# The New Jersey Economic Recovery Act of 2020: An Overview of the New Jersey Historic Property Reinvestment Program

Client Alert

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The New Jersey Economic Recovery Act of 2020, a seven-year, $14 billion package of incentive programs intended to encourage New Jersey job growth, property development and redevelopment, community partnerships, and numerous other economic development initiatives, was signed into law by Governor Phil Murphy on January 7, 2021.

This Client Alert focuses on the New Jersey Historic Property Reinvestment Program enacted under the new legislation. The program seeks to leverage the federal historic tax credit program to support transformative rehabilitation projects of qualified historic properties.

**Qualified Properties**

A "qualified property" under the program is defined as a property located in the State of New Jersey that is an income producing property, and that is: (a) individually listed, or located in a district listed on the National Register of Historic Places or on the New Jersey Register of Historic Places or individually designated, or located in a district designated, by the Pinelands Commission as a historic resource of significance to the Pinelands; or (b) individually identified or registered, or located in a district composed of properties identified or registered, for protection as significant historic resources in accordance with criteria established by a municipality in which the property or district is located, and if located within a district, certified by the officer as contributing to the historic significance of the district.

**Applications and Approval**

A historic property rehabilitation project is eligible for a tax credit under the program if the business entity demonstrates to the New Jersey Economic Development Authority (EDA) at the time of application that: (a) without the tax credit, the rehabilitation project is not economically feasible; and (b) a project financing gap exists.

Prior to the EDA issuing approval, the New Jersey Department of Labor and Workforce Development, the New Jersey Department of Environmental Protection, and the New Jersey Department of the Treasury must each report as to whether the business entity is in substantial good standing with the respective department. In lieu of submitting these certificates of good standing, the business entity may itself demonstrate that it has entered into an agreement with the respective department that includes a practical corrective action plan.

Upon successful application to the EDA, the business entity must also commit to paying each worker employed to perform construction work at the project the prevailing wage rate for the worker's craft or trade. The applicant will then be allowed tax credits of up to 40% of the cost of rehabilitation of a qualified property as long as the cost of rehabilitation is not less than the greater of: (a) the adjusted basis of the structure of the qualified property or transformative project used for federal income tax purposes as of the beginning of the business entity's selected rehabilitation period; or (b) $5,000. These tax credits may be applied to: (a) the tax otherwise due; (b) the tax imposed on insurers; or (c) the tax imposed on marine insurance companies.

Following EDA approval but prior to the start of construction or rehabilitation activities, the EDA will negotiate the terms and conditions of a rehabilitation agreement with the business entity on behalf of the State of New Jersey.

A business entity may claim a credit during the accounting or privilege period: (a) in which it makes the final payment for the cost of rehabilitation if the business entity has chosen a selected rehabilitation period of 24 months; or (b) in which a distinct project phase of the rehabilitation is completed if the business entity has chosen a selected rehabilitation period of 60 months. The business entity must submit to the EPA satisfactory evidence of the actual cost of rehabilitation as certified by a certified public accountant, evidence of completion of the rehabilitation or phase, and a certification that all information provided is true.

**Appropriation Amounts and Allocation**

The total value of tax credits awarded under any constituent program of the New Jersey Economic Recovery Act of 2020 is subject to annual limitations, except as otherwise provided. For tax credits awarded under the Historic Property Reinvestment Program, the total value of tax credits awarded annually during each of the first six years of the seven-year period covered under the program will not exceed $50 million.

A business entity holding an unused, otherwise allowable tax credit may apply to the Division of Taxation and the EDA for a tax credit transfer certificate. Upon receipt, the business entity may sell or assign, in full or in part, the tax credit transfer certificate to another taxpayer in exchange for private financial assistance to be provided by the purchaser or assignee of the tax credit transfer certificate.

The Director of the Division of Taxation in the Department of the Treasury may purchase tax credits awarded under the Historic Property Reinvestment Program.

**Federal Historic Rehabilitation Tax Credit Program**

The Federal Historic Rehabilitation Tax Credit (HTC) Program is an indirect federal subsidy to finance the rehabilitation of historic buildings with a 20% tax credit for qualified expenditures. As with the New Jersey program, a building owner generates tax credits by completing a certified rehabilitation on a qualified rehabilitation building.

To qualify for the 20% credit under the HTC, a building must be a certified historic structure, which are individually listed on the National Register of Historic Places, listed as a contributing building in a National Register, or located in a state or local historic district certified by the U.S. Secretary of the Interior. The U.S. National Park Service determines if a building is a certified historic structure at the federal level.

**Next Steps**

The EDA will be promulgating rules regarding the application process for the New Jersey Historic Property Reinvestment Program. We will keep you updated on this and other developments related to the New Jersey Economic Recovery Act of 2020.

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