WEST VIRGINIA CODE: §11-24-23A

§11-24-23a. Credit for qualified rehabilitated buildings investment.

(a) A credit against the tax imposed by the provisions of this article shall be allowed as follows:

Certified historic structures. — For certified historic structures, the credit is equal to 10 percent of qualified rehabilitation expenditures as defined in §47(c)(2), Title 26 of the United States Code, as amended: *Provided*, That for qualified rehabilitation expenditures made after December 31, 2017, pursuant to an historic preservation certification application, Part 2 – Description of Rehabilitation, received by the state historic preservation office after December 31, 2017, the credit allowed by this section is equal to 25 percent of the qualified rehabilitation expenditure: *Provided, however*, That the credit authorized by this section for qualified rehabilitation expenditures made after December 31, 2017, may not be used to offset tax liabilities of the taxpayer prior to the tax year beginning on or after January 1, 2020: *Provided further*, That the taxpayer is not entitled to this credit if, when the applicant begins to claim the credit and throughout the time period within which the credit is claimed, the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of any local or municipal tax, or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with §29A-3-1 *et seq*. of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division, is not delinquent in the payment of any local or municipal tax, nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure, and such other administrative requirements as the Tax Commissioner may specify. This credit is available for both residential and nonresidential buildings located in this state that are reviewed by the West Virginia Division of Culture and History and designated by the National Park Service, United States Department of the Interior as "certified historic building", and further defined as a "qualified rehabilitated building", as defined under §47(c)(1), Title 26, of the United States Code, as amended.

(b) *Phased rehabilitations*. — Phased rehabilitations are authorized for any rehabilitation completed after July 1, 2022. For certified rehabilitations that may reasonably be expected to be completed in phases set forth in a plan of rehabilitation submitted contemporaneously with the Description of Rehabilitation, which may be amended by the applicant, the state historic preservation officer shall permit phased rehabilitations. A rehabilitation may reasonably be expected to be completed in phases if it consists of two or more distinct stages of development. A phased rehabilitation plan shall be consistent with phasing guidance issued by the National Park Service. The state historic preservation officer may review each

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phase as it is presented, but a phased rehabilitation cannot be designated a certified rehabilitation until all of the phases are completed. The owner may elect to claim the credit allowable for each completed phase of a phased rehabilitation, upon receipt from the state historic preservation officer of a written tax credit certificate, for each phase of the phased rehabilitation. Written tax credit certificates for completed phases of a phased rehabilitation shall be issued when the substantial rehabilitation test has been satisfied with respect to the completed phase and the completed phase has been placed into service, consistent with phase advisory guidance issued by the National Park Service. Any claims of a tax credit associated with a completed phase of a phased rehabilitation are contingent upon final certification of the completed project. Tax credits claimed by a taxpayer, including, but not limited to, the applicant or a third-party transferee of the tax credit, as applicable, associated with a completed phase of a phased rehabilitation are subject to recapture by the Tax Commissioner if an applicant for tax credits fails to submit an approved historic preservation certification application, Part 3 – Request for Certification of Completed Work, for the rehabilitation within 60 months of the date of the advisory determination by the National Park Service that such phase has been completed in accordance with the Secretary of the Interior standards for rehabilitation.

(c) *Procedure for issuance of tax credits reservations and certificates by the state historic preservation officer —*

(1) Any claim for the tax credits authorized pursuant to this section and §11-21-8a of this code shall be accompanied by a tax credit certificate issued by the state historic preservation officer.

(2) The historic preservation certification application, Part 2 – Description of Rehabilitation, will be reviewed by the State Historic Preservation Office for completion and submitted to the National Park Service for full review. At the time the historic preservation certification application, Part 2 – Description of Rehabilitation, is submitted to the National Park Service, the state historic preservation officer shall send a request for the fee prescribed in subsection (e) of this section to the property owner.

(3) The state historic preservation officer shall issue tax credit certificates for rehabilitation projects that the National Park Service has determined have met the Secretary of the Interior standards for rehabilitation based on the issuance of an approved historic preservation certification application, Part 3 – Request for Certification of Completed Work, or a Phase Advisory Determination.

(d) The state historic preservation officer shall prescribe and publish a form and instructions for an application for issuance of the tax credits authorized by this section and §11-21-8a of this code.

(e) *Application fee* - Each application for tax credits authorized pursuant to this section and §11-21-8a of this code shall require a fee payable to the state historic preservation officer equal to the lesser of: (1) 0.5% of the amount of the tax credits requested for in such

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application; and (2) $10,000. The state historic preservation officer shall review and act on all such applications within 30 days of receipt.

Fees collected under this subsection shall be deposited into a special revenue account which is hereby created. The fund shall be administered by the state historic preservation officer and expended for the purposes of administering the provisions of this section and §11-21-8a of this code.

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