



Guidance on Senate Bill 225 and Its Impacts on the Ohio Historic Preservation Tax Credit Program

Updated March 1, 2023

Senate Bill (SB) 225 was signed by Governor DeWine on June 14, 2022, with an effective date of September 13, 2022. SB225 included both temporary and permanent changes to the Ohio Historic Preservation Tax Credit (OHPTC) program which are outlined in this document. As the changes are effective prior to the next award date, they will be incorporated into Round 29 in the fall of 2022.

Permanent Changes

1. For applications that include buildings used as a theater before and intended to be used as a theater after the rehabilitation is complete, the Director will consider the extent to which the rehabilitation will increase attendance at the theater and increase the theater's gross revenue. The Director will also consider information applicants provide specific to the theater's vacancy and projected end use characteristics.
2. The effective date of the OHPTC tax credit certificate will be the date on which the last historic building in the project is placed in service unless the project is a staged project. This policy is a change from the current rules that require applicants to submit all certification documentation concurrently, with only the SHPO Part 3 given a 90-day completion window with the effective date then backdated to when documentation was submitted. Under the new policy, the tax credit effective date will be the date on which the building was placed in service once a complete certification request is received. The certificate itself will not be issued to the applicant until all required documentation has been submitted, including an approved Part 3.

Temporary Changes

For state fiscal years 2023 (July 1, 2022, to June 30, 2023) and 2024 (July 1, 2023, to June 30, 2024) the OHPTC **allocation will increase** from \$60 million to \$120 million, still divided evenly between the two annual funding rounds.



All four rounds in these fiscal years will have a base allocation of \$60 million in addition to any allocation added back from previous rounds. The current allocation pool thresholds and set-aside percentages will remain the same.

Pool	Set-aside	Maximum tax credit request	Maximum QREs
Small Projects	8% of available allocation	\$250,000	\$1,250,000
Intermediate Projects	25% of available allocation	\$2,000,000	\$10,000,000
General Projects	Remainder of allocation after small and intermediate is set aside	\$10,000,000	No maximum

Applicants may request a tax credit less than or equal to **35%** of their Qualified Rehab Expenditures (instead of previous cap at 25%) if their project is located in a county, township, or municipal corporation of less than **300,000** people as of the 2020 Census. Projects located in a county, township, or municipal corporation with 300,000 people or more will remain capped at 25% of QREs.

The amount of tax credit requested will remain the decision of the applicant, but the maximum percentage allowed is being raised for certain applications submitted in FY 2023 and FY 2024. Applicants may still decide to ask for less for strategic reasons. Please refer to <https://data.census.gov/cedsci/advanced> to determine the population of your project location. All projects in counties with a population of less than 300,000 are eligible for a tax credit of up to 35%. Projects in counties with a population greater than 300,000 are only eligible for a tax credit of up to 35% if the local jurisdiction (township or municipality) where the project is located has a population of less than 300,000.

The maximum tax credit award will **increase** from **\$5 million** to **\$10 million**.

Applicants may request up to \$10 million in tax credits (but no more than 25% or 35% of their QREs depending on location) for applications submitted in FY 2023 and FY 2024. Applicants may still decide to ask for less for strategic reasons. This change applies to projects in any location in the state.



Applicants awarded credits after June 30, 2020 and before September 13, 2022 may **reapply** for increased credits by submitting a contingent application. To be eligible, construction must not have commenced as of the approval date of the new application.

Any project awarded tax credits in Rounds 25-28 may be eligible to reapply for an increased award under the new, temporary provisions of SB225. Applicants will apply *contingently*, meaning that they will agree to give up their previous award if they are successful in applying under the new provisions, but if the new application is not approved, the original award will remain intact. Applicants would still be required to meet the terms and conditions as specified in their allocation agreements regardless of when they were awarded credits.

The intent to apply form and the application form will require applicants to indicate if they are applying contingently during that round for an increased award and will provide information regarding required documentation.

Only applications for which construction has not commenced are eligible to reapply under the new, temporary provisions. SB225 specifies that “construction of a rehabilitation project commences when physical work on the project begins, including actual construction or deconstruction in preparation for construction. Construction of a project does not commence merely because preliminary activities such as planning, designing, securing financing, exploring, researching, or developing plans and specifications have begun. Stabilizing a building to prevent deterioration, environmental abatement, and work necessary to qualify a building for the National Register of Historic Places do not constitute commencement of construction.”

Development staff will conduct a site visit of every project seeking an increased award under these provisions during the application review period to confirm that construction has not begun. Any project for which construction has begun as determined by Development will be deemed ineligible for an increased award.

Scoring Guidance

All applications, including those reapplying under the provisions of SB225, will be scored competitively. Tax credit allocations will be awarded in rank order.