



Virginia  
Regulatory  
Town Hall

## Notice of Intended Regulatory Action Agency Background Document

<b>Agency Name:</b>	Department of Historic Resources
<b>VAC Chapter Number:</b>	17 VAC 10-30
<b>Regulation Title:</b>	Historic Rehabilitation Tax Credit
<b>Action Title:</b>	NOIRA
<b>Date:</b>	May 2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

### Purpose

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

These regulations will implement the Historic Rehabilitation Tax Credit program. They will provide clear guidance to Virginia taxpayers about eligibility for the program, application requirements and procedures, review standards, appeal procedures, and coordination with the federal Certified Historic Rehabilitation program.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

The Department of Historic Resources has specific statutory authority under Va. Code §58.1-339.2 to promulgate regulations necessary to implement the program. The regulation is mandated

in whole by the state statute. The statute provides that the Director of the Department of Historic Resources shall establish by regulation the requirements needed for the program, including the fees to defray the necessary expenses and the extent to which the availability of the credit is coextensive with the availability of the federal rehabilitation tax credit.

## Substance

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

The proposed regulatory action will set forth the requirements and procedures for obtaining the tax credit authorized by section 58.1-339.2 of the Virginia Code. The regulations will address the following areas:

- Definitions
- Introduction to certifications of significance and rehabilitation
- Certifications of historic significance
- Standards for evaluating significance within registered historic districts
- Certifications of rehabilitation
- Standards for rehabilitation
- Appeals
- Fees for processing certification of rehabilitation requests
- Forms
- Definition of rehabilitation project
- Eligible rehabilitation expenses
- Qualification for credit
- Amount and timing of credit
- Entitlement to credit
- Transition rules for projects begun before 1977
- Coordination with the federal Certified Historic Rehabilitation program

The regulations are necessary to protect the health, safety, and welfare of the citizens of Virginia because they will provide a clear and understandable process for qualifying for and claiming the tax credit. The rehabilitation of historic buildings benefits not only individual property owners, developers, and investors, but entire communities. Through the tax credit program, private dollars are invested in preservation, resulting in enormous public advantage. This money represents costs paid into the construction industry to architects, contractors, craftsmen, and suppliers, as well as to professionals in related fields such as banking, legal services, private consulting, and real estate. The capital improvement to the buildings can result in dramatic increases in local property taxes, enhanced commercial activity, and community revitalization.

The rehabilitated buildings provide needed housing (in many cases, low- and moderate-income housing), and office, retail, and other commercial space. Communities benefit from property improvement, blight removal, and increased occupancy of buildings in historic core neighborhoods.

## Alternatives

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

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There is no feasible alternative to promulgating these regulations. The regulations are mandated by state law, and they are necessary to provide clear guidance and an efficient procedure for qualifying for and claiming the tax credit. Therefore, the Department has not considered any alternatives.

## Family Impact Statement

*Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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Rehabilitation of historic buildings results in, among other benefits, improved housing stock, preservation of neighborhoods, and enhanced property values. In many cases, the historic rehabilitation tax credits are combined with low-income housing tax credits, resulting in increased housing for low and moderate income families. The Virginia credit, unlike the corresponding federal rehabilitation tax credit, is available for owner-occupied buildings. This creates a financial incentive for homeowners to improve their property, resulting in a positive influence for families.

1. This program will not directly affect the authority and rights of parents with regard to the education, nurturing, or supervision of their children.
2. This program will encourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself and one's family by providing a financial incentive to homeowners to rehabilitate and improve their property.
3. This program will not directly affect marital commitments.
4. This program will have a positive effect on disposable family income, not only by allowing homeowners to take advantage of the credits, but also by enhancing economic activity in general through money paid into the construction industry, related fields such as real estate, law, and banking, and enhance retail and business activity.