the Aggregate Tax Credit Allocation Amount. When the Aggregate Tax Credit Allocation Amount has been reached, no further Tax Credit Allocation Reservations will be made until: (1) additional amounts are returned through the rescission of Tax Credit Allocation Reservations; or (2) a new Aggregate Tax Credit Allocation Amount becomes available. If an Applicant has applied for a Tax Credit Allocation Reservation that exceeds the remaining allocation available under Aggregate Tax Credit Allocation Amount, the Commission shall issue a Tax Credit Allocation Reservation in the amount of the available partial allocation (the "Partial Allocation"), and the amount requested by the Application that exceeds the Partial Allocation (the "Excess Allocation") shall remain in the first position on the Committee's ranking list until additional amounts are available, at which time the Commission shall issue a Tax Credit Allocation Reservation in the amount of the Excess Allocation. In no event shall projects be added to the ranking list after the $200,000,000 cap has been reached.

(3) Aggregate Tax Credit Allocation Amount Limits. The availability of Tax Credit Allocation Reservations is limited to the Aggregate Tax Credit Allocation Amount per tax year beginning on January 1, 2018, and extending through the expiration of tax credits, December 31, 2027. Of the annual amount of tax credits

available, 40% shall be reserved to taxpayers with a Certified Historic Structure located in a county in which the population does not exceed 175,000 according to the most recent federal decennial census. In the event that Complete Applications are not received and credits are not allocated for Projects in these areas by the close of the third quarter of the Program year, the credits may be reserved for other Qualifying Projects. If all of the Aggregate Tax Credit Allocation Amount for any tax year is not requested and reserved, any unreserved tax credit allocations may be utilized by the Commission in reserving tax credits in subsequent years. No tax credit claimed for any Qualified Rehabilitation Expenditures may exceed five million dollars ($5,000,000) for Certified Historic Structures. Applications for the reservation of tax credits will be accepted beginning November 1, 2017, but no tax credit may be credited before the taxpayer's return for the taxable year 2017. All Applications under this Program shall be received through the final Application Period in 2027. In no event shall applications be accepted by the Commission after the Historic Tax Credit Evaluating Committee has ranked 1) non-set-aside county projects with a total amount equaling $120,000,000; notwithstanding the availability of credits due to rescissions and/or carry-over of set-aside county allocations; and 2) set-aside county projects with a total amount equaling $80,000,000. Additional application periods may be announced due to rescissions and/or carry-over of set-aside county allocations after the first nine months of the tax year. Reservations/Ranking List Prior to May 14, 2021. Any application received by the Commission in active status on the ranking list of the Historic Tax Credit Evaluating Committee or granted a tax credit allocation reservation prior to May 14, 2021, shall remain on the ranking list or in reservation status and shall receive a tax credit allocation reservation or a tax credit allocation when additional credits become available, including in any tax year commencing after 2022, except for applications that meet the Disqualifying Use definition as defined in 460-X-25-.02.

Projects Not Likely to Receive a Reservation. The Commission shall notify Applicants in writing of the status for Projects that are not likely to receive a Tax Credit Allocation Reservation because of the Project's place on the Committee ranking list and the available Aggregate Tax Credit Allocation Amount for that particular year. As long as the $200,000,000 cap has not been reached, the Commission shall contact the Applicant to determine if they wish to remain on the committee ranking list until new tax credits become available either through rescissions or a new Aggregate Tax Credit Allocation Amount, and the Applicant will have thirty (30) days to notify the Commission in writing of their preference If the $200,000,000 cap has been reached, Applications will be returned to the Applicant. Applications may be resubmitted if another review cycle is announced by the Commission, but these Applications hall be deemed to be a new submission and will be charged a new Application fee by the Commission.

(4) Supplemental Tax Credit Allocation Reservation. In the event the amount of Qualified Rehabilitation Expenditures (QRE) incurred by the Owner exceeds the amount of Qualified Rehabilitation Expenditures estimated on Part B of the Application for the purpose of establishing the Tax Credit Allocation Reservation, the Applicant may apply to the Commission for a reservation of a supplemental Tax Credit Allocation Reservation in an amount equal to the excess, not to exceed the $5 million cap. Applications for a supplemental Tax Credit Allocation Reservation shall be made on a form prescribed and available from the Commission and shall be submitted with the Part C Application. If Projects are in good standing, Supplemental Tax Credit Applications shall be recommended to the Committee in the next available Review Cycle. Applicants who apply for a supplemental Tax Credit Allocation Reservation may be invoiced an additional fee based on the Applicant's increased QRE. If the supplemental request maintains a total QRE within the same fee Tier, the Applicant will pay a fee that equals the difference between the new fee and the fee already paid (this will only apply to Projects in Tier 1). If the supplemental request increases the total QRE to a fee Tier above the fee already paid, the Applicant will pay a fee that equals the difference between the higher fee and the fee already paid. If the Commission notifies the Applicant that their supplemental request will receive a Tax Credit Allocation Reservation, then the Commission will invoice for the fee, if applicable, which must be paid to the Commission in order to receive the reservation. A separate Tax Credit Certificate shall be issued for any supplemental Tax Credit Allocation reserved by the Commission for the Project.

(5) All Requirements Shall Be Met. A Tax Credit Allocation Reservation reserves a credit in the name of the Applicant only. No Tax Credit Certificate will be issued or can be used by the Applicant until all the requirements of the Program have been satisfied.

(6) Rescission. If a Tax Credit Allocation Reservation is rescinded, it will be returned to the Aggregate Tax Credit Allocation Amount available. Any Applicant whose Tax Credit Allocation Reservation is rescinded shall be notified in writing of the rescission by the Commission. A new Application may be submitted, but it will be treated as a new Application and will be charged a new Application fee.

(a) If, at any time, the Commission determines that the proposed or ongoing rehabilitation work is not consistent with the Standards, the Tax Credit Allocation Reservation for the Applicant may be rescinded.

(b) If, at any time, the Commission has reason to believe that a Project has become inactive or that it is not likely that it will be able to meet any or all the requirements of the Program, it shall notify the Applicant by registered or

certified mail of the Commission's intent to rescind the Tax Credit Allocation Reservation. If the Applicant fails to respond within thirty (30) calendar days receipt of the notice that the Project is still active, the Commission may rescind the Tax Credit Allocation Reservation.

**Author:** Chloe Mercer; Lee Anne Hewett
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published June 30, 2023; effective August 14, 2023. **Amended:** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.15 Project Commencement And Completion.**

(1) Applicants shall commence their plan of work and shall have spent no less than twenty percent (20%) of the estimated cost of rehabilitation within eighteen (18) months of the date of issuance of written notice of a Tax Credit Allocation Reservation ("anniversary"). Within 36 months of the anniversary, the Applicant must have incurred an additional fifty percent (50%) of the estimated cost of rehabilitation provided in the Application. The Applicant must submit evidence of compliance to the Commission in writing no later than thirty (30) calendar days after the eighteen (18) month anniversary that twenty percent (20%) of the estimated cost of rehabilitation was expended and after the thirty-six (36) month anniversary that seventy percent (70%) of the estimated cost of rehabilitation was expended. Failure to so notify the Commission will terminate the Project and the Tax Credit Allocation Reservation will be rescinded. The Applicant may re-apply for the Program, but the Application will be considered a new Application. Within sixty (60) months of the anniversary, the project must be complete, and the Applicant must submit the Part C Application as notification to the Commission that the project is complete.

(2) A Project's completion will be the date that it is placed in service in accordance with this Program. The completion date must occur within sixty (60) months of the Tax Credit Allocation Reservation, and progress reports of required expenditure benchmarks must be provided to the Commission. The Applicant shall submit Part C of the Application with the appropriate Cost and Expense Certification and post-rehabilitation Appraisal within a reasonable time after completion. Failure to do so may result in rescission of the Tax Credit Allocation Reservation.

**Author:** Chloe Mercer; Lee Anne Hewett
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.16 Taking The Tax Credit.**

(1) The entire tax credit may be claimed by the taxpayer for the taxable year in which the Certified Rehabilitation is placed in service or in the year in which the Commission reserves an allocation for the project. Where the taxes owed by the taxpayer are less than the tax credit, the taxpayer shall be entitled to claim a refund for the difference.

(2) Recapture of any of the credit shall apply against the taxpayer who utilizes the credit, and any required adjustments to basis due to recapture shall be governed by Title 26 Section 50 of the Internal Revenue Code.

(3) See the Department Administrative Code for additional tax-related aspects of Act 2017-380, Act 2021-431, and Act 2023-522.
**Author:** Chloe Mercer; Lee Anne Hewett
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.17 Appeals.**

Applicants or their duly authorized representatives may appeal any state official decisions related to this Program in accordance with the Alabama Administrative Procedure Act contained in Chapter 22 of Title 41, Code of Ala. 1975. This includes all reservations, approvals, and denials, made by the Commission, Committee, or the Department with regard to an Application and Rehabilitation Plan submitted under these regulations. Appeals are an administrative review and not an adjudicative proceeding. Appeals shall be heard by the body representing the decision being appealed. Appeals must be requested in writing by the Applicant or duly authorized representative within thirty (30) days of the receipt by the owner or the owner's duly authorized representative of the decision being appealed. Appeals shall be sent to Alabama Rehabilitation Tax Credit Program, Alabama Historical Commission, 468 South Perry Street, Montgomery, AL 36130-0900 (US Mail) or 36104 (Courier delivery). The Executive Director of the Commission, the Chair of the Committee, or the Commissioner of Revenue shall determine if a hearing is necessary, and if so the appeal will be scheduled within thirty (30) days of the request. The Executive Director of the Commission, the Chair of the Committee, or the Commissioner of Revenue will coordinate with the Applicant a date, time, and location that is mutually acceptable to both parties. The Applicant will have a reasonable opportunity to present

information in support of its appeal. The Executive Director of the Commission, the Chair of the Committee, or the Commissioner of Revenue will then have fifteen (15) days to issue a decision in writing as to whether or not to grant the request made in the appeal.
**Author:** Chloe Mercer; Lee Anne Hewett
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended (Updated Author & Stat. Auth. ONLY):** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.18 Commission Reporting.**

(1) In the year in which the Certified Rehabilitation is placed into service for any Certified Historic Structure for which a tax credit has been issued, the Commission shall provide notice of the Certified Rehabilitation to the taxing authority responsible for the assessment of ad valorem taxes, along with a copy of the Appraisal provided by the Owner. Upon notification, the taxing authority responsible for assessing ad valorem taxes shall complete a new assessment of ad valorem taxes for the tax year in which the building is placed in service.

(2) The Commission shall report to the Legislature in the third year following passage of this Act, and annually thereafter, on the overall economic activity, usage, and impact to the state from the Substantial Rehabilitation of Qualified Structures for which tax credits have been allowed. The information in the reports shall be consistent with the information required by the Legislature pursuant to, and shall be provided by the Commission to the Legislature in accordance with, Section 40-1-50, Code of Ala. 1975, and rules adopted thereunder. Information provided pursuant to this section is exempt from the confidentiality provisions of Section 40-2A-10, Code of Ala. 1975.
**Author:** Chloe Mercer; Lee Anne Hewett
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended:** Published June 30, 2023; effective August 14, 2023. **Amended (Updated Author & Stat. Auth. ONLY):** Published October 31, 2024; effective December 15, 2024.

**460-X-25-.19 Expiration Of The Tax Credits.**

The Program shall expire on December 31, 2027. Projects that have received a Tax Credit Allocation Reservation on or before that date will still be eligible to receive tax credits as long as the Project meets all other requirements of the Program.

**Author:** Chloe Mercer; Lee Anne Hewett
**Statutory Authority:** Act 2017-380; Act 2021-431; Act 2023-522.
**History: New Rule:** Filed August 10, 2017; effective September 24, 2017. **Amended:** Published December 30, 2021; effective February 13, 2022. **Amended (Updated Author & Stat. Auth. ONLY):** Published October 31, 2024; effective December 15, 2024.