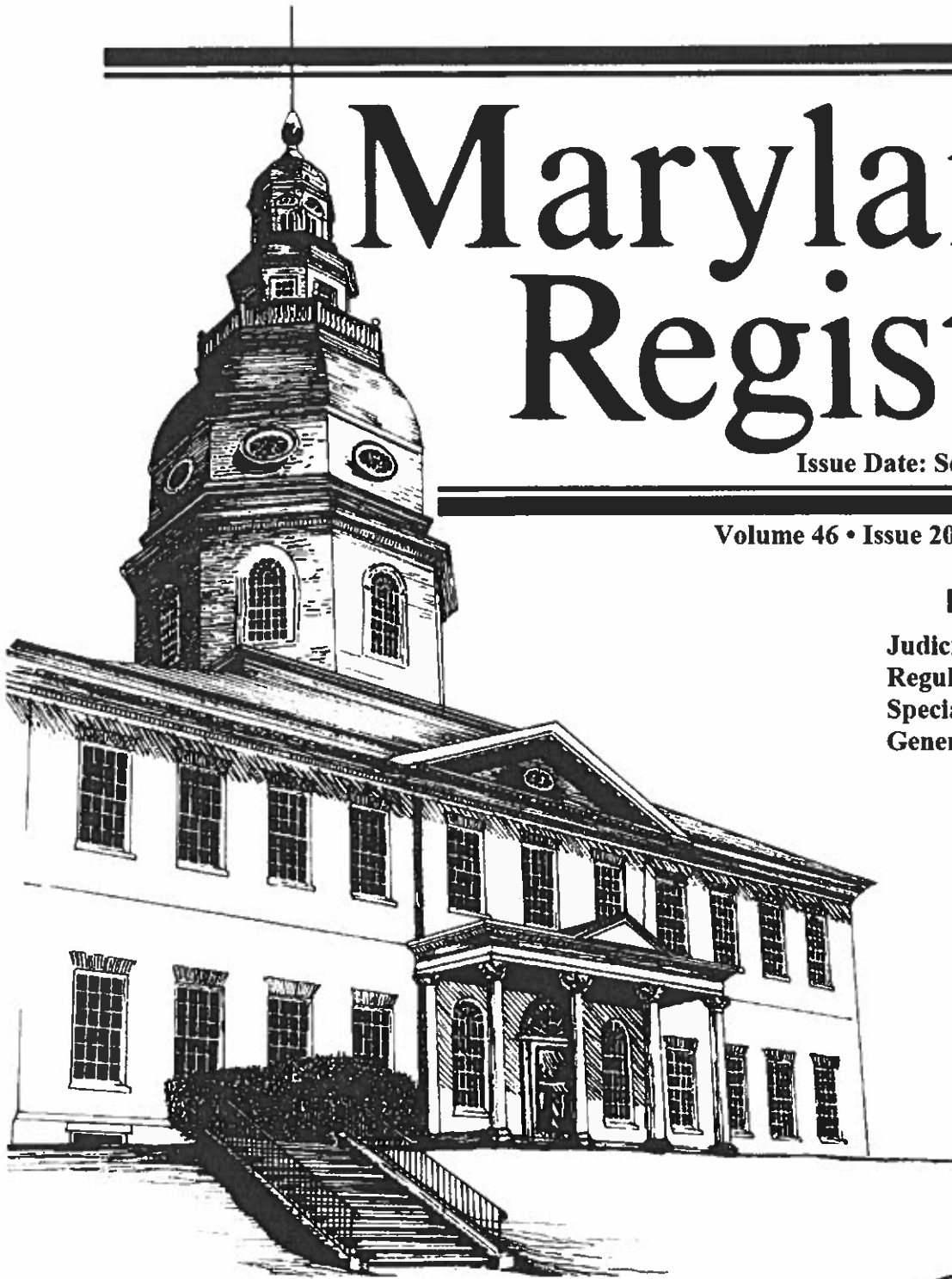

Maryland Register

Issue Date: September 27, 2019

Volume 46 • Issue 20 • Pages 833—884

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before September 9, 2019, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of September 9, 2019.

Gail S. Klakring
Administrator, Division of State Documents
Office of the Secretary of State

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COMAR Online

The Code of Maryland Regulations is available at www.dsd.state.md.us as a free service of the Office of the Secretary of State, Division of State Documents. The full text of regulations is available and searchable. Note, however, that the printed COMAR continues to be the only official and enforceable version of COMAR.

The Maryland Register is also available at www.dsd.state.md.us.

For additional information, visit www.dsd.state.md.us, Division of State Documents, or call us at (410) 974-2486 or 1 (800) 633-9657.

Availability of Monthly List of Maryland Documents

The Maryland Department of Legislative Services receives copies of all publications issued by State officers and agencies. The Department prepares and distributes, for a fee, a list of these publications under the title "Maryland Documents". This list is published monthly, and contains bibliographic information concerning regular and special reports, bulletins, serials, periodicals, catalogues, and a variety of other State publications. "Maryland Documents" also includes local publications.

Anyone wishing to receive "Maryland Documents" should write to: Legislative Sales, Maryland Department of Legislative Services, 90 State Circle, Annapolis, MD 21401.

Title 30
MARYLAND INSTITUTE
FOR EMERGENCY
MEDICAL SERVICES
SYSTEMS (MIEMSS)

Subtitle 01 GENERAL

30.01.02 Documents Incorporated by Reference

Authority: Education Article, §13-516, Annotated Code of Maryland

Notice of Proposed Action
 [19-180-P-1]

The State Emergency Medical Services Board proposes to amend Regulation .01 under COMAR 30.01.02 Documents Incorporated by Reference. This action was considered and approved by the State Emergency Medical Services Board at its regular meeting on August 13, 2019, notice of which was given by publication on the Maryland Institute for Emergency Medical Systems website, www.miemss.org, from September 1, 2015, through August 13, 2019, under General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to incorporate by reference the current Maryland Medical Protocols for Emergency Medical Services Providers.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to E. Fremont Magee, Assistant Attorney General, Maryland Institute for Emergency Medical Services Systems, 653 West Pratt Street, Baltimore, MD 21201, or call 410-706-8531, or email to finagee@miemss.org, or fax to 410-706-2138. Comments will be accepted through October 28, 2019. A public hearing has not been scheduled.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Maryland Medical Protocols for Emergency Medical Services Providers (MIEMSS July 1, 2019 Edition) has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 46:1 Md. R. 9 (January 4, 2019), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Incorporation by Reference.

A. (text unchanged)

B. Documents Incorporated.

(1) "Maryland Medical Protocols for Emergency Medical Services Providers (MIEMSS July 1, [2018] 2019 Edition)". This document can be obtained through the Maryland Institute for Emergency Medical Services Systems at 653 W. Pratt Street, Baltimore, Maryland 21201 (410-706-4449).

(2)-(4) (text unchanged)

THEODORE R. DELBRIDGE, M.D., M.P.H.
 Executive Director

Title 34
DEPARTMENT OF
PLANNING

Subtitle 04 HISTORICAL AND
CULTURAL PROGRAMS

34.04.07 [Heritage Structure Rehabilitation]
Historic Revitalization Tax Credit Certifications

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

Notice of Proposed Action
 [19-184-P]

The Maryland Department of Planning proposes to amend Regulations .01-.06 and .08 under COMAR 34.04.07 Historic Revitalization Tax Credit Certifications

Statement of Purpose

The purpose of this action is to make changes to the Tax Credit regulations as necessary to (1) implement statutory changes made during the 2019 Session and (2) bring the regulations into conformance with current agency practices or to support better management of the Program.

As required by Ch. 211, Acts of 2019, these amendments:

(1) Change the name of the program from the Heritage Structure Rehabilitation Tax Credit to the Historic Revitalization Tax Credit.

(2) Add an additional 5 percent credit and 7.5 percent credit for a Small Commercial and Competitive Commercial project that results in, respectively, a level 1 opportunity zone project or a level 2 opportunity zone project.

(3) Change the qualification standards for the Small Commercial Tax Credit by: (i) eliminating the requirement that a project result in a structure that is not more than 75 percent rental residential; (ii) adding rehabilitations of residential units located within a series of similar residential units that are undertaken by a developer and then sold for residential purposes; (iii) adding rehabilitations of agricultural structures and post-World War II structures as defined. The amendments also add a definition for "agricultural structure" that is consistent with how the Maryland Department of Agriculture generally defines the term.

Other programmatic changes made by the amendments:

(1) Establish that for the Homeowner Tax Credit, a Part 2 application must be filed by an individual who owns the structure at the time of the application and either presently occupies the structure or will occupy the structure following completion of the project as the individual's primary or secondary residence. This change

eliminates what has come to be known as the "developer pass-through option." Under the current regulations, a developer can submit a Part 2 for residential property that the developer intends to rehabilitate for sale to a residential owner. Since only a residential homeowner can claim the Homeowner Tax Credit, in such instances the developer will often sell the property at a reduced price before the Part 3 is submitted and enter into an agreement with the homeowner that the homeowner will file for and claim the tax credit and then remit the credit to the developer. These arrangements have created program management difficulties for the Maryland Historical Trust (MHT); Chapter 211's creation of a developer option within the Small Commercial Tax Credit as describes above eliminates the need for the developer pass-through option.

(2) For the Small Commercial Tax Credit, create a fee structure that mirrors the Competitive Commercial Tax Credit structure by requiring that the 3 percent application fee be paid at the Part 2 stage before issuance by MHT of an initial credit certificate. Currently, the balance of the fee for a Small Commercial project is due at the Part 3 stage.

(3) For the Homeowner Tax Credit and Small Commercial Tax Credit, allow for an additional year for an applicant to file a Part 3 application following completion of a rehabilitation.

(4) Add a requirement that for Competitive Commercial Tax Credits, and for Small Commercial Tax Credits that claim qualified rehabilitation expenditures of \$100,000 or more, a Part 3 application must be accompanied by audited financial statements that demonstrate that the claimed expenses were, in fact, expenses attributed to the rehabilitation. Currently, MHT only requires audited statements for Competitive Commercial projects.

(5) Eliminate as unnecessary and confusing references to the "Criteria for Listing" and "Standards for Evaluating Significance" from the Part 1 review process for certification of historic structures. The regulation is simplified by stating that a structure will qualify for tax credit purposes if it is a "certified historic structure," as specifically defined in the regulations.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

The proposed action will have a positive economic impact on small businesses by (1) providing enhanced tax credit incentives for historic structure rehabilitation projects, particularly within areas identified as Opportunity Zones and (2) qualifying residential development projects for the Small Commercial Tax Credit.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Collin Ingraham, Chief, Office of Preservation Services, Maryland Historical Trust, 100 Community Place, 3rd Fl., Crownsville, MD 21032, or call 410-697-9558, or email to collin.ingraham@maryland.gov, or fax to 410-697-9616. Comments will be accepted through October 28, 2019. A public hearing has not been scheduled.

.01 Scope.

This chapter establishes procedures for certification [of heritage structure rehabilitations] by the Director of the Maryland Historical Trust of the rehabilitation of a certified historic structure. Certification of [a heritage] the rehabilitation of a certified historic

structure is an eligibility requirement for a taxpayer to claim a [heritage structure rehabilitation] historic revitalization tax credit.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (2) (text unchanged)

(3) "Agricultural structure" means a certified historic structure that is used or ever was used to directly contribute to the production, conversion, processing, storage, sale, or management of agricultural products such as livestock, horses, poultry, crops, trees, shrubs, plants, other vegetation, or aquaculture.

[(3)] (4) — [(4)] (5) (text unchanged)

[(5)] (6) "Certified rehabilitation" means [a completed] the rehabilitation of a certified historic structure that the Director determines was completed in conformance with the Standards for Certified Historic Structure Rehabilitation.

[(6) "Criteria for Listing" means the Secretary of the Interior's Criteria for Listing in the National Register of Historic Places. 36 CFR §§60.3 and 60.4, as amended, or successor criteria.]

(7) (text unchanged)

[(8) Disposition.

(a) "Disposition" means the transfer of legal title in real property or, in the case of a leasehold, the transfer of a leasehold interest in the property, or any portions thereof, and includes, without limitation, a sale-and-leaseback transaction, a transfer on the foreclosure of a security interest, or a transfer by gift.

(b) "Disposition" does not include a transfer of title or of a leasehold interest to a creditor on creation of a security interest lien, mortgage, or deed of trust.

(9) "Disqualifying work" means work performed at any time prior to the expiration of the recapture period for a certified rehabilitation that, if performed during the rehabilitation would have made the rehabilitation ineligible for certification as a certified rehabilitation.]

[(10)] (8) — [(11)] (9) (text unchanged)

(10) "Level 1 opportunity zone project" means a project that qualifies for either the Small Commercial Tax Credit or the Competitive Commercial Tax Credit under Regulation .03 of this chapter and is completed by a qualified opportunity zone business if, at the time of the Part 3 application under Regulation .06 of this chapter, the applicant includes in the application:

(a) The date of the qualified opportunity fund's investment in the opportunity zone project and the amount of the investment;

(b) The total project or business investment, including leverage;

(c) The address and census tract for both the qualified opportunity zone business and the qualified opportunity fund; and

(d) An impact report that includes:

(i) Both qualitative and quantitative data on the qualified opportunity fund's investment in the opportunity zone project; and

(ii) The progress of the qualified opportunity fund's investment.

(11) "Level 2 opportunity zone project" means a project that qualifies for either the Small Commercial Tax Credit or the Competitive Commercial Tax Credit under Regulation .03 of this chapter and is completed by a qualified opportunity zone business if, at the time of the Part 3 application under Regulation .06 of this chapter, the applicant includes in the application:

(a) The date of the qualified opportunity fund's investment in the opportunity zone project and the amount of the investment;

(b) The total project or business investment, including leverage;

(c) The address and census tract for both the qualified opportunity zone business and the qualified opportunity fund;

- (d) An impact report that includes:
 - (i) Both qualitative and quantitative data on the qualified opportunity fund's investment in the opportunity zone project; and
 - (ii) The progress of the qualified opportunity fund's investment;
- (e) Information demonstrating that:
 - (i) Accountability to residents of the communities within the qualified opportunity zone is maintained through representation on any governing or advisory board of the qualified opportunity zone business; or
 - (ii) A community benefits agreement has been negotiated and agreed to by and between the qualified opportunity zone business and community groups or strategic industry partnerships, as defined by Labor and Employment Article, §11-701, Annotated Code of Maryland, within the qualified opportunity zone that specifies a range of community benefits that the qualified opportunity zone business agrees to provide as part of the development project; and
- (f) For an opportunity zone project:
 - (i) Located within a municipal corporation, a resolution or letter of the municipal corporation that demonstrates the municipality's approval of the provision within the municipality of the tax credit; or
 - (ii) Not located within a municipal corporation, a resolution or letter of the county that demonstrates the county's approval of the provision within the county of the tax credit.
- (12) (text unchanged)
- (13) "Opportunity zone project" means a certified rehabilitation that is located within a geographic area of the State designated and in effect as a qualified opportunity zone in the State under §1400Z-1 of the Internal Revenue Code.
- [(13)](14) (text unchanged)
- [(14)](15) "Program" means the [Heritage Structure Rehabilitation] Historic Revitalization Tax Credit Program established under Regulation .03 of this chapter and authorized by the Act.
- (16) "Post-World War II structure" mean a certified historic structure that was built after December 31, 1944, but before January 1, 1970.
- (17) "Qualified opportunity fund" has the meaning stated in Economic Development Article, §6-1001, Annotated Code of Maryland.
- (18) "Qualified opportunity zone" has the meaning stated in Economic Development Article, §6-1001, Annotated Code of Maryland.
- (19) "Qualified opportunity zone business" has the meaning stated in Economic Development Article, §6-1001, Annotated Code of Maryland.
- [(15)] (20) (text unchanged)
- [(16)] "Recapture period" means the taxable year in which a rehabilitation is certified by the Director as a certified rehabilitation under Regulation .06 of this chapter (Part 3) and the next 4 taxable years that succeed that taxable year.]
- [(17)] (21) "Rehabilitation" means the process of returning a structure to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the structure and its site and environment which make the structure and its site and environment historically, architecturally, or culturally significant. [but] and excludes alteration which is primarily remodeling, landscaping, or interior décor.
- [(18)] (22) — [(21)] (25) (text unchanged)
- [(22)] "Standards for Evaluating Significance" means the Secretary of the Interior's Standards for Evaluating Significance within Registered Historic Districts, 36 CFR §67.5, as amended, or successor standards.]
- [(23)] (26) — [(24)] (27) (text unchanged)

- .03 The [Heritage Structure Rehabilitation] Historic Revitalization Tax Credit Program.
 - A. There is a [Heritage Structure Rehabilitation] Historic Revitalization Tax Credit Program in the Trust that includes three separate tax credits for certified rehabilitations known as:
 - (1) — (3) (text unchanged)
 - B. To claim a [Heritage Structure Rehabilitation] Historic Revitalization Tax Credit, a business entity or individual shall:
 - (1) — (3) (text unchanged)
 - C. (text unchanged)
 - D. The Small Commercial Tax Credit.
 - (1) A rehabilitation will qualify as a certified rehabilitation eligible for the Small Commercial Tax Credit if:
 - (a) — (c) (text unchanged)
 - (d) [Upon completion of the rehabilitation, the] The structure:
 - (i) Is [not solely a principal residence], immediately following completion of the rehabilitation, primarily used for commercial, income-producing purposes;
 - (ii) [Is primarily used for income-producing purposes] After completion of the rehabilitation, is a residential unit located within a consecutive series of similar residential units that are arranged side by side in a row and has been sold by a developer who undertook the rehabilitation to an individual or individuals for residential use; [and] or
 - (iii) [Has no greater than 75 percent of its habitable interior square footage used or configured for rental residential purposes] Is either an agricultural structure or a post-World War II structure; and
 - (e) (text unchanged)
 - (2) The Small Commercial Tax Credit: [shall equal the lesser of
 - (a) 20 percent of the qualified rehabilitation expenditures incurred by the applicant;
 - (b) 20 percent of estimated qualified rehabilitation expenditures identified in the Part 2 application; or
 - (c) \$50,000]
 - (a) Shall equal the sum of:
 - (i) The lesser of 20 percent of the qualified rehabilitation expenditures either incurred by the applicant or as identified in the Part 2 application for the rehabilitation; and
 - (ii) If applied for in the Part 2 application, an additional 5 percent of those qualified rehabilitation expenditures if the certified rehabilitation results in a project that qualifies as a level 1 opportunity zone project or an additional 7.5 percent of the qualified rehabilitation expenditures if the certified rehabilitation results in a project that qualifies as a level 2 opportunity zone project; and
 - (b) May not exceed:
 - (i) \$50,000 for a project other than a project that qualifies as either a level 1 or level 2 opportunity zone project;
 - (ii) \$55,000 for a project that qualifies as a level 1 opportunity zone project; or
 - (iii) \$60,000 for a project that qualifies as a level 2 opportunity zone project.
 - (3) (text unchanged)
- E. The Competitive Commercial Tax Credit.
 - (1) A rehabilitation will qualify as a certified rehabilitation for the Competitive Commercial Tax Credit if:
 - (a) — (c) (text unchanged)
 - (d) During a continuous 24-month period selected by the applicant that ends during the taxable year in which the applicant claims the tax credit, the qualified rehabilitation expenditures exceed the [lesser] greater of:
 - (i) — (ii) (text unchanged)
 - (e) (text unchanged)

(2) The Commercial Tax Credit:

(a) Shall *shall* equal the sum of:

[(i)] (a) The lesser of 20 percent of the qualified rehabilitation expenditures *either* incurred by the applicant or [the estimated qualified rehabilitation expenditures] as identified in the Part 2 application *for the rehabilitation*; and

[(ii)] (b) If applied for in the Part 2 application[.]:

(i)[an additional] 5 percent of those qualified rehabilitation expenditures if the certified rehabilitation results in [either] a high performance building [or], a project that qualifies as affordable housing[: and], *or a project that qualifies as a level 1 opportunity zone project; or*

(ii) 7.5 percent of the qualified rehabilitation expenditures if the certified rehabilitation results in a project that qualifies as a level 2 opportunity zone project.

[(b)] (3) [May] The Commercial Tax Credit may not exceed:

(a) \$3,000,000[.] for any project that does not qualify as either a level 1 or level 2 opportunity zone project;

(b) \$3,150,000 for a project that qualifies as a level 1 opportunity zone project; *or*

(c) \$3,300,000 for a project that qualifies as a level 2 opportunity zone project.

.04 Certification of Structures as Certified Historic Structures (Part 1).

A. — B. (text unchanged)

C. Upon receipt of a complete Part 1 application, the Director shall:

(1) Determine whether the structure [meets either the Criteria for Listing or the Standards for Evaluating Significance] *is a certified historic structure*;

(2) Approve the application if the structure [meets the Criteria for Listing or Standards for Evaluating Significance] *is a certified historic structure*;

(3) Deny the application if the structure [does] *is not [meet the Criteria for Listing or Standards for Evaluating Significance] a certified historic structure; and*

(4) (text unchanged)

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

A. Part 2 Application Process.

(1) A business entity or individual may file a Part 2 application with the Director requesting the Director to determine that a [proposed] rehabilitation of a certified historic structure *proposed by the applicant will, if completed in accordance with the requirements of the Program, [shall] qualify as a certified rehabilitation.*

(2) — (5) (text unchanged)

B. Homeowner Tax Credit.

(1) *A Part 2 application for the Homeowner Tax Credit must be filed by the individual or individuals who, with respect to the structure or portion thereof that is the subject of the proposed rehabilitation:*

(a) *Is either:*

(i) *The owner; or*

(ii) *Lessee for purposes of Regulation 02B(24)(b) of this chapter; and*

(b) *Occupies the structure at the time of the application, or will occupy the structure upon completion of the rehabilitation, as a primary or secondary residence.*

[(1)] (2) (text unchanged)

[(2)] (3) The Director shall approve the Part 2 application or amendment and promptly send written notice of the approval to the

applicant if the Director determines that each of the criteria set forth in [§B(1)] §B(2) of this regulation is satisfied.

[(3)] (4) The Director shall deny the Part 2 application or amendment and promptly send written notice of the denial to the applicant if the Director determines that any of the criteria set forth in [§B(1)] §B(2) of this regulation is not satisfied.

C. Small Commercial Tax Credit.

(1) *In addition to information required under §A(3) of this regulation, a Part 2 application for the Small Commercial Tax Credit shall include a request that the rehabilitation be eligible for:*

(a) *The additional 5 percent tax credit available under Regulation .03E(2)(a)(ii) of this chapter if the applicant anticipates at the time of the application that the rehabilitation will result in a project that qualifies as a level 1 opportunity zone project; or*

(b) *The additional 7.5 percent tax credit available under Regulation .03E(2)(a)(iii) of this chapter if the applicant anticipates at the time of the application that the rehabilitation will result in a project that qualifies as a level 2 opportunity zone project.*

[(1)] (2) Upon receipt of either a complete Part 2 application or an amendment to an application for the Small Commercial Tax Credit, the Director shall review the application or amendment and determine whether:

(a) — (b) (text unchanged)

(c) *[The estimated qualified rehabilitation expenditures will exceed \$5,000 but not exceed \$500,000] if requested in the application, the structure is either an agricultural structure or a post-World War II structure.*

[(2)] (3) If the Director determines that [each of] the criteria set forth in [§C(1)] §C(2)(a) and (b) of this regulation [is] *are* satisfied, the Director shall:

(a) *[Approve the Part 2 application or amendment] Determine the allowable qualified rehabilitation expenditures for the proposed rehabilitation, which must exceed \$5,000 and cannot exceed \$500,000;*

(b) *[Issue an initial credit certificate to the applicant in an amount equal to the lesser of 20 percent of the estimated qualified rehabilitation expenditures or \$50,000, which shall be the maximum amount of tax credit approvable under Regulation .06 of this chapter] Determine the maximum amount for an award of an initial credit certificate for the rehabilitation based upon the limitations established under Regulation .03D(2) of this chapter;*

(c) *Reserve an award of an initial credit certificate for the rehabilitation;*

(d) *Send written notification to the applicant:*

(i) *Informing of the reservation of the award of an initial credit certificate and the maximum amount of the award;*

(ii) *Charging the applicant an administrative fee in an amount equal to 3 percent of the maximum amount of the award, less the \$10 paid with the Part 2 application; and*

(iii) *Informing the applicant that if the fee is not received by the Trust within the 90 days of notice of the fee the Director will not issue the initial credit certificate for the rehabilitation; and*

[(c)] (e) Promptly after the on-time receipt from an applicant of the administrative fee send [written notice of the approval and] the initial credit certificate to the applicant.

[(3)] (4) If the Director determines that any of the criteria set forth in [§C(1)] §C(2)(a) and (b) of this regulation is not satisfied, the Director shall deny the Part 2 application or amendment and promptly send written notice of the denial to the applicant.

[(4)] (5) The Director may not approve any Part 2 application or amendment and may not issue any initial credit certificates for:

(a) [a] *A Small Commercial Tax Credit project after the aggregate amount of all initial credit certificates for the Small Commercial Tax Credit issued by the Director [on or after January 1, 2015.] totals \$4,000,000;*

(b) *The rehabilitation of an agricultural structure after the aggregate amount of all initial credit certificates issued by the Director for the rehabilitation of agricultural structures totals \$1,000,000; or*

(c) *The rehabilitation of a post-World War II structure after the aggregate amount of all initial credit certificates issued by the Director for the rehabilitation of post-World War II structures totals \$1,000,000.*

D. Competitive Commercial Tax Credit.

(1) (text unchanged)

(2) [Information required by the Trust as part of] *In addition to information required under §A(3) of this regulation, a Part 2 application for the Competitive Commercial Tax Credit shall include:*

(a) — (b) (text unchanged)

(c) A statement from the applicant that:

(i) (text unchanged)

(ii) Upon completion of the rehabilitation, a sign or marker will be located on the property either external or internal to the rehabilitated structure identifying the structure as having been rehabilitated with funds provided by the Program; [and]

(d) A request that the rehabilitation be eligible for the additional 5 percent tax credit available under Regulation .03E(2)(a)(ii) of this chapter if the applicant anticipates at the time of the application that the rehabilitation will result in [either]:

(i) A high performance building; [or]

(ii) A project that qualifies as affordable housing[.]; or

(iii) *A project that qualifies as a level 1 opportunity zone project; and*

(e) *A request that the rehabilitation be eligible for the additional 7.5 percent tax credit available under Regulation .03E(2)(a)(iii) of this chapter if the applicant anticipates at the time of the application that the rehabilitation will result in a project that qualifies as a level 2 opportunity zone project.*

(3) — (6) (text unchanged)

(7) The maximum amount of an award of an initial credit certificate for a rehabilitation under §D(6) of this regulation may not exceed the lesser of:

(a) The sum of:

(i) 20 percent of the estimated qualified rehabilitation expenditures identified in the Part 2 application; and[.]

(ii) [if] *If requested in the application, either the additional 5 percent credit for achieving a high performance building [or], a project that qualifies as affordable housing [credit], or a project that qualifies as a level 1 opportunity zone project, or the additional 7.5 percent credit for achieving a project that qualified as a level 2 opportunity zone project; or*

(b) *[\$3,000,000] The limits established under Regulation 03E(2)(b) of this chapter.*

(8) For purposes of calculating the limitation on the credit for qualified rehabilitation expenditures under §D(7) of this regulation, a rehabilitation project shall include:

(a) (text unchanged)

(b) Rehabilitation of multiple certified historic structures located on a single property; or

(c) Separate rehabilitations of different components of a single certified historic structure[; or

(d) The rehabilitation of multiple certified historic structures that are functionally related to serve an overall purpose].

(9) Following the selection of an award of an initial credit certificate under §D(6)(a) of this regulation, the Director shall:

(a) Charge the applicant an administrative fee in an amount equal to 3 percent of the amount of the award of the initial credit certificate, less *the \$250 paid with the Part 2 application;*

(b) Send written notice to the applicant of the amount of the administrative fee; and

[(c) Notify the applicant that within 90 days of the fee notice the Trust must receive from the applicant the administrative fee payable to the Trust; and]

[(d)](c) (text unchanged)

(10) Promptly after [receiving] *the on-time receipt from an applicant of the administrative fee charged under §D(9) of this regulation [from an applicant], the Director shall issue to the applicant an initial credit certificate for the rehabilitation project in the amount awarded for the rehabilitation under §D(6) of this regulation.*

(11) — (13) (text unchanged)

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

A. (text unchanged)

B. A Part 3 application shall be filed:

(1) For either the Homeowner Tax Credit or the Small Commercial Tax Credit, not later than the end of the *second* calendar year that follows the calendar year during which the rehabilitation was completed; and

(2) (text unchanged)

C. A Part 3 application shall:

(1) (text unchanged)

(2) Include:

(a) [a] *A statement made under oath by the applicant that the amount of the qualified rehabilitation expenditures as stated in the [Part 3] application is true and correct; and*

(b) *Financial statements, in form and content satisfactory to the Director, certified by a certified public accountant that demonstrate that the qualified rehabilitation expenditures stated in the application were expended on the rehabilitation approved by the Director under Part 2, if the application is for:*

(i) *A Competitive Commercial Tax Credit; or*

(ii) *A Small Commercial Tax Credit that is based on qualified rehabilitation expenditures of \$100,000 or more; and*

(3) For [either] the Homeowner Tax Credit [or the Small Commercial Tax Credit], include an administrative fee in an amount that is equal to the greater of 0.6 percent of either the estimated cost of rehabilitation stated in the Part 2 application for the rehabilitation or the qualified rehabilitation expenditures stated in the Part 3 application, less \$10 paid with the Part 2 application.

D. The Director may not accept or review a Part 3 application until the Trust receives *the administrative fee, if applicable, and all information required by the application form [and the administrative fee].*

E. Upon receipt of a timely filed and complete Part 3 application, the Director:

(1) (text unchanged)

(2) Shall:

(a) (text unchanged)

(b) As may be appropriate for [a competitive commercial rehabilitation] *an application for the Competitive Commercial Tax Credit, determine whether the rehabilitation resulted in either:*

(i) — (ii) (text unchanged)

(c) *As may be appropriate for an application for either the Small Commercial Tax Credit or the Competitive Commercial Tax Credit, determine whether the rehabilitation resulted in either:*

(i) *A level 1 opportunity zone project; or*

(ii) *A level 2 opportunity zone project;*

[(c)] (d) — [(d)] (e) (text unchanged)

F. An applicant that has completed a competitive commercial rehabilitation approved under Part 2 may file a second Part 3 application for a determination by the Director of the applicant's qualification for *either* the additional 5 percent tax credit available under Regulation .03E(2)(a)(ii) of this chapter *or the additional 7.5 percent credit available under Regulation .03E(2)(a)(iii) of this chapter* if:

- (1) (text unchanged)
- (2) The additional 5 percent tax credit *or 7.5 tax credit* was not included within the tax credit amount determined by the Director under §E(2)(c) of this regulation; and
- (3) (text unchanged)

.08 Determining Disqualifying Work; Recapture of Tax Credits.

A. Definitions.

(1) *In this regulation, the following words have the meanings indicated.*

(2) *Defined Terms.*

(a) *Disposition.*

(i) *"Disposition" means the transfer of legal title in real property or, in the case of a leasehold, the transfer of a leasehold interest in the property, or any portions thereof, and includes, without limitation, a sale-and-leaseback transaction, a transfer on the foreclosure of a security interest, or a transfer by gift.*

(ii) *"Disposition" does not include a transfer of title or of a leasehold interest to a creditor on creation of a security interest lien, mortgage, or deed of trust.*

(b) *"Disqualifying work" means work performed at any time prior to the expiration of the recapture period for a certified rehabilitation that, if performed during the rehabilitation would have made the rehabilitation ineligible for certification as a certified rehabilitation.*

(c) *"Recapture period" means the taxable year in which a rehabilitation is certified by the Director as a certified rehabilitation under Regulation .06 of this chapter (Part 3) and the next 4 taxable years that succeed that taxable year.*

[A.] B. (text unchanged)

[B.] C. A tax credit awarded and claimed through the Program shall be recaptured if during either the rehabilitation or the recapture period:

- (1) (text unchanged)
- (2) For a certified rehabilitation awarded [either a Small Commercial Tax Credit or] a Competitive Commercial Tax Credit, there is a disposition of the structure that was the object of the certified rehabilitation.

[C.] D. —[D.] E. (text unchanged)

ROBERT McCORD
Secretary of Planning

Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

Subtitle 02 LOTTERY PROVISIONS

Notice of Proposed Action

[19-182-P]

The Maryland State Lottery and Gaming Control Agency proposes to:

- (1) Amend Regulation .01 under COMAR 36.02.01 **General**;
- (2) Adopt new Regulation .04, recodify existing Regulations .04, .05, .07, .09, and .10 to be Regulations .05, .06, .08, .10, and .11, respectively, and amend and recodify existing Regulations .06, .08, and .11 to be Regulations .07, .09, and .12, respectively, under COMAR 36.02.03 **Retailer Requirements**;
- (3) Amend Regulations .02 and .04 under COMAR 36.02.04 **Common Provisions for All Lottery Games**;
- (4) Amend Regulation .01, adopt new Regulation .02, and recodify existing Regulations .02 and .03 to be Regulations .03 and .04, respectively, under COMAR 36.02.05 **Specific Game Provisions**;
- (5) Amend Regulations .04 and .08, adopt new Regulation .09, recodify existing Regulations .09, .10, and .13—18 to be Regulations .10, .11, and .14—19, respectively, and amend and recodify existing Regulations .11 and .12 to be Regulations .12 and .13, respectively, under COMAR 36.02.06 **Claims Procedures**; and
- (6) Amend Regulation .01 under COMAR 36.02.07 **Unclaimed Lottery Prizes**.

This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on August 22, 2019, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

- (1) Under COMAR 36.02.01, correct references to the statute, use the term "subtitle" in place of "title", and add a definition of "coupon" as used in lottery retailer locations;
- (2) Under COMAR 36.02.01, add a definition of "Fast Play game", a new type of lottery terminal printed game, remove the definition of "instant ticket vending machine", which is now obsolete, and add a definition of "progressive jackpot" for Fast Play games which allows different methods of awarding prizes;
- (3) Under COMAR 36.02.03, describe Fast Play as a new lottery terminal printed game introduced by the Agency, and add a section addressing expiration of Fast Play tickets;
- (4) Under COMAR 36.02.04, add requirements for cashing Fast Play tickets, and specify that Fast Play tickets may not be cancelled;
- (5) Under COMAR 36.02.05, clarify and update drawing and ticket scanning information, and describe ticket information included on a Fast Play ticket;
- (6) Under COMAR 36.02.06, align with current practice to describe when a claim form may be required, and add the use of winning symbols as a means to visually determine if a ticket is entitled to a prize;
- (7) Under COMAR 36.02.06, explain validating and paying winning Fast Play tickets, add a Fast Play prize payout description, and permit the sale of Fast Play games with progressive prize; and