

**NOTICE OF
PUBLIC HEARING AND
INTENT TO ADOPT REVISIONS TO THE
RULES FOR GEORGIA HISTORIC PRESERVATION REHABILITATION TAX CREDIT**

Notice is hereby given that the Department of Community Affairs (DCA) will hold a public hearing in accordance with the Administrative Procedures Act, O.C.G.A. §50-13-1, et seq. The hearing will afford all interested persons reasonable opportunity to provide data, views, or arguments regarding proposed revised rules for the Georgia Historic Preservation Rehabilitation Tax Credit (Rules of the Georgia Department of Community Affairs, Chapter 110-37-6, et seq.).

A public hearing will be held virtually on July 26, 2022, at 11:30 AM. The link to this public hearing is contained below, as well as being placed on the website of the Department of Community Affairs in the "Announcements" section of the agency's website. Please contact Ms. Jennifer Dixon with questions. Access to the meeting can be gained through the following link:

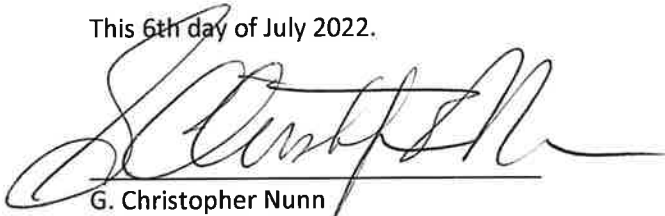
[Click here to join the meeting](#)

Any party wishing to provide data, views, or arguments regarding the proposed revised rules in writing may also do so by submitting them to: Georgia Historic Preservation Rehabilitation Tax Credit Program, Historic Preservation Division, Georgia Department of Community Affairs, 60 Executive Park South, N.E., Atlanta, Georgia 30329, or by emailing comments to Jennifer.Dixon@dca.ga.gov. These written comments should be received no later than 5:00 P.M. on August 8, 2022.

Notice is hereby given that a Board meeting will be held at 10:30 AM in Boardroom 302 at DCA offices on August 10, 2022. The Board of the Georgia Department of Community Affairs intends to consider and adopt the revised rules of the Georgia Historic Preservation Rehabilitation Tax Credit Program, Chapter 110-37-6, et seq.

The Department's authority to administer this program is recognized in O.C.G.A. 48-7-29.8. A complete copy of these proposed revised rules is available for public inspection in the Historic Preservation Division, Georgia Department of Community Affairs, 60 Executive Park South, N.E., Atlanta, Georgia 30329, between the hours of 8:30 a.m. and 4:30 p.m., each Monday through Friday (excluding State holidays). A complete copy of the proposed rules can also be obtained by contacting Director Jennifer Dixon at Jennifer.Dixon@dca.ga.gov or by accessing it on the Department's website at <https://dca.ga.gov>.

This 6th day of July 2022.



G. Christopher Nunn



Synopsis of Proposed Revised Rules Adoption Georgia Historic Preservation Rehabilitation Tax Credit

Georgia DCA proposes to modify the Georgia State Income Tax Credit for Rehabilitated Historic Property (O.C.G.A. §48-7-29 et seq.) to effective dates relative to new credit caps, further clarify statutory language, and update the review fee schedule.

The Department of Community Affairs board intends to adopt the revised Georgia State Income Tax Credit for Rehabilitated Historic Property program rules in August 2022.

The Department of Community Affairs developed the proposed revised rules to govern the operation and oversight of all State Income Tax Credits for Rehabilitated Historic Properties. The proposed revised rules seek to establish the following:

- Additional language clarifies effective program sunset dates as well as legislative changes applied to annual credit caps.
- Further define SHPO and HPD definitions
- Add clarifying language to address single application approval per statutory language
- Increase review fee cap.



Synopsis of Proposed Revised Rules Adoption Georgia Historic Preservation Rehabilitation Tax Credit

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Chapter 110-37-6-.03 (4) Add clarifying language to include new credit categories created by SB6 and HB469.	7-8
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**RULES
OF
GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS
HISTORIC PRESERVATION**

**CHAPTER 110-37-6
GEORGIA STATE INCOME TAX CREDIT PROGRAM
FOR REHABILITATED HISTORIC PROPERTY**

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110-37-6-.01 Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) “Certified rehabilitation” as defined in O.C.G.A. Sec. 48-7-29.8 means “repairs or alterations to a certified structure which are certified by the Department as meeting the United States Secretary of Interior’s Standards for Rehabilitation or the Georgia Standards for Rehabilitation” as provided in this chapter.

(b) “Certified structure” as defined in O.C.G.A. Sec. 48-7-29.8 means “a historic building or structure that is located within a national historic district, individually listed in the National Register of Historic Places, individually listed in the Georgia Register of Historic Places, or is certified by the Department as contributing to the historic significance of a Georgia Register Historic District.”

(c) “Department” means the Department of Community Affairs.

(d) “Division” means the Historic Preservation Division of the Department of Community Affairs.

(e) “Final certification” means approval of a completed rehabilitation associated with review of a Rehabilitated Historic Property Application Form Part B and which meets the requirements of a certified rehabilitation.

(f) “Functionally related historically” means a group of buildings and/or structures judged by the Department to have been directly associated to serve an overall purpose or share an associative relationship within a designated or identifiable historic or operational period. Buildings and/or structures that are functionally related historically may or may not exhibit the same or similar functions, but will exhibit usages that are related within their historic contexts.

(g) “Georgia Register of Historic Places” or “Georgia Register” means the Georgia Register of districts, sites, buildings, structures, and objects significant in Georgia history, architecture, engineering, and culture. For the purposes of this chapter, reference to the Georgia Register shall also denote reference to the National Register of Historic Places.

(h) “Georgia State Income Tax Credit Program for Rehabilitated Historic Property” means the program established by O.C.G.A. Sec. 48-7-29.8.

(i) “Historic building” or “historic structure” means a building or structure that is listed individually in the Georgia Register, or is located within a Georgia Register listed historic district and is certified by the Department, at the time of Rehabilitated Historic Property Application Form Part A evaluation, as contributing to the historic significance of that district. For purposes of the chapter, reference to “property” shall be interchangeable with historic building and historic structure where applicable within the context of a rule.

(j) “Historic District” means a geographically definable area, urban or rural, that possesses a significant concentration, linkage or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(k) “Historic Home” as defined in O.C.G.A. Sec. 48-7-29.8 means “a certified structure which, or any portion of which is or will, within a reasonable period, be owned and used as the principle residence of the person claiming the tax credit allowed under O.C.G.A. Sec. 48-7-29.8. Historic home shall include any structure or group of structures that constitute a multifamily or multipurpose structure, including a cooperative or condominium. If only a portion of a building is used as such person’s principal residence, only those qualified rehabilitation expenditures that are properly allocable to such portion shall be deemed to be made to a historic home.”

(l) “Internal Revenue Code of 1986” is defined in O.C.G.A. Sec. 48-1-2.

(m) “National historic district” means a historic district that is listed in the National Register of Historic Places.

(n) “Net Profit of the Sale” means the gain upon the sale determined based upon the Internal Revenue Code of 1986 with any adjustments required by Chapter 7 of Title 48 of the O.C.G.A. In the event the gain is deferred and or exempted based on provisions of the Internal Revenue Code of 1986, the deferral and or exemption shall be disregarded in determining the net profit of the sale.

(o) “Potential historic district” means a historic district that appears to meet Georgia Register criteria and possesses historic integrity based on current information, and for which listing in the Georgia Register is imminent.

(p) “Preliminary certification” means approval of a proposed rehabilitation, with conditions as applicable, associated with review of a Rehabilitated Historic Property Application Form Part A.

(q) “Principal residence” means the principal domicile of the taxpayer and not a secondary residence of the taxpayer.

(r) “Qualified rehabilitation expenditure” as defined in O.C.G.A. Sec. 48-7-29.8 means “qualified rehabilitation expenditure as defined by Section 47(c)(2) of the Internal Revenue Code of 1986 and any amount properly chargeable to a capital account expended in the substantial rehabilitation of a structure that by the end of the taxable year in which the certified rehabilitation is completed is a certified structure. This term does not include the cost of acquisition of the certified structure, the cost attributable to enlargement or additions to an existing building, site preparation, or personal property.” For purposes of this chapter, for a historic home qualified rehabilitation expenditures shall include expenditure types defined by Section 47(c)(2) of the Internal Revenue Code of 1986 and allowed by Internal Revenue Service Regulation 1.48-12. Expenditures directly associated with the rehabilitation not incurred by the owner of the certified structure are not considered qualified rehabilitation expenditures.

(s) “Reasonable period” means a period not to exceed six months following the completion of the certified rehabilitation.

(t) “Receiving the Credit” means the last day of the taxable year in which the certified rehabilitation is completed.

(u) “Rehabilitated Historic Property” means property that qualifies for the credit provided by O.C.G.A. Sec. 48-7-29.8.

(v) “Rehabilitation” means the process of returning or bringing a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the building(s) which are significant to its historic, architectural and cultural values. Repairs or alterations exclusively or principally associated with additions, updating kitchens and/or bathrooms, cosmetic finish treatments, or replacing building components at the end of their expected service life are not rehabilitations within the meaning of this definition.

(w) “Standards for Rehabilitation” or “Standards” means the United States Department of Interior’s Standards for Rehabilitation provided by 36 CFR Part 67.7 or the Georgia Standards for Rehabilitation provided by Department of Community Affairs’ rules.

(x) “State Historic Preservation Officer” (SHPO) means the official designated by the Governor of Georgia to administer the state’s historic preservation program under the National Historic Preservation Act and O.C.G.A Sec. 12-3-50.1(c)(13). SHPO may also refer to the

agency that carries out the functions of the State Historic Preservation Officer, which for Georgia is the Historic Preservation Division of the Georgia Department of Community Affairs.

(y) "Substantial rehabilitation" as defined in O.C.G.A. Sec. 48-7-29.8 means "rehabilitation of a certified structure for which the qualified rehabilitation expenditures, at least 5 percent of which must be allocable to the exterior during the 24 month period selected by the owner ending with or within the taxable year, exceed:

(A) For a historic home, the lesser of \$25,000 or 50 percent of the adjusted basis of the property at the beginning of the 24 month period as defined in subparagraph (a)(1)(B) of O.C.G.A. Sec. 48-5-7.2, which is the fair market value as determined by the county tax assessor; or, in the case of a historic home located in a target area, \$5,000; or

(B) For any other certified structure, the greater of \$5,000 or the adjusted basis of the property at the beginning of the 24 month period."

(C) For purposes of this chapter, substantial rehabilitation and substantially rehabilitated may also generally refer to project costs as meeting minimum expenditure requirements as defined in O.C.G.A. Sec. 48-7-29.8 and as provided in this chapter.

(z) "Target area" as defined in O.C.G.A. Sec. 48-7-29.8 means "a qualified census tract under Section 42 of the Internal Revenue Code of 1986, found in the United States Department of Housing and Urban Development document number N-94-3821; FR-3796-N-01." For purposes of this chapter, the Department of Housing and Urban Development may also be referred to as HUD.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.01

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Definitions" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Repealed: New Rule of same title adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

Amended: F. Aug. 10, 2022; eff. Sept 10, 2022.

110-37-6-.02 Program Administration.

(1) The Historic Preservation Division of the Georgia Department of Community Affairs shall develop applications, forms, and other materials as necessary to administer eligibility and certification for the Georgia State Income Tax Credit Program for Rehabilitated Historic Property provided by O.C.G.A. Sec. 48-7-29.8.

(2) The Division may utilize National Park Service guidance materials for use in reviewing projects and providing guidance to applicants.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.02

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Requirements for Preliminary and Final Certification of Rehabilitated Historic Properties" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Amended: F. Nov. 5, 2008; eff. Nov. 25, 2008.

Repealed: New Rule entitled "Program Administration" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

110-37-6-.03 Program Benefits and Limitations; Substantial Rehabilitation.

(1) The amount of the credit shall be determined pursuant to O.C.G.A. Sec. 48-7-29.8.

(a) For all certified rehabilitations the amount of the credit equals 25% of qualified rehabilitation expenditures.

(b) For certified rehabilitation of a historic home in a HUD designated target area the amount of the credit equals 30% of qualified rehabilitation expenditures.

(2) Effective for tax years beginning on or after January 1, 2009:

(a) The amount of the credit for a certified rehabilitation of a historic home may not exceed \$100,000 in any 120 month (10-year) period.

1. If only a portion of a historic home is used as the owner's principal residence, only those qualified rehabilitation expenditures that are properly allocable to such portion shall be deemed to be made to a historic home. The expenditures that then are allocable to the remainder of the building are not eligible for the credit.

2. In the case of a certified rehabilitation of a historic home that is a unit of a multifamily or multipurpose structure or group of structures the credit for the entire certified structure is limited to \$100,000. In this situation the \$100,000 credit shall be allocated between the owners based upon the qualified rehabilitation expenditures of each owner.

(b) The amount of the credit for a certified rehabilitation of a certified structure, excluding historic homes, may not exceed \$300,000 in any 120 month (10-year) period.

1. Individual buildings within a group of buildings listed in the Georgia Register as an individual property/building(s), judged by the Department to be functionally related historically and with distinct primary/secondary hierarchical and proportional relationships, are collectively a single certified structure. Accordingly, the credit for the certified structure in aggregate is limited to \$300,000.

2. Individual buildings within a group of buildings listed in the Georgia Register as an individual property/building(s), judged by the Department to be functionally related historically and without distinct primary/secondary hierarchical and proportional relationships, may be separately eligible for the credit.

3. Individual buildings within a group of buildings determined to be contributing to a Georgia Register listed historic district, judged by the Department to be functionally related historically and with distinct primary/secondary hierarchical and proportional relationships, are collectively a single certified structure. Accordingly, the credit for the certified structure in aggregate is limited to \$300,000.

4. Individual buildings within a group of buildings determined to be contributing to a Georgia Register-listed historic district, judged by the Department to be functionally related historically and without distinct primary/secondary hierarchical and proportional relationships, may be separately eligible for the credit.

5. In the case of a certified rehabilitation of a certified structure with multiple units and ownership, the credit for the entire certified structure is limited to \$300,000. In this situation the \$300,000 credit shall be allocated between the owners based upon the qualified rehabilitation expenditures of each owner.

(c) The aggregate amount of credits for certified rehabilitations, including historic homes, earning and applying for \$300,000 or less in credits may not exceed \$5,000,000 in calendar year 2022.

1. Assignment and award of credits shall be in accordance with rules and procedures established by the Department of Revenue.

2. Determination and assignment of actual amount of available credit for an individual project shall be in accordance with rules and procedures established by the Department of Revenue

(3) Effective for certified rehabilitations completed on or after January 1, 2017 and on or before December 31, 2027:

(a) The amount of the credit for a certified rehabilitation of a certified structure, excluding historic homes, may not exceed \$5,000,000 in any 120 month (10-year) period during which time only a single application for any individual certified structure may be approved if the amount of credits received is greater than \$300,000.

1. Individual buildings within a group of buildings listed in the Georgia Register as an individual property/building(s), judged by the Department to be functionally related historically and with distinct primary/secondary hierarchical and proportional relationships, are collectively a single certified structure. Accordingly, the credit for the certified structure in aggregate is limited to \$5,000,000.

2. Individual buildings within a group of buildings listed in the Georgia Register as an individual property/building(s), judged by the Department to be functionally related historically and without distinct primary/secondary hierarchical and proportional relationships, may be separately eligible for the credit.

3. Individual buildings within a group of buildings determined to be contributing to a Georgia Register listed historic district, judged by the Department to be functionally related historically and with distinct primary/secondary hierarchical and proportional relationships, are collectively a single certified structure. Accordingly, the credit for the certified structure in aggregate is limited to \$5,000,000.

4. Individual buildings within a group of buildings determined to be contributing to a Georgia Register-listed historic district, judged by the Department to be functionally related historically and without distinct primary/secondary hierarchical and proportional relationships, may be separately eligible for the credit.

5. In the case of a certified rehabilitation of a certified structure with multiple units and ownership, the credit for the entire certified structure is limited to \$5,000,000. In this situation the \$5,000,000 credit shall be allocated between the owners based upon the qualified rehabilitation expenditures of each owner.

(b) The amount of the credit for a certified rehabilitation of a certified structure, excluding historic homes, where the project creates 200 or more full-time, permanent jobs or \$5,000,000 in annual payroll within two years of the placed in service date may not exceed \$10,000,000 in any 120 month (10-year) period during which time only a single application for any individual certified structure may be approved.

1. Individual buildings within a group of buildings listed in the Georgia Register as an individual property/building(s), judged by the Department to be functionally related historically and with distinct primary/secondary hierarchical and proportional relationships, are collectively a single certified structure. Accordingly, the credit for the certified structure in aggregate is limited to \$10,000,000.

2. Individual buildings within a group of buildings listed in the Georgia Register as an individual property/building(s), judged by the Department to be functionally related historically and without distinct primary/secondary hierarchical and proportional relationships, may be separately eligible for the credit.

3. Individual buildings within a group of buildings determined to be contributing to a Georgia Register-listed historic district, judged by the Department to be functionally related historically and with distinct primary/secondary hierarchical and proportional relationships, are collectively a single certified structure. Accordingly, the credit for the certified structure in aggregate is limited to \$10,000,000.

4. Individual buildings within a group of buildings determined to be contributing to a Georgia Register-listed historic district, judged by the Department to be functionally related historically and without distinct primary/secondary hierarchical and proportional relationships, may be separately eligible for the credit.

5. In the case of a certified rehabilitation of a certified structure with multiple units and ownership, the credit for the entire certified structure is limited to \$10,000,000. In this situation the \$10,000,000 credit shall be allocated between the owners based upon the qualified rehabilitation expenditures of each owner.

(4) The aggregate amount of credits may not exceed:

(a) \$25,000,000 in each calendar year 2017 through 2022 for certified rehabilitations earning and applying for more than \$300,000 in credits

(b) \$5,000,000 in calendar year 2022 for certified rehabilitations earning and applying for \$300,000 or less in credits, including historic homes

(c) \$5,000,000 in each calendar year 2023 and 2024 for certified rehabilitations earning and applying for \$100,000 or less in credits for historic homes

(d) \$30,000,000 in each calendar year 2023 through 2027 for certified rehabilitations, excluding historic homes.

(5) Assignment and award of credits shall be in accordance with rules and procedures established by the Department of Revenue.

(6) Determination and assignment of actual amount of available credit for an individual project shall be in accordance with rules and procedures established by the Department of Revenue.

(7) Assignment, sale, or transfer of tax credits provided by O.C.G.A. Sec. 48-7-29.8 shall be in accordance with rules and procedures established by the Department of Revenue.

(8) Substantial rehabilitation of a certified structure requirements:

(a) Qualified rehabilitation expenditures for substantial rehabilitation purposes must be expended during a continuous 24 month period selected by the taxpayer.

1. For phased projects a 60 month period may be substituted for the 24 month period.

(i) Phased projects must be identified at preliminary certification application.

(b) A minimum of 5 percent of qualified rehabilitation expenditures for substantial rehabilitation purposes must be allocable to the exterior of the certified structure.

(c) For a historic home the qualified rehabilitation expenditures for substantial rehabilitation purposes must exceed the lesser of \$25,000 or 50 percent of the adjusted basis of the property at the beginning of the 24 month period, as defined in subparagraph (a)(1)(B) of O.C.G.A. Sec. 48-5-7.2, which is the fair market value of the building (exclusive of the land) as determined by the county tax assessor.

1. For a historic home located in a target area the qualified rehabilitation expenditures for substantial rehabilitation purposes must be at least \$5,000.

(d) For any other certified structure the qualified rehabilitation expenditures for substantial rehabilitation purposes must exceed the greater of \$5,000 or the adjusted basis of the property as

of the beginning of the 24 month period (60 month period for phased projects). For purposes of this subparagraph, the term “adjusted basis of the property” means the same as used in the Internal Revenue Code of 1986 (exclusive of the land), which is the basis used to determine gain or loss upon sale or disposition exclusive of the land.

(e) Qualified rehabilitation expenditures may only be counted once in determining substantial rehabilitation or determining the amount of the credit.

1. More than one entity may not claim a credit for the same qualified rehabilitation expenditures.

(9) For purposes of the Georgia State Income Tax Credit Program for Rehabilitated Historic Property, no costs pertaining to new additions to the certified structure(s) or new construction adjacent to or related to the certified structure(s) shall be considered a qualified rehabilitation expenditure or be recoverable as a tax credit.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.03

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Certification of Historic Significance" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Repealed: New Rule entitled "Program Benefits and Limitations; Substantial Rehabilitation" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

Amended: F. Aug. 10, 2022; eff. Sept 10, 2022.

110-37-6-.04 Requirements for Preliminary and Final Certification of Rehabilitated Historic Properties; Certification Procedures.

(1) In order to be eligible for certification as rehabilitated historic property:

(a) A property must be a certified structure; and

(b) The rehabilitation must be a certified rehabilitation; and

(c) A property must be substantially rehabilitated.

(2) Who may apply:

(a) Ordinarily, only the fee simple owner of the property in question may apply for the certifications described in this chapter. If someone other than the fee simple owner makes an application for an evaluation of significance or rehabilitation project, the application must be accompanied by a written statement from the fee simple owner indicating that he or she is aware of the application and has no objection to the request for certification.

(b) Owners of properties which appear to meet the Georgia Register criteria but are not yet listed in the Georgia Register of Historic Places or which are located within potential historic districts may request preliminary determinations from the Department as to whether such properties may qualify as certified structures when and if the properties or the potential historic districts in which they are located are listed in the Georgia Register. Preliminary determinations

may also be requested for properties within the boundaries, but outside the period or area of significance of a Georgia Register-listed historic district.

1. Procedures for obtaining these determinations shall be the same as those described in Rule 110-37-6-.05. Such determinations are preliminary.

(i) Preliminary determinations of significance will become final as of the date of the listing of the individual property or potential district in the Georgia Register.

(ii) For properties outside the period or area of significance of a Georgia Register-listed historic district, preliminary determinations of significance will become final when the district documentation on file with the Department is formally amended.

(iii) If during review of a request for certification of rehabilitation the Department determines that the property does not contribute to the significance of the district because of changes which occurred after the preliminary determination of significance was made, certified structure designation will be denied.

(c) Owners of properties not yet designated certified structures may obtain determinations from the Department on whether or not rehabilitation proposals meet the Standards for Rehabilitation. Such determinations will be made only when the owner has requested a preliminary determination of the significance of the property as described in this paragraph and such request for determination has been acted upon by the Department. Final certifications of rehabilitation will be issued only to owners of certified structures.

(3) Requests for certifications of historic significance and rehabilitation and certification by the owner of the substantial rehabilitation shall be made on Rehabilitated Historic Property Application Forms.

(a) Part A – Preliminary Certification must be submitted to request certification of historic significance or to request a preliminary determination of significance, and in providing preliminary certification approval of proposed or ongoing rehabilitation work.

1. Two (2) copies of the Part A application are required; one to be retained by the Department and one to be returned to the applicant with the official comments attached and to be used by the owner to apply for preapproval to claim tax credits from the Department of Revenue.

2. Owners must include adequate documentation as established by the Division for each request, in accordance with information requested in the application and instructions, in order for the application to be processed. Such documentation includes, but is not limited to:

(i) Name and mailing address of owner;

(ii) Name and address of property;

(iii) Name of historic district;

(iv) Photographs representing the condition and appearance of the property (building, site and landscape features) immediately prior to the start of rehabilitation work; photographs at the time of Part A application if rehabilitation activity has been started or completed; photograph(s) showing the property along with adjacent properties, buildings and/or structures on the street; and photographs of interior features and spaces adequate to document significance and integrity;

(I) Photo-keys depicting locational information about the views provided in the photographs.

(II) Additional photographs may be required, as determined by the Department.

(v) Brief description of the condition and appearance immediately prior to the start of rehabilitation work, including alterations, distinctive features and spaces, and date(s) of construction;

(vi) Brief statement of significance summarizing how the property does or does not reflect the values that give the district in which it is located its distinctive historical and visual character, and/or explaining any significance attached to the property itself (i.e., unusual building techniques, important event that took place there, etc.);

(vii) Sketch map clearly delineating property's location;

(viii) Signature of fee simple owner requesting or concurring in a request for evaluation;

(ix) Descriptions of existing conditions and all work associated with the rehabilitation; and

(x) Plans and other drawings providing visual information about project scope and details.

3. Determination that the structure is a certified structure must be confirmed before any proposed rehabilitation work is certified.

4. Reviews of rehabilitation projects will not be undertaken if the owner has objected to the listing of the property in the Georgia Register.

(b) Part B – Final Certification must be submitted to request final certification of a completed project. Approval of Part B certifies that the documented rehabilitation meets the Standards, constitutes a certification of completed rehabilitation work and indicates that the Department has certified that the owner has certified that the rehabilitation project for a certified structure is a substantial rehabilitation, as described in Rule 110-37-6-.03. Information contained in the application is required to obtain a benefit.

1. Two (2) copies of the Part B application are required; one to be retained by the Department and one to be returned to the applicant to be used by the owner to claim tax credits from the Department of Revenue.

(c) Amendment forms must be submitted to request approval of changes to the project subsequent to preliminary certification, request approval of individual project phases, or document changes to the property after final certification for a period of three (3) years.

(d) Application forms are available from the Division.

(4) Reviews of certification requests are processed upon receipt of a complete, adequately documented application, as defined in Rule 110-37-6-.05 and Rule 110-37-6-.07. Where adequate documentation is not provided, the owner will be notified of the additional information needed to undertake or complete review.

(a) In the event the review of the certification is not completed by the due date of the income tax return (including extensions if applicable), the credit provided by O.C.G.A. Sec. 48-7-29.8 shall not be claimed on the original income tax return filed by the taxpayer. However, when certification is completed the taxpayer shall be entitled to claim the credit provided by O.C.G.A. Sec. 48-7-29.8 on an amended income tax return for the taxable year in which the certified rehabilitation is completed and if applicable shall be entitled to receive a refund subject to the limitations provided in O.C.G.A. Sec. 48-2-35.

(5) Approval of applications and amendments to applications is conveyed only in writing by duly authorized officials of the Division acting on behalf of the Department.

(a) Decisions with respect to certifications are made on the basis of the descriptions contained in the application form and other available information. In the event of any discrepancy between the application and any accompanying information submitted with it (such as architectural plans, drawings, specifications, etc.), the owner shall be requested to resolve the discrepancy in writing. In the event the discrepancy is not resolved, the description in the application form shall take precedence.

(6) Certification of substantial rehabilitation of a certified structure requirements:

(a) Owners must certify to the Department that the rehabilitation project for a certified structure is a substantial rehabilitation. When certifying the substantial rehabilitation, the owner shall submit a Part B application and provide:

1. Certification that the rehabilitation project for a certified structure is a substantial rehabilitation; and

2. The amount of the qualified rehabilitation expenditures incurred in the substantial rehabilitation; and

3. For a historic home, the adjusted basis as defined in Rule 110-37-6-.03(5)(c); and

4. For any other certified structure, the adjusted basis as defined in Rule 110-37-6-.03(5)(d); and

5. For a historic home, the date the home was first owned and used as the principal residence, whether the historic home is currently being used as such, and if the historic home is not yet being owned and used as the principal residence, the date on which it will be; and

6. Any other information determined necessary by the Department.

(b) The Department shall certify that the owner has completed this certification.

(c) The certification of substantial rehabilitation by the owner and the amount of the qualified rehabilitation expenditures incurred in the substantial rehabilitation shall be subject to examination by the Department of Revenue. At the request of the Department of Revenue, the owner shall make available the documents that support the substantial rehabilitation and the qualified rehabilitation expenditures incurred in the substantial rehabilitation. The Department of Revenue shall have the authority to disallow the credit provided by O.C.G.A. Sec. 48-7-29.8 based on this examination or based on the failure to provide the documents requested.

(5) Applications describing projects that are not rehabilitations or are lacking necessary information shall not be processed.

(a) An application returned to the property owner because the project is not a rehabilitation or for lack of necessary information must be resubmitted in order to be processed and include all necessary information and other requirements to comprise a complete application that describes a rehabilitation as defined in this chapter.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.04

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Standards for Evaluating Significance Within Registered Historic Districts" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Repealed: New Rule entitled "Requirements for Preliminary and Final Certification of Rehabilitated Historic Properties; Certification Procedures" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

110-37-6-.05 Certification of Historic Significance.

(1) Requests for certifications of historic significance should be made by the owner to determine:

(a) That a property is individually listed in the Georgia Register of Historic Places; or

(b) That a property for which individual listing in the Georgia Register is imminent appears, before the start of rehabilitation, to meet Georgia Register criteria and possess historic integrity; or

(c) That a property is located within a Georgia Register-listed historic district and contributes, before the start of rehabilitation, to the historic significance of such district; or

(d) That a property is located within a potential historic district and appears, before the start of rehabilitation, to contribute to the significance of such district.

(2) To determine whether or not a property is individually listed or is part of a Georgia Register-listed historic district, the owner should contact the Division.

(a) Properties individually listed in the Georgia Register are generally considered a certified structure, however, completion in full of a Part A – Preliminary Certification, according to the instructions accompanying the application, is required for the purposes of this program.

(b) Applications for preliminary determinations of significance for individual listing must show how the property individually meets the Criteria for Evaluation of Properties for the Georgia Register, Rule 110-37-2-.02. Submission of a substantially complete Historic Property Information Form in tandem with the Part A – Preliminary Certification is required. These forms are available from the Department.

1. Preliminary determination of significance by the Department does not constitute listing in the Georgia Register, nor does it constitute a certification of significance as required by law for state tax incentives under the Georgia State Income Tax Credit Program for Rehabilitated Historic Property.

2. If the property is not listed in the Georgia Register for procedural, substantive or other reasons, or if the significance and/or integrity of the property has been lost as a result of alterations or damage, these preliminary determinations of significance will not become final.

(c) Properties located within the boundaries of Georgia Register-listed historic districts must be certified as contributing to the historic significance of the district at the time of Part A application for the purposes of this program. Completion in full of the Part A – Preliminary Certification according to the instructions accompanying the application is required.

1. If the significance and/or integrity of the property is lost as a result of alterations or damage during rehabilitation, this certification of significance will be jeopardized.

(d) An application for a property located in a potential historic district must document how the district meets the criteria and how the property contributes to the significance of that district. This documentation requires submission of a substantially complete Historic District Information Form in tandem with the Part A – Preliminary Certification. These forms are available from the Department.

1. Confirmation by the Department of intent to nominate a potential historic district does not constitute listing in the Georgia Register, nor does it constitute a certification of significance as required by law for state tax incentives under the Georgia State Income Tax Credit Program for Rehabilitated Historic Property.

2. If the potential historic district is not listed in the Georgia Register for procedural, substantive or other reasons, or if the significance and/or integrity of the property has been lost as a result of alterations or damage, these preliminary determinations of significance will not become final.

(e) A property that is within a Georgia Register-listed historic district but was constructed outside the period of significance or has no association with the areas of significance is usually considered non-contributing to the district. An application for a preliminary determination of significance for such a property could propose amendment of the district's Georgia Register listing. Such an application must document and justify expanded significance of the district and how the property contributes to the proposed expanded significance of the district. This documentation requires submission of a substantially complete Historic District Information Form in tandem with the Part A – Preliminary Certification. These forms are available from the Department.

1. Confirmation by the Department of intent to expand the significance of a historic district does not constitute listing in the Georgia Register, nor does it constitute a certification of significance as required by law for state tax incentives under the Georgia State Income Tax Credit Program for Rehabilitated Historic Property.

2. If the district documentation is not formally amended, or if the significance and/or integrity of the property has been lost as a result of alterations or damage, these preliminary determinations of significance will not become final.

3. For information on amending listings to the Georgia Register and additional information on the use of Georgia Register documentation, owners should contact the Division.

(3) Some properties include more than one building. In such cases, the owner must submit a single Part A – Preliminary Certification, which includes descriptions of the condition and appearance of all the buildings on the property immediately prior to the start of rehabilitation work. The Department will utilize the Standards for Evaluating Significance, as set forth in Rule 110-37-6-.06, for the purpose of determining which of the buildings are of historic significance to the property.

(4) The Department discourages the moving of historic buildings from their original sites. However, if a building is to be moved as part of a rehabilitation for which certification is sought, or if certification is sought for a building that has been relocated, the owner must follow different procedures depending on whether the building is individually listed in the Georgia Register or is within a Georgia Register-listed historic district. Moving a building may result in removal of the property from the Georgia Register or denial or revocation of a certification of significance; consequently, a moved building may, in certain circumstances, be ineligible for rehabilitation certification. Applicants should contact the Department for guidance regarding evaluations and certifications of historic significance for moved buildings or buildings that are proposed to be moved.

(a) Moved buildings or buildings proposed to be moved are reviewed by the Department in accordance with Rule 110-37-2-.03.

(5) Certifications of significance will be made based on documentation of the property's condition and appearance immediately prior to the start of rehabilitation work in accordance with Rule 110-37-6-.04.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.05

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Certifications of Rehabilitation" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Repealed: New Rule entitled "Certification of Historic Significance" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

110-37-6-.06 Standards for Evaluating Significance.

(1) The Standards for Evaluating Significance shall be used in determining the significance of all properties for which a Part A- Preliminary Certification is received by the Department.

(a) Properties that consist of an individual building are reviewed by the Department to determine if they appear to meet Georgia Register criteria for significance and possess historic integrity by applying the Criteria for Evaluation of Properties for the Georgia Register, Rule 110-37-2-.02.

(b) Some properties consist of multiple buildings or structures whose concentration or continuity possesses greater historical significance than many of their individual component buildings and structures.

1. Properties that comprise multiple buildings will be reviewed by the Department to determine if they appear to meet Georgia Register criteria for significance and possess historic integrity by applying the Criteria for Evaluation of Properties for the Georgia Register, Rule 110-37-2-.02.

(i) This review will include a determination as to whether the property is most appropriately evaluated as a historic district or an individual property for the purposes of meeting Georgia Register criteria for significance. This determination will be made based on an assessment of the concentration or continuity of resources that comprise the property and the relationship of those resources, including but not limited to:

(I) Whether there are identifiable primary and secondary hierarchical and/or proportional relationships;

(II) Whether the property comprises multiple tax parcels;

(III) Whether the property is composed of elements with separate owners;

(IV) The acreage of the property and the relationship of that acreage to the property's historical significance;

(V) The relationship of the association between the property's resources to the property's historical significance; and

(VI) Additional related factors, as determined by the Department.

2. Buildings must be determined contributing to the significance of the individual property or district for the purposes of this program.

(c) Properties located within Georgia Register-listed or potential historic districts are reviewed by the Department to determine if they contribute to the significance of the listed or potential district.

1. A property contributing to the significance of a district is one which was present during the district's period of significance and which, by integrity of its historic location, design, setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development.

2. A property not contributing to the significance of a district is one which was not present during the district's period of significance; or one which does not add to the district's sense of time and place and historical development; or one where the location, design, setting, materials, workmanship, feeling and association have been so altered or have so deteriorated that the overall integrity of the property has been irretrievably lost.

3. In the case of a Georgia Register-listed historic district for which no defined period of significance has been documented, properties that have been constructed within the past 50 years generally shall not be considered contributing to the significance of the district unless a strong justification concerning their historical or architectural relationship to the district is provided in the district's Georgia Register nomination documentation, or the significant historical attributes of the district are documented to be less than 50 years old and the property is documented as contributing to that significance.

(2) If a nonhistoric surface material obscures some or all of a building's façade, the owner of the building must demonstrate that the underlying façade retains substantial historic integrity and the property otherwise contributes to the historic district in order to obtain a determination of significance.

(a) Demonstrating integrity may be achieved by removing a sufficient portion of the covering material or by other means as determined acceptable by the Department.

(b) Applicants should contact the Division for guidance.

(3) The Department shall determine the level of documentation necessary to evaluate the significance of a property. Determinations of significance and nonsignificance will be made on the basis of the application documentation, existing Georgia Register documentation (where applicable), and other available information as needed.

(4) The requirements of this rule are applicable to certification requests received by the Department upon the effective date of these regulations. Properties contributing to locally designated historic districts are not considered eligible to participate in the program unless the locally designated historic district is found to be a potential historic district in accordance with the procedures in Rule 110-37-6-.05.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.06

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Standards for Rehabilitation" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Repealed: New Rule entitled "Standards for Evaluating Significance" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

110-37-6-.07 Certifications of Rehabilitation.

(1) Owners who want rehabilitation projects for certified structures to be certified by the Department as being consistent with the historic character of the structure, and, where applicable, the district in which the structure is located, thus qualifying as a certified rehabilitation, shall comply with the following procedures:

(a) Complete and submit Part A – Preliminary Certification according to instructions accompanying the application. The Part A Description of Rehabilitation section may describe a proposed rehabilitation project, a project in progress, or a completed project. Owners are strongly encouraged to submit the application prior to undertaking any rehabilitation work.

1. Owners who undertake rehabilitation projects without prior approval from the Department do so strictly at their own risk.

2. Because the circumstances of each rehabilitation project are unique to the particular certified structure involved, certifications that may have been granted to other rehabilitations are not specifically applicable and may not be relied on by owners as applicable to other projects.

(b) Provide necessary documentation to understand the existing condition of the property immediately prior to the start of rehabilitation, including but not limited to:

1. Photographs representing the condition and appearance of the property immediately prior to the start of the rehabilitation, including interior and exterior views and views of its site and environment, must accompany the application;

2. Additional photo-documentation, such as current existing condition photographs for projects that have proceeded prior to application, as may be required by reviewing official;

3. Descriptions of existing conditions and all work associated with the rehabilitation;

4. Plans and other drawings providing visual information about project scope and details;

5. Other documentation, such as window surveys or technical details for specific treatments, as may be required by reviewing officials.

6. Where necessary documentation is not provided, review and evaluation may not be completed and a denial of certification will be issued on the basis of lack of information.

(c) Complete and submit amendment forms in accordance with paragraph (4) of this rule.

(d) Complete and submit Part B – Final Certification, according to instructions accompanying the application. All information requested on the Part B form must be furnished in order for the application to be processed. A project does not become a certified rehabilitation until it is completed and so designated by the Department.

(e) Provide necessary documentation to understand the completed project, including:

1. Photographs representing the condition and appearance of the property at completion of the rehabilitation, including interior and exterior views and views of its site and environment, must accompany the application.

2. Other documentation determined necessary by reviewing officials and the Department of Revenue.

3. Where necessary documentation is not provided, review and evaluation may not be completed and a denial of certification will be issued on the basis of lack of information.

(2) A determination that the completed rehabilitation of a property not yet designated a certified structure meets the Standards for Rehabilitation does not constitute a certification of rehabilitation.

(3) A rehabilitation project for certification purposes encompasses all work on the interior and exterior of the certified structure(s) and its site and environment, as determined by the Department, as well as related demolition or rehabilitation work which may affect the historic qualities, integrity or site, landscape features, and environment of the certified structure(s). More specific considerations in this regard are as follows:

(a) All elements of the rehabilitation project must meet the Standards; portions of the rehabilitation project not in conformance with the Standards may not be exempted.

(b) In general, an owner undertaking a rehabilitation project will not be held responsible for prior rehabilitation work not part of the current project, or rehabilitation work that was undertaken by previous owners or third parties. However, if the Department considers or has reason to consider that a project submitted for certification does not include the entire rehabilitation project subject to review hereunder, the Department may choose to deny a preliminary certification or to withhold a decision on such a certification.

(c) Conformance to the Standards will be determined on the basis of the application documentation and other available information by evaluating the property as it existed prior to the commencement of the rehabilitation project, regardless of when the property becomes or became a certified structure.

(d) For rehabilitation projects involving more than one building where the buildings are judged by the Department to have been functionally related historically, certifications will be issued in accordance with Rule 110-37-6-.03. In cases of common or interconnected ownership where buildings functionally related historically and without distinct primary/secondary

hierarchical and proportional relationships are individually or concurrently rehabilitated, all final certifications are dependent on each rehabilitation being a certified rehabilitation.

1. Buildings that do not apply for the program that are rehabilitated within three (3) years of any other rehabilitation seeking final certification must also be or have been completed consistent with the Standards, as determined by the Department.

2. Denial of certification for a subsequent project after final certification of one or more other buildings or future work that is not consistent with the Standards may result in revocation of previously certified rehabilitations.

(e) Demolition of a building as part of a rehabilitation project involving multiple buildings may result in denial of certification at preliminary certification.

1. In rehabilitation projects where the structures have been determined to be functionally related historically, demolition of a component may be approved, in limited circumstances, when:

(i) The component is outside the period of significance of the property, or

(ii) The component is so deteriorated or altered that its integrity has been irretrievably lost; or

(I) A condemnation order may be presented as evidence of physical deterioration of a building. In certain cases it may be necessary for the owner to submit a structural engineer's report to help substantiate physical deterioration and/or structural damage. Guidance on preparing a structural engineer's report is available from the Division.

(iii) The component is a secondary one that generally lacks historic, engineering, or architectural significance or does not occupy a major portion of the site and persuasive evidence is present to show that retention of the component is not technically or economically feasible.

2. In projects where structures are not functionally related historically, related new construction which physically expands one certified structure undergoing rehabilitation and, therefore, directly causes the demolition of an adjacent structure will generally result in denial of certification of the rehabilitation at preliminary certification unless a determination has been made that the building to be demolished is not a certified structure.

(f) In situations involving rehabilitation of a certified structure in a historic district, the Department will review the rehabilitation project first as it affects the certified structure and second as it affects the district.

(g) In the event that an owner of a portion of a certified structure requests certification for a rehabilitation project related only to that portion, but that project is concurrent with or immediately subsequent to a larger rehabilitation project(s) for the certified structure, the Department's decision on the requested certification will be based on review of the overall rehabilitation project(s).

(h) Rehabilitation projects expected to be completed in phases, including using the alternate 60-month period for meeting substantial rehabilitation requirements, must identify the project as a phased project on the Part A application form, include a summary description of the overall project and number and order of phases in the Description of Rehabilitation section, and supporting plans and other project documents should identify the project as phased.

1. Phased projects are considered a single rehabilitation. Accordingly, certification as a certified rehabilitation will not be issued until completion of the final phase.

(i) In the event an owner chooses to declare the project completed without completing all phases, the Department shall determine whether a certification as a certified rehabilitation may be issued.

(l) Future work on previously completed or uncompleted phases of a certified rehabilitation must be reviewed and approved by the Department for a period of three (3) years after the later of the date the owner files their income tax return or the due date of the income tax return (including extensions). Failure of future work as meeting the Standards for Rehabilitation may result in certification as a certified rehabilitation being revoked. The Department shall notify the Department of Revenue of revocation of certification of a certified rehabilitation.

2. All phases of a phased project must meet the Standards for Rehabilitation.

(4) Upon receipt of a fully completed Part A application, the Department shall determine if the project is consistent with the Standards. If the project does not meet the Standards, the owner shall be advised of that fact in writing and, where possible, will be advised of necessary revisions to meet such Standards.

(5) Once a proposed or ongoing project has been approved, substantive changes in the work as described in the application must be brought promptly to the attention of the Department by written statement by using a Rehabilitated Historic Property Application Amendment Sheet. The Department will notify the owner in writing whether the revised project continues to meet the Standards. Oral approvals of revisions are not authorized or valid.

(6) If a proposed, ongoing, or completed rehabilitation project does not meet the Standards for Rehabilitation, an explanatory denial of certification letter will be sent to the owner. Accordingly, the credit provided by O.C.G.A. Sec. 48-7-29.8 will not be allowed.

(7) Completed projects may be inspected by an authorized representative of the Department to determine if the work meets the Standards. The Department reserves the right to make inspections after completion of the rehabilitation and to revoke a certification if it is determined that the rehabilitation project was not undertaken as represented by the owner in his or her application and supporting documentation, or the owner, upon obtaining final certification, undertook further unapproved project work inconsistent with the Standards. The Department shall notify the Department of Revenue of revocation of certification of a certified rehabilitation.

(8) A rehabilitated property not in conformance with the Standards will be removed from the Georgia Register when:

(a) The Department determines the property has lost those qualities that caused it to be individually listed.

(b) The Department determines the property has lost those qualities that caused it to be designated a certified structure as a contributing property within a listed historic district.

1. A property that has lost those qualities which caused it to be designated a certified structure will be certified by the Department as a noncontributing property within a listed historic district.

(c) The Department shall notify the Department of Revenue of revocation of certification of a certified rehabilitation resulting from the removal of a property from the Georgia Register or certifying it as noncontributing.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.07

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Certification Procedures" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003. Amended: F. Nov. 5, 2008; eff. Nov. 25, 2008.

Repealed: New Rule entitled "Certifications of Rehabilitation" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

110-37-6-.08 Standards for Rehabilitation.

(1) The Georgia Standards for Rehabilitation are the criteria used to determine if a rehabilitation project qualifies as a certified rehabilitation. The intent of the Standards is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. The Standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior of historic buildings. The Standards also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction.

(2) Projects meeting the Standards for Rehabilitation must be in accordance with the Standards individually and collectively, as applicable to existing conditions prior to the start of the project, proposed work, and completed work, to be determined a certified rehabilitation.

(a) The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

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

2. 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.

3. 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.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

6. 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, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. 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.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the 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.

10. 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.

(3) The quality of materials and craftsmanship used in a rehabilitation project must be commensurate with the quality of materials and craftsmanship of the historic building in question. Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerate physical deterioration of historic buildings. Inappropriate physical treatments include, but are not limited to: improper repointing techniques; improper exterior masonry cleaning methods; or improper introduction of insulation where damage to historic fabric would result. In almost all situations, use of these materials and treatments will result in denial of certification. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure will result in denial of certification. For further information on appropriate and inappropriate rehabilitation treatments, owners are encouraged to consult the Division. Owners are responsible for procuring this material as part of property planning for a certified rehabilitation.

(4) In certain limited cases, it may be necessary to dismantle and rebuild portions of a certified structure to stabilize and repair weakened structural members and systems. In such cases, the Department will consider such extreme intervention as part of a certified rehabilitation if:

(a) The necessity for dismantling is justified in supporting documentation;

(b) Significant architectural features and overall design are retained; and

(c) Adequate historic materials are retained to maintain the architectural and historic integrity of the overall structure.

(5) Owners are cautioned that the Standards require retention of distinguishing historic materials of external and internal walls as well as structural systems. In limited instances, rehabilitations involving removal of existing external walls, i.e., external walls that detract from the historic character of the structure such as in the case of a nonsignificant later addition or walls that have lost their structural integrity due to deterioration, may be certified as meeting the Standards for Rehabilitation.

(6) Prior approval of a project by the Department and/or local agencies and organizations does not ensure certification by the Department for state tax purposes.

(7) The qualities of a property and its environment which qualify it as a certified structure are determined taking into account all available information, including information derived from the physical and architectural attributes of the building; such determinations are not limited to information contained in Georgia Register or related documentation.

(8) To be a certified rehabilitation, a project must be determined by the Department to be consistent with the Standards and the historic character of the structure(s) and, where applicable, the district in which it is located.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.08

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Substantial Rehabilitation" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Repealed: New Rule entitled "Standards for Rehabilitation" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

110-37-6-.09 Revocation and Recapture.

(1) The credit allowed for a certified rehabilitation is subject to revocation by the Department of Revenue in the event:

(a) The Department, on inspection within three years after completion of the project, determines that certification as a certified rehabilitation should be revoked because the project was not undertaken as represented by the owner in his or her application and supporting documentation, or the owner, upon obtaining final certification, undertook further unapproved project work inconsistent with the Standards.

(b) The Department, on inspection within three years after completion of the project, determines that certification as a certified structure should be revoked because the project was not undertaken as represented by the owner in his or her application and supporting documentation, or the owner, upon obtaining final certification, undertook further unapproved project work that caused the property to lose those qualities that caused it to be individually listed or designated a certified structure as a contributing property within a listed historic district.

(c) For circumstances described in subparagraph (1)(a) and (1)(b) of this rule, the owner shall reimburse the entire amount of the credit to the Department of Revenue.

(d) In the event revocation is required pursuant to this rule, the taxpayer shall file an amended income tax return within the latter of 60 days of revocation of certification as a certified rehabilitation or certified structure or final decision of an appeal.

(2) The credit allowed for a certified rehabilitation is subject to recapture by the Department of Revenue in the event the owner of a historic home sells the property within three years of taking the credit.

(a) The owner shall recapture the credit to the Department of Revenue as follows:

1. If the property is sold within one year of receiving the credit, the recapture amount will equal the lesser of the credit or the net profit of the sale;

2. If the property is sold within two years of receiving the credit, the recapture amount will equal the lesser of two-thirds of the credit or the net profit of the sale; or

3. If the property is sold within three years of receiving the credit, the recapture amount will equal the lesser of one-third of the credit or the net profit of the sale.

(b) The recapture provisions of this rule shall not apply to a sale by a nonprofit corporation of a historic home.

(c) The recapture provisions of this rule shall not apply to a sale resulting from the death of the owner.

(d) In the event recapture is required pursuant to this rule, the taxpayer shall file an amended income tax return within 60 days of the date the property is sold.

(3) Specific means of revocation and/or recapture of credits provided by O.C.G.A. Sec. 48-7-29.8 by a taxpayer shall be in accordance with rules and procedures established by the Department of Revenue.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.09

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Appeals" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Repealed: New Rule entitled "Revocation and Recapture" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

110-37-6-.10 Effective Date.

(1) The Georgia State Income Tax Credit Program for Rehabilitated Historic Property shall become effective as of January 1, 2004. Rehabilitation projects initiated before this date will not be considered for the Program under any circumstances.

(2) Georgia State Income Tax Credit Program for Rehabilitated Historic Property rules as amended shall be applicable to taxable years beginning on or after January 1, 2009. Certified rehabilitation projects completed after this date shall be subject to such amended rules and law that are in effect for taxable years beginning on or after January 1, 2009.

(3) Georgia State Income Tax Credit Program for Rehabilitated Historic Property rules as amended shall become effective as of January 1, 2016 for projects applying for credits allowed by O.C.G.A. Sec. 48-7-29.8(c)(2), for projects where Part A – Preliminary Certification applications are received on or after January 1, 2016, or for projects where Part B – Final Certification applications are received on or after January 1, 2017 for projects completed on or after January 1, 2017.

(4) Rules in effect at the time any portion of O.C.G.A. Sec. 48-7-29.8 is repealed by the General Assembly shall remain in effect for those portions of this chapter where they are still applicable.

Cite as Ga. Comp. R. & Regs. R. 110-37-6-.10

Authority: O.C.G.A. Sec. 48-7-29.8.

History. Original Rule entitled "Recapture" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Repealed: New Rule entitled "Effective Date" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

110-37-6-.11 Fees for Processing Certification Requests.

(1) For applications received by the Division prior to January 1, 2016:

(a) Fees are charged for reviewing Part A – Preliminary Certification Applications. The fee for review of proposed, ongoing, or completed rehabilitation projects is \$50.00. If the applicant is applying for the Georgia Preferential Property Tax Assessment Program provided by O.C.G.A. 48-5-7.2 and the Georgia State Income Tax Credit Program provided by O.C.G.A. 48-7-29.8, then the fee for review of proposed, ongoing, or completed rehabilitation projects is \$75.00 for both programs.

(b) Payment shall be made when the application is submitted to the Division for review. Fees are payable only by a cashier's check or money order. Checks should be made payable to the Georgia Department of Natural Resources. Preliminary Certification decisions will not be issued on an application until the appropriate remittance is received. All fees are non-refundable.

(c) Each rehabilitation of an individual certified structure will be considered a separate project for purposes of computing fees.

(d) In the case of a rehabilitation project which includes more than one building where the buildings are judged by the Department to have been functionally related historically and with distinct primary/secondary hierarchical and proportional relationships and so collectively are a single certified structure, the fee is \$50.00 or \$75.00, whichever is applicable.

(2) For applications received by the Division on or after January 1, 2016 or for projects that are applying for credits allowed by O.C.G.A. Sec. 48-7-29.8(c)(2):

(a) Fees are charged for reviewing Part A – Preliminary Certification and Part B – Final Certification applications in accordance with the following schedule:

Project Qualified Rehabilitation Expenditures (QRE)	Part A – Preliminary Certification Review Fee	Part B – Final Certification Review Fee
\$100,000 or under	\$250	None
Over \$100,000 up to \$500,000	0.375% of estimated QRE	0.125% of actual QRE
Over \$500,000	\$1875 plus 0.75% of estimated QRE exceeding \$500,000	\$625 plus 0.25% of actual QRE exceeding \$500,000
Maximum Total Fee for any single project shall not exceed \$25,000		

(b) Payment shall be made upon invoice by the Division. Fees are payable only by a cashier's check or money order. Checks should be made payable to the Georgia Department of Community Affairs.

1. Certification decisions will not be issued on an application until the appropriate remittance is received.

2. All fees are non-refundable.

(3) Each rehabilitation of an individual certified structure will be considered a separate project for purposes of computing fees.

(a) In the case of a rehabilitation project which includes more than one building where the buildings are judged by the Department to have been functionally related historically and with distinct primary/secondary hierarchical and proportional relationships and so collectively are a single certified structure, the fee is computed using total qualified rehabilitation expenditures of all the buildings.

(4) For Part A – Preliminary Certification applications received prior to January 1, 2016 for projects where the completion date will be on or after January 1, 2017, Part A – Preliminary Certification review fees will be charged in accordance with paragraph (1) of this rule and Part B – Final Certification review fees will be charged in accordance with paragraph (2) of this rule.

History. Original Rule entitled "Effective Date" adopted. F. Oct. 9, 2003; eff. Oct. 29, 2003.

Amended: F. Nov. 5, 2008; eff. Nov. 25, 2008.

Repealed: New Rule entitled "Fees for Processing Certification Requests" adopted. F. Jan. 5, 2016; eff. Jan. 25, 2016.

Amended: F. Aug. 10, 2022; eff. Sept 10, 2022.