

## CHAPTER 308

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**TAXATION**

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**HOUSE BILL 99-1345**

BY REPRESENTATIVES Spradley, Bacon, Coleman, Grossman, Kaufman, Lawrence, Morrison, Plant, Saliman, Scott, Swenson, Takis, and Tupa;  
also SENATORS Anderson, Arnold, Chlouber, Evans, Hernandez, Hillman, Linkhart, Martinez, Pascoe, Reeves, Rupert, Sullivant, and Weddig.

**AN ACT**

CONCERNING THE STATE INCOME TAX CREDIT FOR QUALIFIED COSTS INCURRED IN THE PRESERVATION OF HISTORIC PROPERTIES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** The introductory portion to 39-22-514 (1) (a), 39-22-514 (2), the introductory portion to 39-22-514 (3) (a), and 39-22-514 (3) (a) (I), (4), (6), (7) (a), (10) (a), and (11) (a), Colorado Revised Statutes, are amended to read:

**39-22-514. Tax credit for qualified costs incurred in preservation of historic properties.** (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), for income tax years commencing on or after January 1, 1991, but prior to January 1, ~~2000~~ 2010, there shall be allowed a credit with respect to the income taxes imposed pursuant to the provisions of this article to each taxpayer:

(2) (a) ~~Except as otherwise provided in paragraph (b) of this subsection (2),~~ The credit provided for in paragraph (a) of subsection (1) of this section shall not exceed an aggregate of fifty thousand dollars per qualified property or an amount equal to twenty percent of the aggregate qualified costs incurred per qualified property, whichever is less. ~~however, for any given taxable year, the maximum amount of said credit which may be claimed shall not exceed two thousand dollars plus an amount equal to fifty percent of the difference between the tax liability of the taxpayer and two thousand dollars.~~

(b) ~~If any taxpayer is allowed a credit pursuant to the provisions of section 38 of the internal revenue code for the costs incurred in the rehabilitation of property located in Colorado, the credit provided for in paragraph (a) of subsection (1) of this section shall be determined pursuant to the provisions of section 39-22-507.5 (1) (b).~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3) and subsection (6) of this section, in order for any taxpayer to qualify for the credit provided for in paragraph (a) of subsection (1) of this section, the taxpayer shall:

(I) ~~Prior to the commencement of any restoration, rehabilitation, or preservation of any qualified property;~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH (I), submit a fee of two hundred fifty dollars, the plans and specifications for such proposed restoration, rehabilitation, or preservation, and a signed agreement, if any, specified in subsection (4) of this section to the appropriate reviewing entity and receive preliminary approval, in writing, from said reviewing entity stating that such proposed restoration, rehabilitation, or preservation constitutes qualified rehabilitation. IN THE DISCRETION OF THE REVIEWING ENTITY, THE FEE IMPOSED PURSUANT TO THIS SUBPARAGRAPH (I) MAY BE REDUCED OR ELIMINATED WHEN THE AMOUNT OF QUALIFIED COSTS EXPECTED TO BE INCURRED IN CONNECTION WITH THE RESTORATION, REHABILITATION, OR PRESERVATION IS LESS THAN FIFTEEN THOUSAND DOLLARS. IF ANY RESTORATION, REHABILITATION, OR PRESERVATION HAS COMMENCED PRIOR TO THE SUBMISSION OF THE APPLICATION FEE, PLANS AND SPECIFICATIONS, AND SIGNED AGREEMENT, IF ANY, PURSUANT TO THE PROVISIONS OF THIS SUBPARAGRAPH (I), THE TAXPAYER SHALL ALSO SUBMIT DOCUMENTATION SATISFACTORY TO THE REVIEWING ENTITY INDICATING THE CONDITION OF THE QUALIFIED PROPERTY PRIOR TO COMMENCEMENT OF THE REHABILITATION, INCLUDING, BUT NOT LIMITED TO, PHOTOGRAPHS OF THE PROPERTY AND WRITTEN DECLARATIONS FROM PERSONS KNOWLEDGEABLE ABOUT THE PROPERTY. For the purposes of this subparagraph (I), any owners of qualified property and any qualified tenants leasing said qualified property who wish to qualify for the credit provided for in paragraph (a) of subsection (1) of this section for said qualified property may jointly submit the fee and the plans and specifications, or such owners may submit the fee, the plans and specifications, and a list of qualified tenants leasing said qualified property AND, IF SUCH OWNERS OR TENANTS HAVE COMMENCED RESTORATION, REHABILITATION, OR PRESERVATION PRIOR TO THE SUBMISSION OF THE APPLICATION FEE, PLANS AND SPECIFICATIONS, AND SIGNED AGREEMENT, IF ANY, PURSUANT TO THE PROVISIONS OF THIS SUBPARAGRAPH (I), THEY SHALL ALSO JOINTLY SUBMIT SUCH DOCUMENTATION AS IS REQUIRED PURSUANT TO THIS SUBPARAGRAPH (I).

(4) When more than one taxpayer qualify for the tax credit provided for in paragraph (a) of subsection (1) of this section for the same qualified property, ~~there shall be a rebuttable presumption that~~ the amount of the tax credit allowed pursuant to the provisions of this section shall be divided pro rata according to the number of such taxpayers ~~Such presumption shall be rebutted only upon the filing of~~ UNLESS a binding agreement HAS BEEN FILED with the reviewing entity, as specified in subparagraph (I) of paragraph (a) of subsection (3) of this section, ~~which~~ THAT is signed by all of the taxpayers who qualify for said tax credit for the same qualified property and ~~which~~ THAT specifies the manner in which the amount of the tax credit allowed is to be divided among such taxpayers. NOTHING IN THIS SUBSECTION (4) SHALL PRECLUDE THE STATE INCOME TAX CREDIT CREATED PURSUANT TO THIS SECTION FROM BEING ALLOCATED AMONG TAXPAYERS IN A DIFFERENT MANNER THAN THE ALLOCATION OF ANY CREDIT CLAIMED PURSUANT TO SECTION 38 OF THE INTERNAL REVENUE CODE.

(6) (a) (I) Except as otherwise provided in paragraph (b) of this subsection (6),

any taxpayer who was given preliminary approval prior to January 1, ~~2000~~ 2010, pursuant to the provisions of subparagraph (I) of paragraph (a) of subsection (3) of this section; whose completion deadline as set forth in subparagraph (II) of paragraph (a) of subsection (3) and in subsection (5) of this section is subsequent to December 31, ~~1999~~ 2009; and who has not completed the qualified rehabilitation prior to January 1, ~~2000~~ 2010, shall, in order to qualify for the credit provided for in paragraph (a) of subsection (1) of this section, obtain a form from the reviewing entity verifying compliance with the provisions of subparagraph (I) of paragraph (a) of subsection (3) of this section and this subsection (6). If more than one of the taxpayers have complied with said provisions for the same qualified property, the reviewing entity shall issue such verification form to each such taxpayer, and such verification form shall specify the proportion of the amount of the tax credit allowed to such taxpayer as determined pursuant to subsection (4) of this section.

(II) The reviewing entity shall issue said verification form only upon the submittal of an accounting of total qualified costs incurred in said qualified rehabilitation prior to January 1, ~~2000~~ 2010, and the names of the owners and qualified tenants who incurred such qualified costs, the payment of a fee in an amount determined pursuant to the provisions of paragraph (a) of subsection (11) of this section, and the making of the determination that the portion of such qualified rehabilitation which was completed as of January 1, ~~2000~~ 2010:

(A) Conforms to the plans and specifications approved pursuant to subparagraph (I) of paragraph (a) of subsection (3) of this section; and

(B) Preserves and maintains those qualities of such qualified property which made it eligible for inclusion individually or as a contributing property in a district in the state register of historic places or for designation as a landmark or as a contributing property in a historic district by a certified local government.

(III) The taxpayer shall submit the verification form obtained pursuant to this paragraph (a) with the income tax return being filed by the taxpayer for the income tax year commencing on or after January 1, ~~1999~~ 2009, but prior to January 1, ~~2000~~ 2010.

~~(b) The provisions of paragraph (a) of this subsection (6) shall not apply to any taxpayer who is allowed a credit for costs incurred in the rehabilitation of property located in Colorado pursuant to the provisions of section 38 of the internal revenue code.~~

(7) (a) Except as otherwise provided in paragraph (b) of this subsection (7), if the amount of the credit allowed pursuant to the provisions of this section exceeds the amount of income taxes otherwise due on the income of the taxpayer in the income tax year for which the credit is being claimed, the amount of the credit not used as an offset against income taxes in said income tax year may be carried forward as a credit against subsequent years' income tax liability for a period not exceeding ~~five~~ TEN years and shall be applied first to the earliest income tax years possible. ~~however, for any given taxable year, the maximum amount of said credit which may be claimed shall not exceed two thousand dollars plus an amount equal to fifty percent of the difference between the tax liability of the taxpayer and two thousand dollars.~~ Any amount of the credit ~~which~~ THAT is not used after said period shall not be refundable

to the taxpayer.

(10) (a) Prior to January 1, ~~1991~~ 1999, and annually thereafter, each certified local government shall adopt a resolution stating whether such certified local government will act as a reviewing entity for the purposes of subsections (3) and (6) of this section during the following twelve months. A copy of such resolution shall be sent to the state historic preservation officer prior to January 1 of each year.

(11) (a) The amount of the fee required to be paid pursuant to the provisions of subparagraph (III) of paragraph (a) of subsection (3) and subparagraph (II) of paragraph (a) of subsection (6) of this section shall be an amount equal to the appropriate amount determined pursuant to the following schedule minus the ~~two-hundred-fifty-dollar-fee~~ AMOUNT OF THE FEE paid pursuant to subparagraph (I) of paragraph (a) of subsection (3) of this section; EXCEPT THAT, IN THE DISCRETION OF THE REVIEWING ENTITY, THE FEE IMPOSED PURSUANT TO THIS PARAGRAPH (a) MAY BE REDUCED OR ELIMINATED WHERE THE AMOUNT OF THE QUALIFIED COSTS INCURRED IS LESS THAN FIFTEEN THOUSAND DOLLARS:

<b>Amount of qualified costs incurred</b>	<b>Amount of fee</b>
\$5,000 up to and including \$15,000	\$ 250
Over \$15,000 up to and including \$50,000	\$ 500
Over \$50,000 up to and including \$100,000	\$ 750
Over \$100,000	\$ 1,000

**SECTION 2. Applicability.** This act shall apply to the restoration, rehabilitation, or preservation of historic properties commenced on or after the effective date of this act.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1999