

**State Historic Rehabilitation Tax Credit  
Regulation Text**

**§4859.01. State Historic Rehabilitation Tax Credit Authority and Function.**

(a) Section 17053.91 and Section 23691 of the California Revenue and Taxation Code directs the Office of Historic Preservation (OHP) to adopt regulations to establish a written application to determine that applicants meet project requirements and to ensure that the rehabilitation project meets the Standards for Rehabilitation, part 67.7 of Title 36 of the Code of Federal Regulations, and establish a program to approve, or reject, all tax credit allocation applications.

(1) This program shall be known as the State Historic Rehabilitation Tax Credit (SHRTC).

(b) The OHP establishes program directions in coordination with the California Tax Allocation Committee (CTCAC).

(1) The OHP is responsible for ensuring that the proposed rehabilitation project meets the Standards for Rehabilitation and that the property is a certified historic structure that is a qualified residence or a certified historic building.

(2) The CTCAC is responsible for all procedures, legal determinations, and rules and regulations concerning tax credit allocation and compliance.

(c) Tax credits are allocated for three funding categories as interpreted in the Revenue and Tax Code 17053.91(j) and 23691(j):

(1) A certified historic structure that is a qualified residence;

(2) A certified historic building with qualified rehabilitation expenditures of less than one million dollars;

(3) A certified historic building with qualified rehabilitation expenditure of one million dollars or more.

(d) Projects completed before January 1, 2022 do not qualify to apply for the state historic rehabilitation tax credit.

(1) Federal tax credit projects completed or participating in the federal review process on or after January 1, 2022 must submit an Initial Project application with fees to receive approval from OHP and tax allocation from the CTCAC.

(2) After a tax allocation has been received, subsequently completed projects must submit the Completed Project Application with fees.

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

## **§4859.02. Definition of Key Terms.**

As used in these regulations:

- (a) "California Register of Historical Resources" (California Register) means the California Register designed for use by state and local agencies, private groups, and citizens to identify, evaluate, register, and protect California's historical resources. The criteria for the California Register appear in California Code of Regulations, California Register of Historical Resources (Title 14, Division 3, Chapter 11.5).
- (b) California Tax Credit Allocation Committee (CTCAC) co-administers the state rehabilitation of certified historic structures and qualified residences tax credit program and allocates the state tax credits against personal income and corporation taxes.
- (c) "Certification" means the approved project application for the completed project meets the Standards for Rehabilitation as affirmed by the OHP.
- (d) "Certified Historic Structure" has the same meaning as defined in Section 47(c)(3) of the Internal Revenue Code, that is a structure in California and is listed on the California Register of Historical Resources. This means a structure that is either:
- (1) Individually listed in the California Register; or
  - (2) Listed as a contributor to a registered historic district that is listed in the California Register.
- (e) "Certified Rehabilitation" means any completed rehabilitation of a certified historic structure or qualified residence that the OHP has affirmed to the CTCAC as being consistent with the Standards for Rehabilitation.
- (f) "Dual Project" is a project applying for both the federal and state tax credit, where federal documentation standards are also used as SHRTC submittals.
- (g) "Functionally related buildings" are those that have historically functioned together to serve an overall purpose.
- (h) "Inspection" means a visit by an authorized representative of the OHP to a certified historic structure or qualified residence for the purposes of reviewing and evaluating the significance of the property and the ongoing or completed rehabilitation work.
- (i) "National Park Service, Technical Preservation Services" (NPS TPS) means the National Park Service, Washington Area Service Office, Technical Preservation Services, Heritage Preservation Services Office.

(j) "Office of Historic Preservation" (OHP) means the California Office of Historic Preservation designated by Public Resources Code section 5024.6 to administer historic preservation programs within California.

(k) "Owner" means a person, partnership, corporation, or public agency holding a fee-simple interest in a property or any other person, or entity recognized by the California Franchise Tax Board for purposes of the applicable tax benefits.

(l) "Property" means a building and its site and landscape features.

(m) "Qualified Residence" has the same meaning as that term is defined in Section 163(h)(4) of the Internal Revenue Code, that will be owned and occupied by an individual taxpayer who has a modified adjusted gross income, as defined by Section 86(b)(2) of the Internal Revenue Code, of two hundred thousand dollars (\$200,000) or less, as the taxpayer's principal residence or what will be the taxpayer's principal residence within two years after the rehabilitation of the residence.

(n) "Qualified Rehabilitation Expenditure" (QRE) has the same meaning as that term is defined in:

(1) Section 47(c)(2) of the Internal Revenue Code, except that qualified rehabilitation expenditures may include expenditures in connection with the rehabilitation of a building without regard to whether any portion of the building is or is reasonably expected to be tax-exempt use property.

(2) Section 47(c)(2) of the Internal Revenue Code and also means rehabilitation expenditures incurred by the taxpayer with respect to a qualified residence for the rehabilitation of the exterior of the building or rehabilitation necessary for the functioning of the home, including, but not limited to, rehabilitation of the electrical, plumbing, or foundation of the qualified residence.

(o) "Registered Historic District" means any district listed in the California Register.

(p) "Rehabilitation" means the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values as determined by the OHP.

(q) "Secretary of the Interior's Standards for Rehabilitation" (Standards for Rehabilitation) has the same meaning as that term is defined in part 67.7 Title 36 of the Code of Federal Regulations.

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

### **§4859.03. Initial Project Application.**

#### (a) Property eligibility:

(1) The property must be listed on the California Register of Historical Resources or National Register of Historic Places.

(A) Dual projects are qualified to apply for state tax credit when the signed NPS Part 1 "Evaluation of Significance" form pursuant to 36 CFR 67.4 is received by OHP.

(B) Properties not listed on the California Register or National Register and applying for tax credit must first be nominated and listed using the criteria in either the California Code of Regulations Title 14 Division 3, Chapter 11.5 section 4851 and Public Resources Code 5024.1, or Title 36 Part 60.6 of the Code of Federal Regulations.

(2) For properties not listed on the California Register, or the listing status is unclear, request clarification of the property listing status from the OHP:

(A) Send an email to [calshpo.tax@parks.ca.gov](mailto:calshpo.tax@parks.ca.gov) , using subject line "CR listing status request for <property address, city and county>"

(B) In the body of the email, provide the full name of the correspondent, the historic name the building is known by (if any), and the year the building was built, if known. Photos of the property may be attached at the correspondent's option.

(C) The OHP will contact the correspondent by email within 10 business days of the initial email receipt with the property listing status and further directions for listing the property.

(3) Nomination and listing of a property in the California or National Register is a separate regulatory action which must be completed before applying for state tax credit. For information on the nomination procedure, refer to section 4853 or 36 CFR 60.6.

#### (b) Who may apply:

(1) The fee simple owner of the property, or

(2) If an application is made by someone other than the fee simple owner, 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.

#### (c) How to apply:

(1) Requests for rehabilitation tax credits shall use the state tax credit Application forms v. 5/24 incorporated by reference herein.

(2) Applications for rehabilitation tax credit consist of two parts:

(A) The Initial Project Application shall be used as confirmation that the subject property is listed in the California Register (Initial Project Application form v. 5/24 Section 1), to submit a description of the proposed rehabilitation and supplemental material (Initial Project Application form v. 5/24 Section 2), and to request a tax credit allocation (Initial Project Application form v. 5/24 Section 3).

1. An Amendment form template (Initial Project Application form v. 5/24 Section 2) is provided as part of the Initial Project Application v.5/24 to revise the project if needed.

(B) The Completed Project Application (Completed Project Application form v. 5/24 Section 4) shall be used to confirm the rehabilitation project was completed as described in the Initial Project Application v. 5/24 and meets the Standards for Rehabilitation and certifies the Qualified Rehabilitation Expense (QRE) cost (Completed Project Application form v. 5/24 Section 5).

(3) Certified historic structure projects receive a tax credit of 20% of the certified QRE costs. Applicants have the option to qualify for a 25% tax credit if the certified historic structure meets one of the following criteria:

(A) The structure is located on federal surplus property, if obtained by a local agency under Section 54142 of the Government Code, on surplus state real property, as defined by Section 11011.1 of the Government Code, or on surplus land, as defined by subdivision (b) of Section 54221 of the Government Code.

(B) The rehabilitated structure includes affordable housing for lower-income households, as defined by Section 50079.5 of the Health and Safety Code.

(C) The structure is located in a designated census tract, as defined in paragraph (7) of subdivision (b) of Section 17053.73.

(D) The rehabilitated structure is a part of a military base reuse authority established pursuant to Title 7.86 (commencing with Section 67800) of the Government Code.

(E) The structure is a transit-oriented development that is a higher density, mixed-use development within a walking distance of one-half mile of a transit station.

Specific criteria documenting 25% tax credit qualification are in Appendix D of the Instructions v. 5/24, incorporated by reference herein.

(4) Applicants apply for one of three tax credit allocation categories:

(A) Qualified Residences

(B) Projects with QRE costs less than \$1,000,000

(C) Projects with QRE costs \$1,000,000 or more

(5) Each category is allocated specific budget amounts by the legislature every fiscal year. When the anticipated cost totals of every project in that category approach the total budgeted allocation amounts, OHP will announce that applications for that category are no longer accepted until the next fiscal year when allocations are budgeted again.

As each tax credit funding category is exhausted, OHP will stop taking applications for that category. OHP will return any unprocessed applications and fees to the applicant.

OHP will notify the public that the funding category is exhausted, and applications are no longer being accepted by OHP email lists and the OHP social media.

When additional funding is available, OHP will begin accepting applications and will notify the public by OHP email lists and the OHP social media. Applications returned due to lack of allocation funding must resubmit their application.

(6) OHP charges a fee to review the Initial Project Application and the Completed Project Application. The fee must be submitted with the application for the review to be performed. Fees will be calculated based on the rates published in the Instructions v. 5/24. Fees are nonrefundable except where provided in subsection (c)(4).

(7) Applications received by OHP are logged in their order of arrival.

(8) Application reviews are concluded within 30 days of receipt of a complete, adequately documented application submittal.

(9) Applications and supplemental documentation submitted for state tax credit Qualified Residences only, may be submitted either electronically or as a hard copy at the applicant's discretion.

(10) Directions for electronic submission are in the Application Instructions v. 5/24.

(11) The OHP may request hard copies of some or all application materials on a case-by-case basis when needed for review purposes.

(d) Upon receipt of a complete Initial Project Application describing the rehabilitation project, the OHP shall determine if the project is consistent with the Standards for Rehabilitation. If the project does not meet the Standards for Rehabilitation, the applicant will be notified in writing and will be advised of necessary revisions to meet the Standards for Rehabilitation.

(e) If adequate documentation is not provided, the Applicant will be notified of the additional information needed to undertake the review. The review will be placed on "hold" until complete information is received, at which time the review period begins again.

(f) Application decisions by the OHP are conveyed in writing only to the applicant and to the CTCAC.

(g) Decisions are based on the descriptions contained in the application form and other supplementary material. In the event of any discrepancy between the application form and supplementary material submitted with it (such as architectural plans, drawings, specifications, etc.), the applicant 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.

(h) An applicant will not be held responsible for prior rehabilitation work that was undertaken by previous owners.

(i) Because the circumstances of each rehabilitation project are unique to the individual historic structure involved, previous certifications granted to other rehabilitations do not form a precedent and may not be relied on as applicable to other projects.

(j) For rehabilitation projects that are to be completed in phases over the alternate 60-month period allowed in Section 47 of the Internal Revenue Code (and Section 17053.91 of the California Revenue and Taxation Code), the Initial Project Application and supporting architectural plans and specifications should identify the project as a 60-month phased rehabilitation project and describe the number, order, and general scope of each phase. If the Initial Project Application clearly identifies the project as a phased rehabilitation, the OHP will consider the project in all its phases as a single rehabilitation.

(1) Work undertaken in a later phase of a 60-month phased project that does not meet the Standards for Rehabilitation, whether or not submitted for review, may result in a denial of certification of the entire rehabilitation, considered in the context of the project as a whole.

(k) Qualified Residence projects are not eligible for phasing.

(l) Applicants must commence rehabilitation within 365 days after issuance of the tax credit allocation by the CTCAC. If rehabilitation is not commenced within this time period, the tax credit allocation shall be forfeited, and the credit amount associated with the tax credit allocation shall be treated as an unused allocation tax credit amount. Applicants shall provide documentation, such as a Notice to Proceed or a signed construction contract, to the OHP before the deadline expires.

(m) The reviewed Initial Project Application form is sent by the OHP to the CTCAC for their action in the order reviews are completed.

(n) Once a proposed project has been approved, substantive changes in the work from those described in the application must be brought promptly to the attention of the OHP using the Amendment form v. 5/24 to ensure continued conformance to the Standards for Rehabilitation. The OHP will notify the applicant whether the revised project continues to meet the Standards for Rehabilitation. Amendments do not incur any additional fees.

(1) Dual projects submitting Amendments use the federal Amendment/Advisory Determination Form pursuant to 36 CFR 67.6(d).

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

#### **§4859.04. Determination of Historic Significance.**

(a) All individual properties and historic districts listed on the National Register of Historic Places are automatically listed on the California Register.

(b) Dual project properties are automatically listed in the California Register when the federal Part 1 "Eligibility Evaluation of Significance" Form pursuant to 36 CFR 67.4 is signed by the NPS, returned to the applicant, and copied to the OHP.

(c) A property listed in the California Register, either individually or as a contributing resource to a registered historic district, is considered a certified historic structure or a qualified residence and no further action is required, except when:

(1) Multiple Building Properties: Some properties listed in the California Register include more than one building. In such cases, the applicant must submit additional information in the Initial Project Application Narrative Template describing all the buildings.

(2) Functionally Related Buildings: Properties containing more than one building where the buildings are determined by the OHP to be functionally related historically, such as a detached garage or a tank house, must submit additional information in the Initial Project Application Narrative Template v. 5/24. The applicant must describe how the buildings were used together to perform a historical function to determine whether the related buildings contribute to the historic significance of the property.

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

#### **§4859.05. Project Commencement, Completion, and Certification**

(a) Upon project completion, the applicant shall submit to the OHP a Completed Project Application providing the project completion date, total cost and QRE costs attributed to the rehabilitation, photo documentation of the completed project, and all other information as required in the Application.

(b) The rehabilitation project must meet all of the Standards for Rehabilitation. Portions of the rehabilitation project not in conformance with the Standards for Rehabilitation may be grounds for denial of the project as a whole.

(c) For rehabilitation projects involving more than one certified historic structure where the structures are deemed by the OHP to have been functionally related historically to serve an overall purpose, rehabilitation certification will be issued on the merits of the overall project rather than for each structure or individual component.



(d) For rehabilitation projects where there is no historic functional relationship among the structures, the certification decision will be made for each separate certified historic structure regardless of how they are grouped for ownership or development purposes.

(e) 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:

(1) The component is outside the period of significance of the property; or

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

(3) 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.

(f) The OHP reserves the right to inspect completed projects at any time up to five years after completion of the rehabilitation and to revoke certification if it is determined that the rehabilitation project was not undertaken as represented by the applicant in their application and supplemental documentation, or that the applicant undertook further unapproved project work inconsistent with the Standards for Rehabilitation. In these situations, CTCAC will be notified of any change in certification status.

(g) If a building located on a multiple building property has, through activities of the proposed tax credit project, lost those qualities which caused it to be designated a certified historic structure or qualified residence, it may be reclassified as no longer eligible for listing on the California Register and its certification may be withdrawn. In these situations, CTCAC will be notified of any change in certification status.

(h) If a proposed, ongoing, or completed rehabilitation project does not meet the Standards for Rehabilitation, an explanatory letter will be sent to the applicant with a copy to CTCAC. A rehabilitated property not in conformance with the Standards for Rehabilitation and that is determined to have lost those qualities that caused it to be listed on the California Register, may be removed from the California Register in accord with California Code of Regulations, California Register of Historical Resources section 4859.

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

#### **§4859.06. Appeals.**

(a) The applicant or a duly authorized representative may appeal a denial of certification.

(b) Appeals must:

(1) Be in writing; e.g., letter or email, using subject line "Denial Appeal <OHP project no.>".

(2) Be addressed to: State Historic Preservation Officer, California Office of Historic Preservation, PO Box 942896, Sacramento CA 94296-0001 or [calshpo.tax@parks.ca.gov](mailto:calshpo.tax@parks.ca.gov).

(3) Be received by the OHP within 30 days of receipt of the denial by the applicant, or a duly authorized representative, and,

(4) Include all information the applicant wishes the State Historic Preservation Officer (SHPO) to consider in deciding the appeal.

(c) The appellant may request a meeting to discuss the appeal.

(d) The OHP will notify CTCAC that an appeal is pending.

(e) The SHPO will consider the record of the decision in question, any further written submissions by the applicant, and other submitted information.

(f) The SHPO shall consider alleged errors in professional judgment or alleged prejudicial procedural errors by OHP officials. SHPO's decision may:

(1) Reverse the appealed decision; or

(2) Affirm the appealed decision; or

(3) Where appropriate, withhold a decision until receipt of additional information needed for review.

(g) The SHPO will return an Appeals decision within 45 days of receipt of the appeal.

(h) The decision of the SHPO shall be the final administrative decision on the appeal. No person shall be considered to have exhausted their administrative remedies with respect to the certifications or decisions described in this part until the SHPO has issued a final administrative decision pursuant to this section.

(i) For dual projects where the SHPO may disagree with the NPS for denial of a project certification, the SHPO may separately approve the completed project for state tax credit and append a memorandum explaining reasons for approval to the OHP Completed review form.

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

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