FISCAL NOTE

Agency: Department of Natural and Cultural Resources, Division of Historical Resources

Rule Citation: 07 NCAC 04R .0909, 07 NCAC 04R .0918, 07 NCAC 04R .0919, 07 NCAC 04R .0920, 07 NCAC 04R .0921, 07 NCAC 04R .0922, 07 NCAC 04R .0923, 07 NCAC 04R .0924, 07 NCAC 04R .0925, and 07 NCAC 04R .0926.

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Impact Summary: State government: Yes
Local government: Yes
Substantial economic impact: Yes
Federal government: No
Authority: G.S. 105-129.102

Summary:

In September 2015, Session Law 2015-241 was ratified and signed into law by Governor Pat McCrory, re-establishing a state historic preservation tax credit (HPTC) program for certified rehabilitations of historic structures listed in the National Register of Historic Places. With the passage of the new HPTC program in Article 3L of Chapter 105 of the General Statutes, temporary rules to administer the program were approved in December 2015, immediately prior to the effective date of the new program, January 1, 2016. This fiscal note is submitted as required for the adoption process for the permanent rules for this program.

Description of Rules Amendment and Adoptions

07 NCAC 04R .0909 – Amend: This rule originally introduced the rules for Article 3D and 3H historic tax credit reviews, and is being amended to clarify which rules apply to which historic tax credit program, and that the rules now being proposed for permanent adoption apply to Article 3L review.

07 NCAC 04R .0918 – Adopt: This rule sets forth the scope of the Article 3L rules and their underlining statutory authority under Article 3L of Chapter 105 of the General Statutes. It also clarifies which administrative rules previously adopted apply to Article 3D and 3H reviews versus 3L reviews.

07 NCAC 04R .0919 – Adopt: This rule sets forth definitions.

07 NCAC 04R .0920 – Adopt: This rule sets forth basic rules for historic preservation certifications for historic tax credit purposes, and information collected from applicants for review purposes.
07 NCAC 04R .0921 – Adopt: This rule outlines the process for determinations of historic significance of properties for historic tax credit review purposes.

07 NCAC 04R .0922 – Adopt: This rules sets forth standards for evaluating historic significance of properties within National Register or Certified Historic Districts for historic tax credit review purposes.

07 NCAC 04R .0923 – Adopt: This rule sets forth the process for certifications of rehabilitation for historic tax credit review purposes.

07 NCAC 04R .0924 – Adopt: This rule sets for the standards required for rehabilitation for historic tax credit review purposes.

07 NCAC 04R .0925 – Adopt: This rule sets forth the fee schedule for processing rehabilitation certification requests.

07 NCAC 04R .0926 – Adopt: This rule sets forth how the state historic tax credit program interacts with the federal income-producing historic rehabilitation tax credit program.
### Table 1

**Overview: Summary of Present Value of Total Estimated Benefits and Costs**

<table>
<thead>
<tr>
<th>Benefits</th>
<th>Present Value as of FY 2015-16</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State Government</strong></td>
<td></td>
</tr>
<tr>
<td>Fee Revenues from Conducting Project Reviews</td>
<td>$700,000</td>
</tr>
<tr>
<td><strong>Local Government</strong></td>
<td></td>
</tr>
<tr>
<td>Local Property Tax Revenues (with 39-year depreciation)</td>
<td>$6,200,000</td>
</tr>
<tr>
<td><strong>Private - Individuals and Businesses</strong></td>
<td></td>
</tr>
<tr>
<td>Estimated Value Gained from the Tax Credit**</td>
<td>$27,100,000</td>
</tr>
<tr>
<td><strong>Total Benefits</strong></td>
<td>$34,000,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Costs</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State</strong></td>
<td></td>
</tr>
<tr>
<td>Foregone General Fund Revenues from the Tax Credit**</td>
<td>$27,100,000</td>
</tr>
<tr>
<td>Labor Costs to Administer the Program</td>
<td>$490,000</td>
</tr>
<tr>
<td><strong>Private - individuals and businesses</strong></td>
<td></td>
</tr>
<tr>
<td>Local Property Taxes Paid Each Year (with 39-year depreciation)</td>
<td>$6,200,000</td>
</tr>
<tr>
<td>Fee Amounts Paid for Project Reviews</td>
<td>$700,000</td>
</tr>
<tr>
<td>Labor Costs to Apply for a Tax Credit</td>
<td>$250,000</td>
</tr>
<tr>
<td><strong>Total Costs</strong></td>
<td>$34,700,000</td>
</tr>
</tbody>
</table>

| Net Impact                                    | $ (700,000)                     |

*These figures are all rounded to two significant digits or the nearest hundred thousand and represent the present value of impacts over a 10-year period, computed using the statutorily mandated 7% discount rate (G.S. 150B-21.4). The program will sunset on January 1, 2020 (G.S. 105-129.105), but impacts on local property tax revenues will continue after the end of the program. Details for all amounts are in Appendix B.*

**The source of this amount is from Legislative Fiscal Note, Session 2015, House Bill 152, foregone General Fund Revenues of $8 million per year. We used this same amount as the estimated minimum value gained by individuals and businesses from the tax credit. There is also an unquantified benefit associated with the cultural and historical value to society of preserving and restoring historic buildings.**
Fiscal Impact

Based on the estimates provided by the General Assembly’s Fiscal Research Division (FRD), the primary fiscal impact to the state resulting from the new state historic preservation tax credit program is approximately $8 million per year or $32 million total for four years through FY 2019-20, when the program will sunset. It should be noted these costs are from reduced taxes collected by the State rather than budgetary appropriations.

FRD estimated fiscal impact is based on historical tax data concerning the cost of the previous historic rehabilitation tax credit obtained from the Department of Revenue. FRD made adjustments to that data to take into consideration the changes in the percentages of the investment allowed as a tax credit for income-producing and non-income producing property. Additionally, FRD made adjustments to account for the amount of expenses eligible for the credit as a result of the cap on the amount of credit that can be claimed.

The new program replaces the historic rehabilitation tax credit that expired at the end of 2014 with a new credit program effective January 1, 2016, that includes reductions to the credit rates and caps on the credit amounts available for both income-producing properties and non-income-producing properties. This new program is scheduled to sunset January 1, 2020.

The fiscal impact represents a cost to the State and the lower bound of the benefits to the private sector and the general public. In addition to the direct monetary benefits to project owners from the credits, there are unquantified cultural, historical, and economic benefits to the local communities and tourists where completed projects are located. Some academic research on preserving historic buildings suggests these benefits may be substantial in some cases.

Other Costs and Benefits

Benefits

- Cultural and historical benefits of requiring project compliance with The Secretary of the Interior’s Standards for Rehabilitation (Standards).

The Standards were developed in order to promote the long-term preservation of historic properties and to determine the appropriateness of proposed project work on National Register listed properties. (Eligibility for the state historic preservation tax credits requires that the property be either listed on the National Register individually or be a contributing building within a National Register Historic District.) The Standards pertain to historic buildings of all materials, construction types, sizes, and apply to the interior as well as the exterior. Use of these well-established Standards provide for a consistency of rehabilitation projects across the state for which a historic preservation tax credit is sought. Additionally, projects that are

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rehabilitated following the Standards help citizens preserve and care for their communities and neighborhoods by preserving their unique sense of place.

Costs

- Estimate of the agency staff time necessary to administer the state credits (excluding staff time that would have been spent administering the federal credit in the absence of state credits).

The additional programmatic demands of this program will be absorbed by existing staff. The following staff members in the Restoration Branch of the State Historic Preservation Office work on administration of the state historic tax credit program in the following ratios:

- 1 Preservation Architect at 25 hours per week.
- 6 Restoration Specialists (including branch supervisor) at 8 hours per week each (20% of their time), or 48 hours per week in the aggregate.
- 1 Office Assistant at 10 hours per week.

These ratios are derived from daily programmatic demands as well as justified by percentages set forth in the position descriptions for said positions.

Consequently, the total weekly staff time is 83 hours per week (8 employees), and annually 4,316 staff hours. Based on the hourly compensation rates for the above listed employees the costs for staff is approximately $140,000.

- Estimate of fee revenue likely to be generated by future project reviews

Based on available budget reports (from FY 2008-2009 to FY 2013-14), the annual fee revenue receipts for the state historic tax credit program were as follows in Table 3:

<table>
<thead>
<tr>
<th>Year</th>
<th>Fee Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2008-2009</td>
<td>$216,000</td>
</tr>
<tr>
<td>FY 2009-2010</td>
<td>$193,000</td>
</tr>
<tr>
<td>FY 2010-2011</td>
<td>$197,000</td>
</tr>
<tr>
<td>FY 2011-2012</td>
<td>$186,750</td>
</tr>
<tr>
<td>FY 2012-2013</td>
<td>$170,750</td>
</tr>
<tr>
<td>FY 2013-2014</td>
<td>$216,750</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$1,180,250</strong></td>
</tr>
<tr>
<td><strong>Rounded average over six-year period</strong></td>
<td><strong>$200,000</strong></td>
</tr>
</tbody>
</table>

We excluded fee-revenue data for FY 2014-2015, as it represents a “spiked” year with the impending sunset known to be a fact by the end of the legislative year in 2014, and we consider that fiscal year as the final year of the former HPTC program to be an outlier. Consequently, for analysis purposes, we are utilizing the more typical years of FY 2008-2009 through FY
2013-2014 from the table above. The average annual fee revenue during that time period was approximately $200,000.

However, this average is based on statistics for projects under the former Article 3D/3H program, which did not have per project caps or rehabilitation expense limitations. The new Article 3L HPTC program introduced per project caps so that credits are allowed only on those project expenses up to $20 million for income-producing projects and up to $150,000 for non-income-producing projects. This new project-cap feature should not substantially impact our projections for income-producing projects, because we propose to continue to use a fee revenue schedule with minor changes from our previously adopted schedule for these projects.

Under the new Article 3L HPTC program, we will charge review fees for non-income-producing projects only up to the project cap of $150,000, and not against the total rehabilitation expenses as under the 3H program. Consequently, we expect a reduction in our overall fee revenue for non-income-producing projects, even with our slight alterations in our proposed fee schedule. Unless there is an unexpected demand for the program, we believe that our maximum yearly fee revenue for all projects will remain within the range of our past averages, or around $200,000 per year.

- **Estimate of time necessary for credit applicants to comply with the requirements of the application and certification process.**

Credit applicants for the state historic tax credit are divided into two groups — those with income-producing historic structures and others with non-income-producing historic structures.

**Income-producing historic structures.** The state application requirements for income-producing projects are essentially the same as the necessary federal historic tax credit application, because state credits for this sort of project are a direct “piggyback” on the federal credit. Consequently, applicants for the state “piggyback” credit need only fill out minimal additional paperwork, consisting of three additional pages over the course of the application cycle; these pages require the same basic data as submitted for the federal application (date, applicant information, property address, planned expenditures). We estimate that these forms take applicants **a maximum of one hour** over the entire application and certification cycle to prepare for, fill out, and submit.

**Non-income-producing historic structures.** We have sought feedback from applicants under the prior state historic tax credit program, who used practically the same forms that have been adopted for the new 3L program, to estimate the time necessary for an applicant to prepare and submit complete applications over the entire application and certification process. Based on that feedback, we believe the following to be an estimation of the time required to complete the paperwork:

- Researching and reading the program instructions and guidelines **4 hours**
Part A application – description of proposed work 4 hours
Photography (pre-rehabilitation conditions) 2 hours
Preparation of sketch floor plan for keying photographs 2 hours

Part B application – final certification (one page) 1 hour
Photography (post-rehabilitation conditions) 2 hours
Attachment 1 1 hour

Consultation with SHPO staff during project 2 hours

Total 18 hours

Based on the U.S. Department of Labor, Bureau of Labor Statistics’ $30.30 per hour mean compensation for the South Atlantic Region, we believe that the opportunity cost for the applicant’s time to meet the program application requirements to be $545 per project. http://www.bls.gov/news.release/ecel.t07.htm.

Between 2005 and 2012, there were, on average, 46 income-producing projects and 126 non-income-producing projects completed each year. Assuming the number of projects during the 2016-2019 period will equal the average number of projects during the 2005-2012 period, we estimate that total annual opportunity costs of applicants’ time will be approximately $70,000 per year from 2016 through 2019. The present value of these estimated costs in FY 2015-16 is $250,000.

• Estimate of increase in property tax revenues likely to be collected by local governments as a result of completed projects.

Based on the availability of tax records online, our office examined the property taxes owed and the property valuations for tax assessment purposes for 21 HPTC projects throughout the state. We made an effort to select a variety of projects for both geographic diversity and project type. As a result, this list includes downtown buildings, industrial mills, and other historic buildings (such as former residences).

Based on an average of these projects, we found an average 239% increase in taxes owed on a property following a successfully completed HPTC project.3 Please refer to Appendix A for a list of state historic tax credit projects with property taxes owed over a time period relative to their status as a completed rehabilitation project.

The estimated average increase in property tax valuation per one dollar of Qualified Rehabilitation Expenses (QREs) in $0.45. The average property tax revenue increase for projects completed each year is $300,000. See the Table 4 below for the calculation and assumptions.

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3 Because of the large percentage increases for two RJ Reynolds factory buildings in Winston-Salem which skewed our results, we eliminated them from the average. With them included, the average was a 425% tax increase.
Table 4.

<table>
<thead>
<tr>
<th>Estimated annual QREs with aggregate credits of $8 million at average credit value of 15%</th>
<th>$53,000,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average increase in property tax valuation per $1 of QREs</td>
<td>$0.45</td>
</tr>
<tr>
<td>Projected annual increase in property valuation for project properties</td>
<td>$24,000,000</td>
</tr>
<tr>
<td>Average property tax rate for project sample</td>
<td>1.24%</td>
</tr>
<tr>
<td>Average property tax revenue increase for projects completed each year</td>
<td>$300,000</td>
</tr>
</tbody>
</table>

**Risk Analysis and Alternatives**

**Risk Analysis**

The North Carolina Office of State Budget and Management (OSBM) produced a different estimate for the fiscal impact of the tax credit program to prepare the Governor’s Recommended Budget for the 2015-17 biennium. Under OSBM alternative assumptions, the annual state fiscal impact resulting from the new state historic preservation tax credit program ranges from $2.4 to $21.4 million through FY 2020-21. (See Table 5 below.) The total estimated cost over the five-year period is $57.3 million.

Table 5.

<table>
<thead>
<tr>
<th>NC OSBM Fiscal Analysis of Historic Preservation Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Impact (millions)</td>
</tr>
<tr>
<td>Commercial Projects</td>
</tr>
<tr>
<td>Residential Projects</td>
</tr>
<tr>
<td>TOTAL</td>
</tr>
</tbody>
</table>

*Source: NC Office of State Budget and Management*

OSBM’s estimates of the fiscal estimate of the credit are based on historical project-level expenditure data from FY 2003-04 to 2006 as the baseline expenditure amounts for eligible projects, adjusted for projected growth in North Carolina construction GDP growth through 2019. The base-level of expenditures are adjusted to account for policy changes and judgments about likely project timelines during 2016-2019 period of eligibility.

Using OSBM’s estimate of the annual fiscal impacts of the credit would change the present value of the credits from $27.1 million to $46.0 million. The result would be to increase the costs to the State and increase the benefits for the private sector while leaving the net impact unchanged.

**Alternatives**
State policymakers considered a number of alternatives during the development of the new tax credit program. One alternative was to retain the higher tax rates with no limits on credits generated per property, consistent with the previous program. However, the selected alternative, by employing lower rates and per project caps on credits, greatly reduced the direct loss of tax revenue and improved the predictability of the annual amount of credits generated in a given year.

One alternative considered by DNCR was to use a flat fee for the review of applications for certifications rather than tiered fees based on the total of qualifying rehabilitation expenses. As larger projects are more complex, both generating greater tax credits for the applicant and requiring greater staff time than smaller projects, DNCR considers the selected alternative of using a sliding fee structure to be more equitable for the applicants. Additionally, the non-income-producing projects have much lower limits on qualifying rehabilitation expenses, and a flat fee would have a disproportionate impact on these smaller projects.

**Reducing the Public Burden**

To decrease the impact to the public, to streamline the application process, and to make the review consistent and as predictable as possible, DNCR has sought to make rules for the HPTC process clear and unambiguous while also minimizing the administrative burden on project applicants.

**Public Interest**

The proposed rules clarify and codify the process for the HPTC program. These rules are therefore useful to the public to understand how to apply, the requirements, and what to expect for the HPTC program. Likewise, the rules outline what the public should expect in terms of the scope and content of review.

The following pages contain the proposed rules and two appendices.
Rules

07 NCAC 04R .0909 Scope of Rules and Overview of Statutory Authority is proposed for amendment as follows:

07 NCAC 04R .0909 SCOPE OF RULES AND OVERVIEW OF STATUTORY AUTHORITY
(a) Rules .0901 - .0908 of this Section relate to recommendations made by the State Historic Preservation Officer (SHPO) to the Secretary of the Interior in connection with federal tax incentives involving the rehabilitation of income-producing historic properties.
(b) The SHPO makes certifications of historic significance and certifications of rehabilitation in connection with state tax incentives involving the rehabilitation of non-income-producing historic properties. The rules .0909 - .0915 of this Section are applicable to these certifications under Articles 3D and 3H of Chapter 105 of the General Statutes.
(c) The procedures for obtaining certifications under Articles 3D and 3H of Chapter 105 of the General Statutes are set forth in Rules .0909 - .0915 of this Section. Owners wishing certifications shall provide sufficient documentation to the SHPO to make certification decisions. These procedures shall be applicable to future and pending certification requests except as otherwise provided herein.
(d) Requests for certifications and approvals of proposed rehabilitation work shall be sent by an owner to the SHPO for review. All certification decisions shall be made by the SHPO based upon review by HPO staff of the application and supporting documentation.
(e) Rule .0916 of this Section relates to fees charged for reviewing income-producing and nonincome-producing rehabilitation certification requests under Articles 3D and 3H of Chapter 105 of the General Statutes.
(f) The SHPO makes certifications of rehabilitation in connection with state tax incentives involving the rehabilitation of income-producing historic properties. Rule .0917 of this Section is applicable to the coordination with the Federal Certified Historic Rehabilitation Program for these rehabilitation certification requests under Articles 3D and 3H of Chapter 105 of the General Statutes.


07 NCAC 04R .0918 Purpose is proposed for adoption as follows:

07 NCAC 04R .0918 PURPOSE
(a) Article 3L of Chapter 105 of the General Statutes authorizes a state historic rehabilitation tax credit program for rehabilitation of both income-producing and non-income-producing certified historic structures. The purpose of Rules .0918 - .0924 set forth the procedures for obtaining certifications for the state historic rehabilitation tax credits provided by Article 3L of Chapter 105 of the General Statutes. These procedures shall be applicable to future and pending Article 3L certification requests except as otherwise provided herein.

(b) Pursuant to G.S. 105-129.105(a), a taxpayer who is allowed a federal income tax credit under section 47 of the Internal Revenue Code for making qualified rehabilitation expenditures for an income-producing certified historic structure located in this State is allowed a state tax credit as set forth in Article 3L of Chapter 105 of the General Statutes. Federal approval of said rehabilitation is required to receive the Article 3L state tax credit, and Code of Federal Regulations definitions and procedures are hereby incorporated by reference for state certifications related to income-producing certified historic structures with substitutions for corresponding state officials and entities in lieu of federal counterparts.

History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107; Temporary Adoption Eff. January 1, 2016.

Eff. December 1, 2016:

07 NCAC 04R. 0919 Definitions is proposed for adoption as follows:

07 NCAC 04R. 0919 DEFINITIONS
(a) For purposes of Rules .0918 through .0925 of this Section:

(1) “Certified historic district” is defined in 36 C.F.R. 67.2 and 26 USCS § 47.
(2) “Certified historic structure” is defined in 36 C.F.R. 67.2 and Section 47 of United States Code, and is synonymous with “certified historic structure” as defined in G.S. 105-129.105(c)(1).
(3) “Certified rehabilitation” is defined in:
   (i) 36 C.F.R. 67.2, and as further certified by the State Historic Preservation Officer to the North Carolina Department of Revenue for income-producing structures; and
   (ii) G.S. 105-129.106(c)(1) for non-income-producing structures.
(4) “C.F.R” means the Code of Federal Regulations.
(6) “Discrete property parcel” is defined in G.S. 105-129.106(c)(2).
(7) “Historic district” is defined in 36 C.F.R. 67.2.
(8) “Inspection” is defined in 36 C.F.R. 67.2. “Representative of the Secretary” exclusively means, in the context of the state historic tax credit program, a representative of the State Historic Preservation Officer and/or HPO staff members.
(9) “Integrity” means “historic integrity” as defined in NPS publication How to Apply the National Register Criteria for Evaluation: Bulletin 15.
“National Park Service” (NPS) means the division within the United States Department of the Interior responsible for administering national parks and historic preservation programs.

“National Register Historic District” means any historic district listed in the National Register of Historic Places.

“National Register Nomination” means the documentation for a resource that includes the National Register Nomination Form NPS 10-900 with accompanying continuation sheets, maps, and photographs, prepared in accord with requirements and guidance in the NPS publication How to Complete the National Register Registration Form: Bulletin 16A and in other NPS technical publications on the subject.

“National Register of Historic Places” is defined in 36 C.F.R. 67.2.

“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 North Carolina Department of Revenue for purposes of the applicable tax benefits.

“Period of significance” is defined in NPS publication How to Complete the National Register Registration Form: Bulletin 16A.

“Property” is defined in 36 C.F.R. 67.2.

“Rehabilitation” is defined in 36 C.F.R. 67.2.

“Secretary of the Interior” means the Secretary of the United States Department of the Interior or the designee authorized to carry out his/her responsibilities.


“State Historic Preservation Office (HPO)” means the section within the North Carolina Office of Archives, History, and Parks responsible for administering historic preservation programs.

“State Historic Preservation Officer (SHPO)” is defined in G.S. 105-129.105(c)(7) for income-producing rehabilitation projects, and G.S. 105-129.106(c)(6) for non-income-producing rehabilitation projects.

“State-certified historic structure” is defined in G.S. 105-129.106(c)(5).

“Structure” means “building” as defined by 36 C.F.R. 60.3(a), and includes but is not limited to houses, barns, churches, hotels, warehouses, mills. However, objects and sites as defined in 36 C.F.R. 60.3(j) and (l) do not qualify as structures.

(b) Whenever reference is made to the Code of Federal Regulations in this Section, the definition in the Code of Federal Regulations shall apply unless specifically stated otherwise in a particular rule.

History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107; 121-4(13); 121-8.

Temporary Adoption Eff. January 1, 2016

Eff. December1, 2016;
07 NCAC 04R. 0920 Applications is proposed for adoption as follows:

07 NCAC 04R.0920 APPLICATIONS

(a) Who may apply. 36 CFR 67.3(a)(1), (4), and (5) are incorporated by reference to establish who may apply for state historic tax credit under Article 3L of Chapter 105. By request, an applicant may obtain a preliminary and non-binding determination of a property's historic significance within a National Register or certified historic district prior to undertaking a rehabilitation project.

(b) How to apply. Applications for certifications of proposed rehabilitation, historic significance, and completed rehabilitation as set forth by Rules .0921 and .0923 of this Section shall be submitted on the State’s Historic Preservation Certification Application, available upon request from the HPO. Two copies of the application and supporting documentation, including photographs and plans are required.

(c) Submissions. Requests for certifications and approvals of proposed rehabilitation projects shall be mailed to the HPO at the following address: Attention: Tax Credit Coordinator, State Historic Preservation Office, 4617 Mail Service Center, Raleigh, NC 27699-4617.

(d) Incomplete application. Where documentation as defined in Rules .0921 and .0923 of this Section is not provided, the owner will be notified in writing of the information necessary to complete the review. The application shall be placed on hold pending the receipt of complete information. If complete information is not received within 30 days from the date of the request to the owner, the application shall be returned to the owner due to insufficient documentation.

(e) Approvals. Approval of applications and any amendments shall be conveyed to the owner only in writing by the SHPO or his or her duly authorized representative. Decisions with respect to certifications shall be made on the basis of the descriptions contained in the application and other documentation as defined in Rule .0923(a)(1) of this Section. In the event of any discrepancy between the application and other supplementary material submitted with it (such as architectural plans, drawings, specifications, etc.), the applicant shall be requested to resolve the discrepancy in writing. If the discrepancy is not resolved, the description in the application shall take precedence. 36 CFR 67.3(b)(7) is incorporated by reference for State income-producing historic tax credit projects. Reviews of State historic tax credit projects will not be undertaken if the owner has objected to the listing of the property in the National Register of Historic Places.

History Note: Authority G.S. 105-129,105; 105-129.106; 105-129.107; Temporary Adoption Eff. January 1, 2016. Eff. December1, 2016;

07 NCAC 04R. 0921 Certifications of Historic Significance is proposed for adoption as follows:
CERTIFICATIONS OF HISTORIC SIGNIFICANCE

(a) Applicant request for certification of historic significance. 36 C.F.R. 67.4(a) is incorporated by reference for an applicant’s request to the SHPO for certifications of historic significance. The owner may contact the HPO to determine whether or not a property is already individually listed in the National Register of Historic Places or located within a National Register or certified historic district.

(b) Determination of historic significance. 36 C.F.R. 67.4(c) is incorporated by reference for determinations of historic significance in the case of a property located within the boundaries of a historic district and the owner wishes to determine if the property is a certified historic structure or a preliminary determination of significance under Rule .0920(a) of this Section.

(c) Historically functionally related structures. 36 C.F.R. 67.4(d)(2) and (e) are incorporated by reference for historically functionally related structures, and references in these cited C.F.R. sections to the “Secretary” shall mean “SHPO”.

(e) Moved structures. If a structure is to be moved as part of a rehabilitation for which certification is sought, the owner must follow the procedures outlined in 36 C.F.R. 60 and 36 C.F.R. 67.4(h), or risk denial of a certification of historic significance.

(f) Contributing properties. Properties within historic districts shall be evaluated to determine if they contribute to the historic significance of the district by application of the standards set forth in Rule .0922 of this Section.

(g) Once the significance of a property located within a National Register or certified historic district has been determined by the SHPO, written notification shall be sent to the owner.

History Note:  Authority G.S. 105-129.105; 105-129.106; 105-129.107; Temporary Adoption Eff. January 1, 2016; Eff. December 1, 2016:

07 NCAC 04R. 0922 Standards for Evaluating Significance Within National Register or Certified Historic Districts is proposed for adoption as follows:

STANDARDS FOR EVALUATING SIGNIFICANCE WITHIN NATIONAL REGISTER OR CERTIFIED HISTORIC DISTRICTS

(a) 36 C.F.R. 67.5(a) is incorporated by reference to evaluate significance within National Register or certified historic districts, and references in these cited C.F.R. sections to the “Secretary” shall mean “SHPO”. Structures that contribute to the historic significance of a district are certified historic structures.

(b) If non-historic surface material obscures a facade, the owner shall remove the surface material as part of the rehabilitation so that a determination of significance in accord with 36 C.F.R. 67.5(e), can be made. If the previously obscured facade has retained historic integrity and the property contributes to the historic district, it will be deemed a certified historic structure.
(c) If a property is located in a National Register or certified historic district but outside the district's period of significance, the National Register nomination or certification report for the district must be amended to expand the period of significance before a request for final certification is submitted to the SHPO.

History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107; Temporary Adoption Eff. January 1, 2016; Eff. December 1, 2016.

07 NCAC 04R.0923 Certifications of Rehabilitation is proposed for adoption as follows:

07 NCAC 04R.0923 CERTIFICATIONS OF REHABILITATION

(a) Owners seeking to have their State rehabilitation project certified as being consistent with the Standards for Rehabilitation shall comply with the procedures below.

(1) To initiate review of a rehabilitation project for certification purposes, an owner shall submit an application to the SHPO; applications are available upon request from the HPO. Information and documentation as set forth in 36 C.F.R. 67.6(a)(1) shall accompany the application. Substituting a State form for the federal Part 2 of the Historic Preservation Certification Application, 36 C.F.R. 67.6(a)(1) is otherwise incorporated by reference and applies.

(2) A project does not become a certified rehabilitation until it is completed by the owner and certified by the SHPO. Substituting State forms for the NPS Part 2 of the Historic Preservation Certification Application and NPS Request for Certification of Completed Work, 36 C.F.R. 67.6(a)(2) is otherwise incorporated by reference and applies.

(b) A rehabilitation project for certification purposes encompasses all work on the interior and exterior of the certified historic structure(s) and its site and environment as determined by the SHPO, as well as related demolition, new construction or rehabilitation work that affects the historic qualities, integrity or landscape features, and environment of the certified historic structure(s). More specific considerations in this regard are set forth in 36 C.F.R. 67.6(b)(1) through (7), and incorporated by reference, and references in these cited C.F.R. sections to the “Secretary” shall mean “SHPO”, and to “Internal Revenue Service” shall mean “Department of Revenue”. An owner undertaking a rehabilitation project shall not be held responsible for prior work not part of the current project and undertaken prior to January 1, 2016.

(c) Upon receipt of a complete application describing the rehabilitation project, the SHPO shall determine if the project meets the "Standards for Rehabilitation." If the proposed project does not meet the "Standards for Rehabilitation," the owner shall be advised of that fact in writing and, where possible, shall be advised of necessary revisions, in the form of conditions that will bring the proposed rehabilitation project into compliance with the Standards.

(d) Once a proposed project has been approved, changes in the work as described in the application must be brought to the attention of the SHPO by written statement to ensure continued conformance to the Standards. The SHPO shall
notify the owner in writing whether the revised project continues to meet the Standards. Oral approvals of revisions are not authorized or valid.

(e) To facilitate project review, the SHPO, by and through HPO staff, reserves the right to conduct on-site inspections of completed or pending projects to confirm matters represented in applications, to review any alterations, and to determine if the work meets the "Standards for Rehabilitation.

(f) If a completed rehabilitation project does not meet the "Standards for Rehabilitation," an explanatory letter from the SHPO or his/her duly authorized representative shall be sent to the owner.

(g) For the definition of “rehabilitation” as set forth in 36 C.F.R. 67.2, the term “Secretary” shall mean “SHPO” for non-income-producing projects.

History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107; Temporary Adoption Eff. January 1, 2016; Eff. December 1, 2016.

07 NCAC 04R. 0924 Standards for Rehabilitation is proposed for adoption as follows:

07 NCAC 04R.0924 STANDARDS FOR REHABILITATION

(a) 36 C.F.R. 67.7(a)-(d),(f) are incorporated by reference and set forth the Standards for Rehabilitation and criteria used to determine if a rehabilitation project qualifies as a certified rehabilitation; references in these cited C.F.R. sections to the “Secretary” shall mean “SHPO”. For further information on treatments that comply with the Standards, applicants are encouraged to consult NPS Guidelines for Rehabilitating Historic Building and NPS Preservation Briefs can be found at the following website: https://www.nps.gov/tps/standards/rehabilitation/rehab/ and https://www.nps.gov/tps/how-to-preserve/briefs.htm. In addition to those outlined in 36 C.F.R. 67.7, other physical treatments that do not comply with the Standards for Rehabilitation include the following:

(1) removal of character-defining historic exterior or interior materials and features, such as doors, windows, woodwork, and significant landscape features.

(2) excessive site paving; installing undocumented or non-period features; excessive alteration of exterior/interior features or spaces; removal of plaster from interior masonry walls to expose underlying masonry surface;

(3) using sandblasting or damaging water pressure as an exterior cleaning method;

(4) introduction of sealers or non-breathable materials on masonry surface, insulation, storm windows, and epoxy as contraindicated by NPS Guidelines for Rehabilitating Historic Buildings and NPS Preservation Briefs.

(5) installation of inappropriate replacement doors and windows such as metal or vinyl clad windows in place of wood windows;
replacement of non-deteriorated or repairable materials such as windows or millwork; painting unpainted masonry surfaces; and installation of artificial siding.

(b) Prior approval of a project by local agencies and organizations does not ensure certification by the SHPO for State tax credit purposes. The Standards for Rehabilitation take precedence over other regulations and codes in determining whether the rehabilitation project is consistent with the historic character of the property, and where, applicable, the district in which it is located.

History Note: Authority G.S. 105-129.105; 105-129.106; 105-129.107; Temporary Adoption Eff. January 1, 2016; Eff. December 1, 2016.

07 NCAC 04R. 0925 Fees for Processing Rehabilitation Certification Requests is proposed for adoption as follows:

07 NCAC 04R .0925 FEES FOR PROCESSING REHABILITATION CERTIFICATION REQUESTS

(a) The North Carolina Department of Natural and Cultural Resources shall charge fees for reviewing income-producing and non-income-producing rehabilitation certification requests in accordance with the schedule in Paragraph (e) of this Rule.

(b) Payment shall be made payable to: North Carolina Department of Natural and Cultural Resources. A certification decision by the State Historic Preservation Office shall not be issued on an application until the appropriate remittance is received by the department. Fees are nonrefundable.

(c) No fee shall be charged for rehabilitations under twenty-five thousand dollars ($25,000).

(d) Initial fee for proposed rehabilitation project. The fee to initiate review of a proposed rehabilitation project over twenty-five thousand dollars ($25,000) is two hundred fifty dollars ($250.00). The initial fee for review of a proposed rehabilitation project shall be credited towards and deducted from the final review fee.

(e) Final review fee. The fees for review of completed rehabilitation projects are based on the dollar amount of the costs attributed solely to the rehabilitation of the certified historic structure as provided by the owner in the Historic Preservation Certification Application, Request for Certification of Completed Work, in accordance with the following schedule.

<table>
<thead>
<tr>
<th>Completed Qualifying Rehabilitation Expenditures</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$5,000 - $25,000</td>
<td>$0</td>
</tr>
<tr>
<td>$25,001 - $50,000</td>
<td>$250</td>
</tr>
<tr>
<td>$50,001 - $75,000</td>
<td>$500</td>
</tr>
<tr>
<td>$75,001 - $100,000</td>
<td>$750</td>
</tr>
<tr>
<td>$100,001 - $150,000</td>
<td>$1000</td>
</tr>
<tr>
<td>Revenue Range</td>
<td>Fee</td>
</tr>
<tr>
<td>-----------------------</td>
<td>---------</td>
</tr>
<tr>
<td>$150,001 - $200,000</td>
<td>$1,500</td>
</tr>
<tr>
<td>$200,001 - $300,000</td>
<td>$1,750</td>
</tr>
<tr>
<td>$300,001 - $400,000</td>
<td>$2,000</td>
</tr>
<tr>
<td>$400,001 - $500,000</td>
<td>$2,250</td>
</tr>
<tr>
<td>$500,001 - $1,000,000</td>
<td>$2,750</td>
</tr>
<tr>
<td>$1,000,001 - $5,000,000</td>
<td>$5,750</td>
</tr>
<tr>
<td>$5,000,001 or more</td>
<td>$8,750</td>
</tr>
</tbody>
</table>

Fees for review of non-income-producing projects shall not exceed $1,000 per discrete property parcel every five years, as qualifying rehabilitation expenditures for purposes of a tax credit are limited to $150,000 per NC GS 105-129.101(b).

(f) In the following cases, the initial fee for preliminary review of proposed projects is two hundred fifty dollars ($250.00) and the final fee for review of completed projects is computed on the basis of the total completed qualifying rehabilitation expenditures:

1. In the case of a rehabilitation project that includes more than one certified historic structure where the structures are judged by the reviewing authority to have been functionally related historically to serve an overall purpose per Rule .0921(c) of this Section; or

2. In the case of multiple building projects where:
   - (A) there is no historic functional relationship among the structures that are under the same ownership;
   - (B) are located in the same historic district;
   - (C) are adjacent or contiguous;
   - (D) are of the same architectural type (e.g., rowhouses, loft buildings, commercial buildings);
   - and
   - (E) are submitted by the owner for review at the same time.

**History Note:** Authority G.S. 105-129.105; 105-129.106; 105-129.107; Temporary Adoption Eff. January 1, 2016; Eff. December 1, 2016.

07 NCAC 04R. 0926 Coordination with the Federal Income-Producing Historic Preservation Rehabilitation Program is adopted as follows:

**07 NCAC 04R .0926 COORDINATION WITH THE FEDERAL INCOME-PRODUCING HISTORIC PRESERVATION REHABILITATION PROGRAM**
(a) A taxpayer is not required to apply for or pay the state fee for reviewing an income-producing rehabilitation certification request if the taxpayer is not going to utilize the state tax incentive.

(b) National Park Service certification of a property as historically significant shall be deemed to be certification of a property as historically significant by the State Historic Preservation Officer.

(c) The State Historic Preservation Officer shall certify and forward income-producing rehabilitation projects to the National Park Service for review, and National Park Service review shall constitute final certification. The National Park Service certification shall not be deemed to be project certification by the State Historic Preservation Officer.

(d) Taxpayers are cautioned that deadlines and requirements for state certifications may differ from deadlines and requirements for federal certifications.

## Appendix A

### Article 3D / 3H State Historic Tax Credit Program Historic Rehabilitation Projects and Local Property Taxes

#### Property taxes owed

<table>
<thead>
<tr>
<th>Project address (County in CAPS)</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>% increase</th>
<th>HPO Project #</th>
<th>Part 3 to NPS</th>
</tr>
</thead>
<tbody>
<tr>
<td>248-250 Middle St., New Bern, CRAVEN (downtown building)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>107 S. Driver St., Durham, DURHAM (Maureen Joy Charter School)</td>
<td>2.200</td>
<td>2.189</td>
<td>2.189</td>
<td>2.189</td>
<td>2.189</td>
<td>75%</td>
<td></td>
<td></td>
<td>F05007</td>
<td>10/31/2013</td>
</tr>
<tr>
<td>321 W. Geer St., Durham, DURHAM (7-Up Plant)</td>
<td>21664</td>
<td>35239</td>
<td>35239</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F11013</td>
<td>12/5/2013</td>
</tr>
<tr>
<td>525 E. Vine St., Winston-Salem, FORSYTH (RJR Factory 91)</td>
<td>44,468</td>
<td>751,304</td>
<td>1,170,212</td>
<td>2531%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F8044</td>
<td>1/18/2012</td>
</tr>
<tr>
<td>575 Patterson Ave. N., Winston-Salem, FORSYTH (RJR Factory 90)</td>
<td>42,634</td>
<td>692,066</td>
<td>774,778</td>
<td>830,513</td>
<td>1848%</td>
<td></td>
<td></td>
<td></td>
<td>F05007</td>
<td>10/31/2013</td>
</tr>
<tr>
<td>211 3rd St., NE, Winston-Salem, FORSYTH (downtown building)</td>
<td>1,245</td>
<td>2,200</td>
<td>1,749</td>
<td>2,044</td>
<td>2,061</td>
<td>2,125</td>
<td>2,125</td>
<td>124%</td>
<td>F13002</td>
<td>8/29/2014</td>
</tr>
<tr>
<td>450 Spring St. N, Winston-Salem, FORSYTH (Bahnson House rest.)</td>
<td>948</td>
<td>1,749</td>
<td>2,044</td>
<td>2,061</td>
<td>2,125</td>
<td>1,245</td>
<td>2,125</td>
<td>124%</td>
<td>F13002</td>
<td>8/29/2014</td>
</tr>
<tr>
<td>401 N. Highland St., Gastonia, GASTON (Highland Memorial Apts)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F05007</td>
<td>10/31/2013</td>
</tr>
<tr>
<td>102 W 2nd Ave., Gastonia, GASTON (Armstrong Apts)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F11013</td>
<td>12/5/2013</td>
</tr>
<tr>
<td>115-117 3rd St., Smithfield, JOHNSTON (downtown building)</td>
<td>3,741</td>
<td>30,394</td>
<td>28,952</td>
<td>31,549</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F05007</td>
<td>10/31/2013</td>
</tr>
<tr>
<td>3689 E. Wilson St., Farmville, PITT (downtown building, steakhouse)</td>
<td>42,634</td>
<td>692,066</td>
<td>774,778</td>
<td>830,513</td>
<td>1848%</td>
<td></td>
<td></td>
<td></td>
<td>F05007</td>
<td>10/31/2013</td>
</tr>
<tr>
<td>24 Main St., Saluda, POLK (Thompson Ward Store)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F05007</td>
<td>10/31/2013</td>
</tr>
<tr>
<td>161 S. Church St., Asheboro, RANDOLPH (Asheboro Mill Lofts)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F05007</td>
<td>10/31/2013</td>
</tr>
<tr>
<td>329 N. Lee St., Salisbury, ROWAN (Lee St. Theatre / old warehouse)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F05007</td>
<td>10/31/2013</td>
</tr>
<tr>
<td>131 E. Innes St., Salisbury, ROWAN (downtown building)</td>
<td>3,882</td>
<td>6,321</td>
<td>6,429</td>
<td>6,429</td>
<td>6,639</td>
<td>6,643</td>
<td>6,643</td>
<td>65%</td>
<td>F05007</td>
<td>12/5/2013</td>
</tr>
<tr>
<td>508 S. Fulton St., Salisbury, ROWAN (residential conversion)</td>
<td>111,176</td>
<td>21,027</td>
<td>21,027</td>
<td>21,811</td>
<td>21,416</td>
<td></td>
<td></td>
<td></td>
<td>F05007</td>
<td>12/5/2013</td>
</tr>
<tr>
<td>112 Church St., Elkin, SURRY (Neaves Building)</td>
<td>1,327</td>
<td>1,327</td>
<td>1,327</td>
<td>2,789</td>
<td>2,789</td>
<td>2,789</td>
<td>2,789</td>
<td>110%</td>
<td>F10015</td>
<td>8/16/2012</td>
</tr>
<tr>
<td>133 S. Garnett St., Henderson, VANCE (downtown building)</td>
<td>1,634</td>
<td>1,634</td>
<td>6,418</td>
<td>6,734</td>
<td>6,459</td>
<td></td>
<td></td>
<td></td>
<td>F10015</td>
<td>8/16/2012</td>
</tr>
<tr>
<td>215 E. Nash St., Wilson, WILSON (downtown building)</td>
<td>8,139</td>
<td>8,214</td>
<td>10,561</td>
<td>11,253</td>
<td>11,823</td>
<td>45%</td>
<td></td>
<td></td>
<td>F09026</td>
<td>3/19/2013</td>
</tr>
<tr>
<td>206/8 S. Wilmington, Raleigh, WAKE (downtown building)</td>
<td>9,488</td>
<td>7,584</td>
<td>9,695</td>
<td>14,079</td>
<td>17,943</td>
<td>89%</td>
<td></td>
<td></td>
<td>F08043</td>
<td>2/10/2011</td>
</tr>
</tbody>
</table>

average increase in property taxes owed post-project 425%

(removing large Winston-Salem industrial buildings as outliers) 239%
Appendix B

Details of Overview Summary

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Impact on local property taxes each year (no depreciation)</td>
<td>$6,800,000</td>
<td>$0</td>
<td>$300,000</td>
<td>$600,000</td>
<td>$900,000</td>
<td>$1,200,000</td>
<td>$1,200,000</td>
<td>$1,200,000</td>
<td>$1,200,000</td>
<td>$1,200,000</td>
<td></td>
</tr>
<tr>
<td>Impact on local property taxes each year (with 39-year depreciation)</td>
<td>$6,200,000</td>
<td>$0</td>
<td>$300,000</td>
<td>$590,000</td>
<td>$870,000</td>
<td>$1,150,000</td>
<td>$1,120,000</td>
<td>$1,090,000</td>
<td>$1,060,000</td>
<td>$1,030,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Foregone General Fund Revenues from the Tax Credit</td>
<td>$27,100,000</td>
<td>$0</td>
<td>$8,000,000</td>
<td>$8,000,000</td>
<td>$8,000,000</td>
<td>$8,000,000</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Fee Revenues from Conducting Project Reviews</td>
<td>$700,000</td>
<td>$100,000</td>
<td>$200,000</td>
<td>$200,000</td>
<td>$200,000</td>
<td>$100,000</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Labor Costs to Administer the Program</td>
<td>$490,000</td>
<td>$70,000</td>
<td>$140,000</td>
<td>$140,000</td>
<td>$140,000</td>
<td>$70,000</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Labor Costs to Apply for a Tax Credit</td>
<td>$250,000</td>
<td>$35,000</td>
<td>$70,000</td>
<td>$70,000</td>
<td>$70,000</td>
<td>$35,000</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

These figures are all rounded to two significant digits. The present values of impacts over a 10-year period are computed using the statutorily mandated 7% discount rate (G.S. 150B-21.4).