

171.398 Rehabilitation of certified historic structures -- Qualified rehabilitation expenses -- Tax credit for applications on or after April 30, 2026 -- Penalty -- Administrative regulations.

- (1) This section applies to applications received on or after April 30, 2026, but before April 15, 2027, and on or after each April 15 thereafter.
- (2)
 - (a) There shall be allowed as a credit against the taxes imposed in KRS 136.320, 136.330, 136.340, 136.350, 136.370, 136.390, 304.3-270, 141.020 or 141.040 and 141.0401.
 - (b) The amount of the credit shall be equal to:
 1. Thirty percent (30%) of the qualified rehabilitation expenses, in the case of owner-occupied residential property;
 2. Thirty percent (30%) of the qualified rehabilitation expenses if the commercial residential property is affordable to households earning eighty percent (80%) of the median family income or less; or
 3. Twenty percent (20%) of the qualified rehabilitation expenses, in the case of all other property.
 - (c) In the case of an exempt entity that has incurred qualified rehabilitation expenses, the credit provided in this subsection shall be available to transfer or assign as provided under subsection (8) of this section.
 - (d) The credit shall be refundable if the taxpayer makes an election under subsection (3)(b) of this section.
 - (e) An insurance company claiming a tax credit against the insurance premiums tax is not required to pay additional retaliatory tax levied pursuant to KRS 304.3-270.
- (3)
 - (a)
 1. A taxpayer seeking the credit provided under subsection (2) of this section shall file an application for a preliminary determination of maximum credit eligibility before:
 - a. April 15; or
 - b. August 15;of the year in which the proposed project will begin.
 2. The certified rehabilitation credit cap shall be allocated as follows, including any amounts added to the certified rehabilitation credit cap pursuant to paragraph (c) of this subsection:
 - a. Fifty million dollars (\$50,000,000) for applications received before the date established in subparagraph 1.a. of this paragraph, except that the amount shall not exceed one hundred million dollars (\$100,000,000), including any amounts added under paragraph (c) of this subsection from a prior allocation period; and
 - b. Fifty million dollars (\$50,000,000) for applications received before the date established in subparagraph 1.b. of this paragraph, except that the amount shall not exceed one hundred million dollars (\$100,000,000), including any amounts added under paragraph (c) of this subsection from a prior allocation period.

3. In the event the full allocation in subparagraph 2.a. of this paragraph is not utilized for applications received by April 15, the remainder shall be made available for applications received in accordance with subparagraph 1.b. of this paragraph, not to exceed fifty percent (50%) of the total credit cap allocated in each application round under subparagraph 2. of this paragraph.
 4. If the total amount of preliminary approvals for all applications received in a single application round under subparagraph 1.a. or 2.a. of this paragraph exceeds the cap of fifty million dollars (\$50,000,000) plus any amounts added to the credit cap, the council shall apportion the certified rehabilitation credit cap as follows:
 - a. The certified rehabilitation credit cap for the application round under consideration shall be multiplied by a fraction, the numerator which is the approved credit amount for an individual taxpayer for an application round and the denominator which is the total approved credits for all taxpayers for an application round; and
 - b. Each taxpayer shall receive no more than their pro rata share of the certified rehabilitation credit cap allocated for the corresponding application round.
 5. Applications submitted for preliminary approval shall be reviewed in the order in which they are received based on the date of the application.
 6. The application shall describe the project and shall include documentation supporting the qualification of the project for the credit, the proposed start date, the proposed completion date, the projected qualified rehabilitation expenses, and any other information the council may require.
 7. The council shall determine the preliminary maximum credit available for each taxpayer and shall notify the taxpayer of that amount by:
 - a. June 30 for applications received on or before April 15 of the year in which the application was filed; or
 - b. October 30 for applications received on or before August 15 of the year in which the application was filed.
- (b)
1. An application for a final determination of credit shall be submitted to the council upon completion of the project. A taxpayer who is no longer the owner of the certified historic structure may apply for final determination of credit as long as the taxpayer received preliminary approval under paragraph (a)7. of this subsection and substantially rehabilitated the certified historic structure.
 2. The application shall include an irrevocable election by the taxpayer to:
 - a. Use the credit, in which case, the credit shall be refundable; or
 - b. Transfer the credit in accordance with subsection (8) of this section, in which case the credit shall be nonrefundable.
 3. The council shall determine the final amount of credit approved for each

taxpayer based upon the actual expenditures, preliminary determination of maximum credit, and a determination that the expenditures are qualified rehabilitation expenses.

4. The council shall notify the taxpayer and Department of Revenue of the final approved credit amount within sixty (60) days of the receipt of a completed application from the taxpayer.
- (c)
1. If the total amount of credits finally approved for a taxpayer under paragraph (b) of this subsection is less than the amount of the credits initially approved for a taxpayer under paragraph (a) of this subsection, the difference between the two (2) amounts shall be added to the certified rehabilitation credit cap for the next calendar year, except that in no case shall the amount allocated under paragraph (a)2.a. or b. of this subsection exceed one hundred million dollars (\$100,000,000), including any amounts added to the certified rehabilitation credit cap from prior calendar years. Any amount exceeding the one hundred million dollars (\$100,000,000) threshold is null and void as a carryover to any other allocation period.
 2. If the total amount of credits approved under paragraph (a) of this subsection in any calendar year is less than the certified rehabilitation credit cap, the difference between the credits actually awarded and the certified rehabilitation credit cap shall be added to the certified rehabilitation credit cap for the next calendar year.
 3. If the entire credit cap allocated for applications in paragraph (b) of this subsection is not entirely utilized for preliminary applications received under paragraph (a) of this subsection, the remaining portion shall be made available for all other properties having submitted preliminary applications within the same application round regardless of property type.
- (4)
- (a) The maximum credit which may be claimed with regard to owner-occupied residential property shall be one hundred twenty thousand dollars (\$120,000) subject to subsection (6) of this section. The credit in this section shall be claimed for the taxable year in which the certified rehabilitation is completed.
 - (b) The maximum credit which may be claimed with regard to all other property that is not owner-occupied residential shall be ten million dollars (\$10,000,000) subject to subsection (6) of this section. The credit in this section shall be claimed for the taxable year in which the certified rehabilitation is completed.
- (5) In the case of two (2) spouses filing separate returns or filing separately on a joint return, the credit may be taken by either or divided equally, but the combined credit shall not exceed one hundred twenty thousand dollars (\$120,000) if subject to the limitation in subsection (4)(a) of this section, or ten million dollars (\$10,000,000) if subject to the limitation in subsection (4)(b) of this section, subject to the provisions of subsection (6) of this section.
- (6) The credit amount approved for a calendar year for all taxpayers under subsection (3)(a) of this section shall be limited to the certified rehabilitation credit cap.

- (7) (a) The credit shall apply against the tax imposed by:
1. KRS 141.020 or 141.040 and the limited liability entity tax imposed by KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205; and
 2. KRS 136.320, 136.330, 136.340, 136.350, 136.360, 136.370, 136.390, or 304.3-270.
- (b) If the taxpayer is a pass-through entity not subject to the tax imposed by KRS 141.040, the taxpayer shall apply the credit at the entity level against the limited liability entity tax imposed by KRS 141.0401, and shall also pass the credit through in the same proportion as the distributive share of income or loss is passed through.
- (8) (a) Credits received under this section may be transferred or assigned if an election is made under subsection (3)(b) of this section, for some or no consideration, along with any related benefits, rights, responsibilities, and liabilities to any person or entity subject to the taxes imposed in:
1. KRS 141.020 or 141.040 and 141.0401; or
 2. KRS 136.320, 136.330, 136.340, 136.350, 136.360, 136.370, 136.390, or 304.3-270.
- (b) Within thirty (30) days of the date of any transfer of credits, the party transferring the credits shall notify the Department of Revenue of:
1. The name, address, employer identification number, and bank routing and transfer number, of the party to which the credits are transferred;
 2. The amount of credits transferred; and
 3. Any additional information the Department of Revenue deems necessary.
- (c) Any taxpayer receiving transferred credit under this subsection may carry forward unused credit for a period not to exceed seven (7) taxable years from which the certified rehabilitation was complete.
- The provisions of this subsection shall apply to any credits that pass through to a successor or beneficiary of a taxpayer.
- (9) For purposes of this section, a lessee of a certified historic structure shall be treated as the owner of the structure if the remaining term of the lease is not less than the minimum period promulgated by administrative regulation by the council.
- (10) The taxes imposed in KRS 141.020, 141.040, and 141.0401 shall not apply to any consideration received for the transfer, sale, assignment, or use of a tax credit approved under this section.
- (11) (a) The Department of Revenue shall assess a penalty in an amount equal to one hundred percent (100%) of the tax credit allowed on the rehabilitation on any taxpayer or exempt entity that:
1. Performs disqualifying work, as determined by the Kentucky Heritage Council, on a certified historic structure for which a rehabilitation has been certified; and
 2. If credit allowed based on affordability, fails to maintain compliance

with the commercial residential property requirement established in KRS 171.396(5), as determined by the council and the Kentucky Housing Corporation.

- (b) Any penalties shall be assessed under paragraph (a) of this subsection shall be assessed against the property owner and not against any transferee of the credits.
- (12) The council may impose fees for processing applications for tax credits, not to exceed the actual cost associated with processing the applications.
- (13) The council may authorize a local government to perform an initial review of applications for the credit allowed under this section and forward the applications to the council with its recommendations.
- (14) The council and the Department of Revenue may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to implement this section.

Effective: April 14, 2026

History: Created 2026 Ky. Acts ch. 161, sec. 59, effective April 14, 2026.

Legislative Research Commission Note (4/14/2026). 2026 Ky. Acts ch. 161, sec. 59, which created this statute, included a citation to KRS "136.40" in subsection (7)(a)2. of this statute, though it is clear from the text of the Act that the citation was meant to be KRS "136.340." This manifest clerical or typographical error has been corrected in codification under KRS 7.136(1).

Legislative Research Commission Note (4/14/2026). 2026 Ky. Acts ch. 161, sec. 59, which created this statute, included a citation to "subsection (5) of Section 56 of this Act" in subsection (11)(a)2. of this statute. Section 56 of that Act is an amendment to KRS 151B.402. It is clear from the text of the Act and the substance of the related statutes that the citation was meant to be to "subsection (5) of Section 57 of this Act." Section 57 of that Act is an amendment to KRS 171.396. This manifest clerical or typographical error has been corrected in codification under KRS 7.136(1).