

.07 Registered Apprenticeship Program's Obligations Related to Contributions.

Upon request from contractors or subcontractors, registered apprenticeship programs shall provide written documentation to the contractors or subcontractors verifying their affiliation with the applicable program.

.08 Notification of Intended Changes to Designated Registered Apprenticeship Programs or the Fund.

A. Thirty days prior to making a change in the designation of applicable apprenticeship or contribution to the Fund, a contractor or subcontractor shall log onto the Department's website to indicate the intended change.

B. A contractor or subcontractor making payments to the Fund may make a written request to the Secretary that the contributions be directed to a specific pre-apprenticeship or workforce development program.

.09 Registered Apprenticeship Program's Obligations.

A. Upon notice from the Department's Division of Workforce Development and Adult Learning that the registered apprenticeship program has been designated for contributions by a contractor or subcontractor, a registered apprenticeship program shall register on the Department's website.

B. A registered apprenticeship program shall comply with the following requirements:

(1) Complete the requested information on contributions received from contractors and subcontractors for each contract at the Department's website on or before the last day of the month immediately following each calendar quarter; and

(2) Certify that all funds received are used solely for the purpose of improving or expanding apprenticeship training in the State.

.10 Audit of a Registered Apprenticeship Program.

The Secretary, or the Secretary's designee, may require an independent audit by a certified public accountant of a registered apprenticeship program to verify that contributions received from contractors and subcontractors are used consistently with requirements set forth in State Finance and Procurement Article, §§17-6A-01—17-6A-06, Annotated Code of Maryland and this chapter.

.11 Enforcement Procedures.

A. The Secretary, or the Secretary's designee, may investigate whether State Finance and Procurement Article, Title 17, Subtitle 6A, Annotated Code of Maryland, has been violated:

- (1) On the Secretary's, or the Secretary's designee, own initiative;
- (2) On receipt of a written complaint; or
- (3) On referral from another State agency.

B. The Secretary, or the Secretary's designee, may require a contractor, subcontractor, or registered apprenticeship program to produce records as part of its investigation.

C. The Secretary, or the Secretary's designee, may enter a place of business to:

- (1) Interview individuals; or
- (2) Review and copy records.

D. If after an investigation the Secretary, or the Secretary's designee, determines that there is a violation of State Finance and Procurement Article, Title 17, Subtitle 6A, Annotated Code of Maryland, or a regulation adopted to carry out the title, the Secretary shall issue an administrative charge that shall:

- (1) Describe in detail the nature of the alleged violation;
- (2) Cite the provision of law or regulation that is alleged to have been violated; and

(3) State the penalty to be assessed, if any.

E. Within a reasonable amount of time after the issuance of the administrative charge, the Secretary shall send a copy of the administrative charge to the alleged violator by regular mail with notice of the opportunity to request a hearing.

F. Within 30 days of the postmark of the administrative charge sent to the alleged violator, the alleged violator may submit a written request for a hearing on the administrative charge and proposed penalty.

G. If a hearing is not requested within 30 days of the postmark of the administrative charge sent to the alleged violator, the administrative charge, including any penalties, shall become a final order of the Secretary.

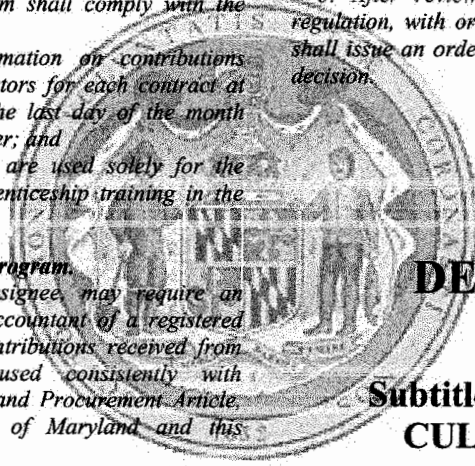
H. If there is a request for a hearing, the Secretary may delegate the hearing to the Office of Administrative Hearings in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

I. A proposed decision of an administrative law judge shall become a final order of the Secretary unless, within 15 days of the issuance of the proposed decision:

- (1) The Secretary orders review of the proposed decision; or
- (2) The alleged violator submits to the Secretary a written request for review of the proposed decision.

J. After review of the proposed decision under §1 of this regulation, with or without a hearing on the record, the Secretary shall issue an order that affirms, modifies, or vacates the proposed decision.

TIFFANY P. ROBINSON
Secretary



**Title 34
DEPARTMENT OF
PLANNING
Subtitle 04 HISTORICAL AND
CULTURAL PROGRAMS**

34.04.07 Historic Revitalization Tax Credit Certifications

Authority: State Finance and Procurement Article, §5A-303, Annotated Code of Maryland

Notice of Proposed Action
[20-120-P]

The Secretary of Planning proposes to amend Regulations .02, .03, .05, and .06 under COMAR 34.04.07 Historic Revitalization Tax Credit Certifications.

Statement of Purpose

The purpose of this action is to amend the regulations that govern Historic Revitalization Tax Credit Certifications to comport with applicable statutory changes made during the 2020 Session of the General Assembly under Chs. 314 and 633, Acts of 2020, effective July 1, 2020.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Collin Ingraham, Chief, Office of Preservation Services, Maryland Historical Trust, 100 Community Place, 3rd Fl., Crownsville, MD 21032-2023, or call 410-697-9558, or email to collin.ingraham@maryland.gov, or fax to 410-697-9616. Comments will be accepted through August 5, 2020. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)–(3) (text unchanged)

(4) “Business entity” [means]:

(a) [A] Means a person, as defined in State Finance and Procurement Article, §1-101(d), Annotated Code of Maryland, who conducts or operates a trade or business in the State that is:

(i) (text unchanged)

(ii) Subject to State income tax as defined in Tax-General Article, §10-101(n), Annotated Code of Maryland; [or]

(b) [An] Means an organization conducting or operating a business in the State that is:

(i) (text unchanged)

(ii) Exempt from taxation under §501(c)(3) of the federal Internal Revenue Code[.]; and

(c) Includes the governing body of a condominium or cooperative housing corporation.

(5)–(6) (text unchanged)

(7) “Common elements” means:

(a) All of a condominium except for the condominium units within the condominium; or

(b) All of a cooperative project except for the portions of the cooperative project that are leased, or are made available for lease, for exclusive occupancy by a stockholder or member of the cooperative housing corporation under a proprietary lease.

(8) “Condominium” means property subject to the condominium regime established under Real Property Article, Title 11, Annotated Code of Maryland.

(9) Condominium Unit.

(a) “Condominium unit” means a three-dimensional space identified as a unit in a declaration and on a condominium plat recorded in accordance with Real Property Article, Title 11, Annotated Code of Maryland, and includes all improvements contained within the space.

(b) Unless otherwise specified in the declaration or plat for the condominium, for a condominium created after July 1, 1981, “condominium unit” includes:

(i) If walls, floors, or ceiling are designated as boundaries for the unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces of the unit;

(ii) If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of the unit, any portion thereof serving only the unit; and

(iii) All spaces, interior partitions, and other fixtures and improvements within the boundaries of the unit.

(10) “Cooperative housing corporation” means a domestic or foreign corporation qualified in the State, either stock or nonstock, having only one class of stock or membership, in which each stockholder or member, by virtue of such ownership or membership, has an interest in a cooperative housing corporation, which interest is coupled with a possessory interest in real or personal property or both and evidenced by a membership certificate.

(11) “Cooperative project” means all real and personal property in the State owned or leased by a cooperative housing corporation for the primary purpose of residential use.

[(7)] (12) (text unchanged)

(13) “Governing body” means:

(a) With respect to a condominium, the council of unit owners, board of directors, or any committee of the council of unit owners or board of directors of the condominium; or

(b) With respect to a cooperative housing corporation, the board of directors or other entity established to govern the cooperative housing corporation.

[(8)] (14)–[(27)] (33) (text unchanged)

.03 The Historic Revitalization Tax Credit Program.

A.—C. (text unchanged)

D. The Small Commercial Tax Credit.

(1) A rehabilitation will qualify as a certified rehabilitation eligible for the Small Commercial Tax Credit if:

(a)–(c) (text unchanged)

(d) The structure:

(i) (text unchanged)

(ii) After completion of the rehabilitation, is a residential unit located within a consecutive series of similar residential units that are arranged side by side in a row and has been sold by a developer who undertook the rehabilitation to an individual or individuals for residential use; [or]

(iii) Is either an agricultural structure or a post-World War II structure; [and] or

(iv) Is a condominium or cooperative project and the rehabilitation impacts only common elements of the condominium or cooperative project; and

(e) (text unchanged)

(2)–(3) (text unchanged)

E. (text unchanged)

.05 Procedures for Application for and Review of Certifications of Eligibility of Certified Historic Structure Rehabilitations (Part 2).

A.—B. (text unchanged)

C. Small Commercial Tax Credit.

(1) For the rehabilitation of a condominium or cooperative housing project, a Part 2 application for the Small Commercial Tax Credit shall be submitted by the governing body of the condominium or cooperative housing project.

[(1)] (2)– [(2)] (3) (text unchanged)

[(3)] (4) If the Director determines that the criteria set forth in [§C(2)(a) and (b)] §C(3)(a) and (b) of this regulation are satisfied, the Director shall:

(a)–(e) (text unchanged)

[(4)] (5) If the Director determines that any of the criteria set forth in [§C(2)(a) and (b)] §C(3)(a) and (b) of this regulation is not satisfied, the Director shall deny the Part 2 application or amendment and promptly send written notice of the denial to the applicant.

[(5)] (6) (text unchanged)

D. (text unchanged)

**.06 Procedures for Certification of Completed Rehabilitation
(Part 3).**

A.—F. (text unchanged)

G. Allocation and Transfer of Tax Credit.

(1) *The tax credit amount determined under §E of this regulation by the Director upon review of a Part 3 application:*

(a) *That is filed by a business entity, may be allocated among the partners, members, or shareholders of the entity as may be agreed to by the partners, members, or shareholders; or*

(b) *For a Competitive Commercial Tax Credit, may be transferred in whole or part by the Part 3 applicant to any one or more individuals or business entities as may be agreed to by the applicant and the individual or business entity.*

(2) *The tax credit amount allocated or transferred under this section to an individual or business entity may be applied against the total tax otherwise payable by the individual or business entity for the taxable year during which the certified rehabilitation was completed.*

(3) *If the tax credit amount allocated or transferred under this section to an individual or business entity exceeds the total tax payable by the individual or business entity:*

(a) *The individual or business entity may claim a refund in the amount of the excess; or*

(b) *As to the transferee of all or a portion of the Competitive Commercial Tax Credit, the transferee may transfer any amount not claimed as a refund to any other individual or business entity.*

(4) *Any agreement concerning the allocation or transfer of a tax credit amount under this section shall be in writing and executed by all parties to the agreement.*

