

New Law Continues, Expands Maryland Historic Tax Credit Program

On May 20, Maryland Gov. Martin O'Malley signed into law a bill (H.B. 475) extending the state's historic tax credit program and expanding it to authorize new tax incentives for non-historic projects and for energy efficiency.

The Sustainable Communities Act of 2010 replaces the former Maryland Heritage Structure Rehabilitation Tax Credit with the broader new Sustainable Communities Tax Credit, which is authorized for four fiscal years, through June 30, 2014.

The new law, based largely on a proposal by the governor, ties together rehabilitation of existing buildings with state policies designed to encourage smart growth, green building, and sustainability. The Act's provisions are effective July 1, 2010, the start of FY 2011.

Main Provisions

Key provisions include:

- Continuing a state tax credit, equal to 20% of qualified rehab costs, for historic owner-occupied homes and historic commercial properties (i.e. properties other than owner-occupied residences). A single annual competitive application cycle for commercial historic rehab projects is continued.
- Allowing the sustainable communities tax credit for rehab projects involving commercial non-historic properties (i.e. buildings 50 years or older) located in eligible geographic areas. In FY 2011, this tax credit will be a maximum 10% of rehab costs, and generally limited to properties in state Main Street communities and in areas – determined by the state Department of Transportation – that qualify them as transportation-oriented developments. Targeting will be expanded starting in FY 2012 to also favor projects in certain other areas, such as priority funding areas, military base realignment areas, etc. This expanded targeting will pull together designated geographic areas from various other state programs.
- Capping the annual amount of sustainable tax credits issued for commercial projects (historic, non-historic) in FY 2011 at \$10 million, including \$1 mil-

lion reserved for non-historic projects. For future years of the program, the state legislature will decide in annual appropriations bills the program's funding amount, non-historic set-aside level, and non-historic credit rate.



David Raderman

- Establishing a new "bonus" tax credit, equal to an extra five percentage points, for commercial projects (historic, non-historic) that seek and achieve LEED Gold certification.

Reaction to Law

Officials reacted favorably, particularly to continuing the 20% state tax credit for commercial historic projects beyond its scheduled sunset of June 30, 2010.

"We're very happy that the program has been kept alive. Because left with the current economic situation, it's future was very much in doubt," said J. Rodney Little, Director of the Maryland Historical Trust, which administers the tax credit program.

Tax attorney David Raderman, a partner in the Baltimore law firm Gallagher Evelius & Jones LLP, called it "great to get an extension of the credit in a tough budget year."

Little was also pleased with the program's expansion to encourage rehabilitation of essentially all buildings. In addition, he indicated that the new geographic targeting for non-historic projects is a "foot in the door" to reverse years of public policies that have encouraged suburban sprawl and of new construction requiring costly new infrastructure. "Why build something new when you're looking at, say, in the case of Baltimore, several tens of thousands of abandoned buildings?" Little asked.

The Act continues a single annual competitive application round, for both historic and non-historic tax credit projects. Owner-occupied residential rehab tax credit projects aren't subject to competitive application cycles or the annual credit volume cap.

Impacts of Law

Little expected that one impact of the new law will

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be a greater number of applications received in the FY 2011 funding round. The next application deadline is tentatively set for August 31, 2010.

But with just \$10 million in credit authority, Little anticipated that only five to 10 commercial projects will be approved for tax credits in the FY 2011 funding round. The new law limits individual awards to a maximum \$3 million.

Raderman also pointed out that it will be “interesting to see how all of these new priorities [target areas] for projects will translate into actual allocations of the credit.” He wondered whether the state’s scoring system will narrow the scope to just one or two types of projects. “The priorities do seem to favor urban projects, and Baltimore would seem to have the projects that fit the priorities,” he noted.

Little estimated that about 90% of the approved commercial historic rehab tax credit projects in the 14-year history of Maryland’s program have been in Baltimore. **TCA**



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Applications Invited for Rural Housing Grants

The Rural Housing Service is soliciting applications by June 28 for \$10.1 million in grants under its Housing Preservation Grant program that can be used to help fund repairs or rehabilitation to rural rental or owner-occupied housing occupied by very low- or low-income households. Eligible applicants are state and local governments, nonprofits, Indian tribes, or groups of these.

(<http://edocket.access.gpo.gov/2010/pdf/2010-9648.pdf>)

HUD Issues Notice on Homeless Funding Competition

HUD has published information on electronic registration and application procedures for its future \$1.68 billion, FY 2010 funding competition under its Continuum of Care Homeless Assistance Program. Registration is required to be notified once the competition opens.

(<http://edocket.access.gpo.gov/2010/pdf/2010-9617.pdf>)

HUD Issues Proposed Rule to Implement HEARTH Act

HUD is soliciting public comments by June 21 on a proposed rule to implement provisions of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, which consolidates three separate federal homeless assistance programs into a single grant program and creates an Emergency Solutions Grant Program and Rural Housing Stability Program.

(<http://edocket.access.gpo.gov/2010/pdf/2010-8835.pdf>)

Suggestions Invited for Tax Rulemaking Schedule

The U.S. Treasury and IRS are soliciting public suggestions by June 11 for tax rulemaking projects to be included on their 2010-2011 Priority Guidance Plan. The plan will consist of tax guidance projects (e.g., regulations) that Treasury and IRS plan to work on during the one-year period beginning July 1, 2010.

(<http://www.irs.gov/pub/irs-drop/n-10-43.pdf>)