Federal Historic Tax Credit Legislation


The Historic Tax Credit (HTC) is a proven tax incentive for both revitalizing historic community assets and supporting economic development and recovery. Unfortunately, the historic rehabilitation community, like so many others, has experienced slowing, stopping, and in some cases, devastating results because of the necessary COVID-19 countermeasures. Historic rehabilitation projects face a ban on construction, limited work site attendance, a lack of materials, limited access to government and other regulatory partners, and other challenges associated with the near shuttering of the domestic economy. At the same time existing projects face limited to no construction activity, new and potential projects face profound financial viability concerns. Limited access to capital, greater investment risk, and an uncertain tenant market will cause significant harm to the future pipeline of HTC projects without federal intervention. The following pandemic related provisions were included in H.R. 2, the Moving America Forward Act.

H.R. 2, Sec. 90301.
• Increase in rehabilitation credit (§ 47). This provision increases the historic rehabilitation tax credit (HTC) percentage from 20 percent to 30 percent for 2020 through 2024. The credit percentage is phased down to 26 percent in 2025, 23 percent in 2026, and returns to 20 percent in 2027 and thereafter.

H.R. 2, Sec. 90304.
• Temporary extension of period for completing rehabilitation (§ 47). HTC-eligible projects have a limited time in which to complete their substantial rehabilitation –either 24 months or 60 months. This provision extends the 24-month-period and 60-month-period, each by 12 months, to ensure those projects impacted by the pandemic do not fail to qualify for the HTC.

In August 2020, the IRS published a notice which extends the measuring period used in satisfying the substantial rehabilitation (“sub rehab”) test requirement for the Historic Tax Credits. Projects with a 24- or 60-month measuring period ending on or after April 1st, 2020, and before March 31st, 2021, now have until March 31st, 2021, to incur sufficient qualified rehabilitation expenditures (QREs) to satisfy the sub rehab test.

Historic Tax Credit Growth and Opportunity Act (HTC-GO), H.R. 2825/S. 2615 included in H.R. 2 “The Moving America Forward Act

The following provisions of HTC-GO, along with temporary pandemic related provisions, were included in House passed H.R. 2 “The Moving America Forward Act. The HTC-GO (H.R. 2825/S. 2615) provisions would make important changes to the Historic Tax Credit to encourage more building reuse and more redevelopment in small, midsize, and rural communities. These provisions would not only make the credit easier to use and more historic properties eligible, but it would also enhance the value of Historic Tax Credits.

• H.R. 2, Sec. 90302
Making it easier to complete small rehabilitation projects by increasing the credit from 20 to 30% for projects with less than $2.5 million in qualified rehabilitation expenses.

• H.R. 2, Sec. 90303
Making more buildings eligible for HTC’s by lowering the substantial rehabilitation threshold;

• H.R. 2, Sec. 90305
Increasing the value of HTCs by eliminating the requirement that the value of the HTC must be deducted from a building’s basis (property’s value for tax purposes)

• H.R. 2, Sec. 90306
Making the HTC easier to use by non-profit organizations for projects like community health centers, local art centers, and affordable housing, by eliminating IRS restrictions that make it difficult to partner with developers.
Federal Historic Tax Credit Fact Sheet

The Historic Tax Credit (HTC) was initially enacted in 1978 and made permanent in the tax code in 1986. The HTC is administered by the National Park Service (NPS) and the Internal Revenue Service (IRS) in conjunction with the State Historic Preservation Offices. Since tax reform in 2017, a 20% credit applies to qualified rehabilitation costs for certified historic structures, which is distributed over 5 years (4% per year).

- The Historic Tax Credit (HTC) **encourages private investment** in the rehabilitation of historic buildings. The credit attracts private capital—approximately $162 billion since inception—to revitalize often vacant and underutilized properties that have a financing gap between what banks will lend and the total development cost of the transaction. The HTC is the largest federal investment in historic preservation, and it is market driven, as the federal incentive is not paid until the work is done.

- According to the NPS HTC Economic Impact Report (2018), the credit generates new economic activity by leveraging private dollars to preserve historic buildings. Since its inception, the rehabilitation of over 44,000 historic buildings has **created more than 2.7 million jobs** and has produced over 166,000 Low- and Moderate-income affordable housing units.

- The same study concluded that in addition to revitalizing communities and spurring economic growth, the HTC **returns more to the Treasury than it costs**. The HTC has generated $35.9 billion in federal tax revenue from the $30.8 billion in federal tax credits awarded to historic rehabilitation projects.

- From 2013 to 2017, 40% of all HTC projects were in predominantly minority census tracts. *

- According to the HTC FY2018 Annual Report (NPS), 75% of HTC projects were in economically distressed areas.

- Thirty-seven states recognize the economic development potential of historic rehabilitation and have enacted individual state HTC programs that work in tandem with the federal program.

- The credit is used in both larger urban areas and smaller towns. In Fiscal Years 2017 and 2018, (most recent data available) 35% of projects were in communities with populations under 100,000. *

- According to the NPS HTC Annual Report, approximately 50% of projects are under $1 million in rehabilitation development costs (less than $200,000 in credits).

- In looking at FY 2017 and FY 2018 HTC projects (most recent data available) over 77% of projects are located in New Market Tax Credit eligible census tracts. *

- Over 60% of HTC projects (FY2017-2018) are located in census tracts below 80% annual median income (AMI) and over 70% are in census tracts of greater than 20% poverty. *

*Data retrieved from PolicyMap in January 2019 and April 2020