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State of the State Historic Tax Credits

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Since its inception as part of the Tax Reform Act of 1976, the federal historic tax credit (HTC) has aided with nearly $100 billion in rehabilitation investment. This law provided a 25 percent federal income tax credit on monies used in the rehabilitation of commercial, agricultural, industrial or rental buildings that are certified historic structures. At the 10-year mark, the Tax Reform Act of 1986 instituted a two-tier program that included a 10 percent tax credit for non-historic buildings placed in service before 1936. That act also reduced the historic tax credit from 25 to 20 percent and made other changes that made the credit more challenging to use. Nonetheless, in its 36-year history, the HTC has been enormously successful in stimulating the adaptive reuse of historic buildings throughout the country.

The National Park Service reports that since the federal HTC program was introduced, it has assisted in the creation of more than two million jobs through the adaptive reuse of 37,000 historic properties. While the success of the federal program is undeniable, a critical supplement and added incentive has been HTCs and incentives offered on the state level.

As the historic preservation movement evolved though the 1980s, states enacted preservation laws that required the identification and protection of cultural resources as public assets. While governments promulgated regulations to protect these assets, many states built on the success of the federal HTC program and began to offer statewide incentives for the rehabilitation of historic buildings.

Photo: Courtesy of Heritage Consulting Group
The Euclid-71st Street Building was constructed in 1919 in Cleveland.

Among the first states to offer state HTC programs were New Mexico (1984), Wisconsin (1987) and Colorado (1990). During the 1990s, as the federal HTC program continued to prove successful, a second wave of states embraced the idea

continued on page 2

continued from page 1

of instituting their own programs; among those states were North Carolina, Missouri, Virginia, Michigan and Maryland. Finally, a third wave of state HTC programs were introduced in the first decade of the new millennium, including those in: Iowa, Rhode Island, Mississippi, New York and Minnesota.

During these same years, many states embraced an alternative financial incentive, one that freezes property assessments. One of the earliest was in Oregon, which offered a 15-year frozen assessment. This program, which began in 1975, has gone through two sunset reviews and was most recently renewed in 2009 as a 10-year property assessment freeze. Despite the renewal, the incentive is considerably less attractive in that the state has passed a 3 percent cap on overall property assessment growth.

California, whose property tax abatement was enacted by the Mills Act, is the second state to freeze property assessments. The challenge with property tax assessments, however, is that the revenues are typically lost not to the state but to the county. As such, this type of incentive is much more likely to be found locally, in places such as Chicago with its Class L license. Another incentive, one which is not explored here, is the availability of and access to low-interest bond funds.

As of December 2011, 30 states offer state HTCs as companion programs to the federal HTC program. Unlike the federal program, which is governed by one set of rules and provides an uncapped 20 percent credit to certified rehabilitations of certified historic structures, each state's HTC program has its own rules and regulations. In general, state HTC programs have eligibility requirements similar to those of the federal program but the mechanisms for governance, allotment and credit amount differ from state to state. State HTC awards range from 5 percent to 50 percent of qualified rehabilitation costs (QREs) with most states offering between 20 and 30 percent credits. Some states piggyback on the federal HTC program and offer state credits that are nearly automatic for federally qualifying project. Other states have a competitive process with limited awards.

When exploring the use of state HTCs, it is important to understand that each program is unique and each has individual regulations and requirements. In certain states, including Maryland and Ohio, the state programs have aggregate caps that may be based on the fiscal year or per funding round. Other states, including New York, have project caps that limit the amount of credits that can be awarded to each project regardless of percentage of QREs.

Also of note when investigating the use of state HTCs is whether the credit is competitive or by right. In states such as Massachusetts and Ohio, state tax credits are awarded through a competitive process that awards tax credits based on matrices of criteria

continued on page 3

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continued from page 2

that include the number of jobs created, the impact on distressed communities, total investment, leveraged investment and local support. In total, those HTC programs most used today are those of Maine, New York, Massachusetts, North Carolina and Virginia.

The myriad of rules and regulations can make the utilization of the state HTCs cumbersome and, depending on the amount of the tax credits, may prove more trouble than they're worth. Although states continue to introduce HTC programs, Minnesota in 2010 and New Jersey and Pennsylvania where legislation is pending, the Great Recession has put the future of HTCs in doubt.

Photo: Courtesy of Heritage Consulting Group
An interior view of the Euclid-71st Street Building, which has been used as a tenant office building and for warehousing.

Prior to the recent economic downturn, the Rhode Island state HTC, one of the most successful in the nation, was eliminated due to its expense. More recently, the historic tax credit debate in the Missouri Legislature has left that program's future in flux. In other states, previously uncapped HTC programs have been capped and their efficacy has been reduced significantly. While state HTCs have proved to be economically beneficial to states by creating jobs, increasing long-term tax revenue and revitalizing urban areas, current economic and political realities remain constant threats to their survival. This curtailment is somewhat ironic as it is at this very time that financing historic rehabilitation projects is most challenging.

One state where the HTC continues to thrive is Ohio. Since being enacted in December 2006, the Ohio tax credit has been awarded to 35 completed projects with total project costs in excess of $400 million. The Ohio HTC is administered by the Ohio Department of Development in conjunction with the Ohio Historical Society. It is awarded through a competitive process with two application rounds per year, depending on available funding. The HTC reflects 25 percent of the state-defined QREs and the amount of

continued on page 4

continued from page 3

available funds is capped for each round of applications.

Scoring for the Ohio HTC is based on nine criteria including leveraged investment, financing secured, timeliness to completion, physical scope and construction jobs, end use and job density, vacant property, letters of support, benefit to low-income in jurisdiction and benefit to low-income in census tract. Here, the program is considered an economic development tool to stimulate investment, rebuild the historic cores of the cities and create construction jobs. Safeguards exist to ensure that funds are distributed across the state and priority goes to those projects most shovel-ready, where ownership has lined up core financing and where project design is mature.

The downside of such competitive programs, however, is that they require a significant investment by the developer on a project that truly may not be viable without the state HTCs. It also stilts the development process in two ways: first, it typically adds two to four months in process so the state can evaluate and rank proposed projects; second, if the developer relies on the tax credits, the project remains on hold until the announcement.

The Euclid-71st Street Building in Cleveland was recently awarded HTCs in the state's seventh application round. The Euclid-71st Street Building was constructed in 1919 as a tenant office building and was used most recently for warehousing. The currently vacant warehouse will be transformed by local developer Scott Garson into a modern commercial building within Cleveland's growing medical corridor, using $4.3 million in state HTCs twinned with the 20 percent federal HTCs. The Ohio HTC application was shepherded through review and approval by historic consultants, Heritage Consulting Group, Domokur Architects and Novogradac & Company LLP. According to Garson, the project could not have happened without the state HTC award.

Despite their success in states like Ohio, state HTCs remain fragile in these current economic times. Certainly the programs fulfill their purpose: historic buildings are getting rehabilitated and with that the local property tax base grows and downtowns begin to buzz. Yet, unlike the federal government, state governments face the challenge of balancing their budgets. In some form, revenues must match expenses. Fundamental priorities such as highways and bridges, education, social services and criminal justice are all competing for a fair share. Public leaders face the unenviable choice of trying to figure out what to cut and where. Such was the case in Michigan where the state Legislature simply did not think it could afford to continue what had been a very successful state HTC program. So overall, while the state HTCs are doing fine, it is a program that the historic rehabilitation community needs to continue to fight for.

States with State Historic Tax Credit Programs

State	Amount of Credit (%)	
	Income Producing	Non-Income Producing
Arkansas	25	25
Colorado	20	20
Connecticut	25	25
Delaware	20	30
Georgia	25	25
Indiana	20	
Iowa	25	25
Kansas	25	25
Kentucky	20	30
Louisana	25	25
Maine	25	
Maryland	20	20
Massachusetts	20	
Minnesota	20	
Mississippi	25	25
Missouri	25	25
Montana	5	
New Mexico	50	50
New York	20	20
North Carolina	20	30
North Dakota	25	25
Ohio	25	25
Oklahoma	20	
Rhode Island		30
South Carolina	10	25
Utah	20	20
Vermont	10	
Virginia	25	25
West Virginia	10	20
Wisonsin	5	25

(Source: Heritage Consulting Group)

continued on page 5

continued from page 4

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