Governor’s FY 2014 Budget: Articles 22 & 23

Staff Presentation to the House Finance Committee
March 5, 2013
2001 Assembly Enacted: Historic Structures – Tax Credit

- Effective January 1, 2002
- Incentive to promote the rehabilitation, redevelopment, and reuse of Rhode Island's historic structures
- Improve property values
Mechanism: State tax credits equal to 30.0% of qualified rehabilitation expenses (QREs)

- If unclaimed, in whole or in part, may be transferred or conveyed in whole or in part
- Used by developers to secure capital for projects
Qualification: 3 phases of applications submitted to Historical Preservation and Heritage Commission

- Phase I:
  - Recognized as an historic structure
  - National Historic Register
  - State Historic Register
  - Contributing structure to an historic district
Phase II:
- Planned rehabilitation must be at least 50% of the property’s adjusted basis ("substantial rehabilitation")
- Planned rehabilitation must satisfy standards set by Secretary of the Interior

Scope and value of work to determine credit

Processing fee due to Commission with Phase II application
Phase III:

- Application filed to certify completion of work
  - Confirmed by Commission
  - Audited expenditures submitted, proving substantial rehabilitation
- Credits may be used following approval of Phase III application
- Credits may be carried forward 10 years
Intermediary sells credits to 3rd Party for $3.0 million

3rd Party uses $3.6 million credits when building is put in service

Developer approved for $3.6 million credits
Developer sells credits to intermediary for capital

Intermediary buys credits for $2.6 million
Developer invests $2.6 million in project

Intermediary sells credits to 3rd Party for $3.0 million

3rd Party uses $3.6 million credits when building is put in service
2005 Assembly Change:  
Article 27 of FY 2006 Budget

- Increased processing fee
  - 2.25% of QREs
  - Lowered the effective rate of the credits to 27.75%
    - Previous fee structure tiered $500 - $2,000
FY 2009 Governor’s Budget Recommended: Article 20 of 2008 H-7024

- $20.0 million cap for tax year 2007
- $40.0 million cap for tax years 2008 – 2017
  - Uncertainty regarding use of credits would make them less marketable
  - Project financing often dependent on sale of credits

2008 Assembly sought more workable solution for all stakeholders
2008 Assembly Changes:
2008 H-8016 Substitute A, as amended

- Effectively ended program but provided commitment to honor certain credits still in play

- Projects in service by December 31, 2007 were still eligible for 30% credit

- No project approvals after December 31, 2007
  - Unpaid processing fee renders project ineligible
Articles 22 & 23 - Background

- Projects in service January 1, 2008 or after eligible for reduced credit
  - Processing fee paid by May 15, 2008
  - New credit and processing fee schedule:

<table>
<thead>
<tr>
<th>Credit</th>
<th>Processing Fee</th>
<th>Effective Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>27.0%</td>
<td>5.0%</td>
<td>22.0%</td>
</tr>
<tr>
<td>26.0%</td>
<td>4.0%</td>
<td>22.0%</td>
</tr>
<tr>
<td>25.0%</td>
<td>3.0%</td>
<td>22.0%</td>
</tr>
</tbody>
</table>

- Projects must be well underway by May 15, 2013
2008 Assembly Changes: Article 4 of FY 2009 Budget

- EDC to issue maximum of $356.2 million of bonds to satisfy the obligations for remaining tax credit program
  - $299.9 maximum for project fund – to reimburse state for claimed credits
  - Provided budget stability similar to Governor Carcieri’s proposed cap – projected annual debt service of $40 million
2012 Assembly Change: Article 27 of FY 2013 Budget

- Transferred processing fee restricted account to the Historic Preservation Credit Trust Fund
  - Refund or reimburse developers’ processing fees on abandoned or overpaid projects
  - Satisfy Governmental Accounting Standards Board requirements
State regulations define:

- “Substantial Construction”
  - Initial processing fee paid
  - Planned rehabilitation has been certified by the Commission as consistent with existing standards
  - 10% of Qualified Rehabilitation Expenditures expended by May 15th, 2013
State regulations define:

- “Abandoned Projects”
  - Projects approved prior to January 1, 2008
  - Initial processing fee paid by May 15, 2008
  - Substantial construction not met by five years from the payment of initial processing fee
  - Entities will be reimbursed processing fees
November 2012 Revenue Estimating Conference:

- **Abandoned Projects**
  
<table>
<thead>
<tr>
<th>Project Phases</th>
<th>15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Cost</td>
<td>$103.6 million</td>
</tr>
<tr>
<td>Estimated Credits</td>
<td>$25.9 million</td>
</tr>
</tbody>
</table>

- **Remaining Projects**
  
<table>
<thead>
<tr>
<th>Project Phases</th>
<th>65</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Cost</td>
<td>$605.4 million</td>
</tr>
<tr>
<td>Estimated Credits</td>
<td>$151.4 million</td>
</tr>
</tbody>
</table>
As of March 5, three more phases completed:

<table>
<thead>
<tr>
<th>Phases (30 projects)</th>
<th>62</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Cost</td>
<td>$597.4 million</td>
</tr>
<tr>
<td>Estimated Credits</td>
<td>$149.4 million</td>
</tr>
</tbody>
</table>

**Tax Credit Fees**

<table>
<thead>
<tr>
<th>Collected on Active Phases</th>
<th>$15.8 million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Still Owed</td>
<td>$ 2.3 million</td>
</tr>
</tbody>
</table>
### Credits Used by Taxpayers (in millions)

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2003</td>
<td>$0.06</td>
<td>FY 2009</td>
<td>$59.7</td>
</tr>
<tr>
<td>FY 2004</td>
<td>$6.6</td>
<td>FY 2010</td>
<td>$46.4</td>
</tr>
<tr>
<td>FY 2005</td>
<td>$21.2</td>
<td>FY 2011</td>
<td>$14.2</td>
</tr>
<tr>
<td>FY 2006</td>
<td>$43.9</td>
<td>FY 2012</td>
<td>$6.6</td>
</tr>
<tr>
<td>FY 2007</td>
<td>$43.5</td>
<td>FY 2013</td>
<td>$5.5</td>
</tr>
<tr>
<td>FY 2008</td>
<td>$40.0</td>
<td>Total</td>
<td>$287.7</td>
</tr>
</tbody>
</table>
Total Tax Credit Usage as of November 2012:
Who Uses Historic Tax Credits:

- **Personal Income**: 71.0%
- **Corporate**: 2.8%
- **Insurance**: 20.7%
- **Financial Inst.**: 5.3%
- **Unassigned**: 0.2%
Unused Credits by Tax Type:

- **Income**: 63%
- **Corporate**: 15%
- **Insurance**: 16%
- **Financial**: 0%
- **Unassigned**: 6%
**Articles 22 & 23 - Background**

Tax Payments from Historic Tax Credit Trust Fund (in millions):

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2009</td>
<td>$56.2</td>
</tr>
<tr>
<td>FY 2010</td>
<td>$46.4</td>
</tr>
<tr>
<td>FY 2011</td>
<td>$14.2</td>
</tr>
<tr>
<td>FY 2012</td>
<td>$6.6</td>
</tr>
<tr>
<td>FY 2013 (to date)</td>
<td>$5.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$128.9</strong></td>
</tr>
</tbody>
</table>
Reiterates EDC’s authorization to issue bonds in support of program
  - Maximum of $356.2 million to be issued
  - Maximum to be issued for deposit in project fund of $299.9 million

Specifies that bond proceeds may be used to pay processing fee reimbursements
  - Division of Taxation received guidance that proceeds may currently be used
Article 23 – Historic Structures
Tax Credits

Restarts and expands existing tax credit program

- Defines replacement projects
  - Adds new type of project

- Provides for priority approval for:
  - Shovel Ready projects / 24 month completion
  - Distressed Communities

- Codifies current regulations’ definitions for abandoned projects and substantial construction
Article 23 – Historic Structures
Tax Credits

- Scattered site developments allowed
  - Rehabilitation of units in two or more buildings within one mile diameter
    - Defined by neighborhood revitalization plan
    - Multiple single-family dwelling units allowed under certain conditions - previously excluded

- EDC role added to statute
  - Solicitation of replacement projects with Commission
  - Selection of replacement projects (selection process undefined) with Commission
Article 23 – Historic Structures Tax Credits

- Requires monthly reporting of abandoned credits
  - First report due July 1, 2013
  - From Division of Taxation
  - Reported to the Economic Development Corporation, Commission, Budget Officer, House Fiscal Advisor, and Senate Fiscal Advisor
New section added to statute (§ 44-33.2-3.1) “Replacement Projects”:

- Must satisfy all existing requirements for approval (Phases I, II, and III)

- Additional restrictions for replacement projects:
  - Total credits available cannot exceed total of abandoned credits
  - Non-refundable processing fee 3% of QREs
    - Paid within 90 days of project acceptance
Additional restrictions, cont.:

- Tax credits no more than 25% of QREs
  - Effective rate of 22%
- Substantial construction must be met within one year of project commencement
  - Standards for commencement undefined
- QREs exceed $10.0 million must use Class A Apprenticeship Program contractors
# Article 23 – Historic Structures Tax Credits

<table>
<thead>
<tr>
<th>Cumulative (millions)</th>
<th>Borrowing</th>
<th>Debt Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2009</td>
<td>$150</td>
<td>-</td>
</tr>
<tr>
<td>FY 2013</td>
<td>$150</td>
<td>$84.7</td>
</tr>
<tr>
<td>FY 2014</td>
<td>$225</td>
<td>$108.1</td>
</tr>
<tr>
<td>FY 2015</td>
<td>$300</td>
<td>$139.7</td>
</tr>
<tr>
<td>FY 2025</td>
<td>$300</td>
<td>$381.6</td>
</tr>
</tbody>
</table>
Article 23 – Historic Tax Credits: Debt Service
Historic Tax Credits: Debt Service

— Current Law if 50% of projects complete

*In millions
Historic Tax Credits: Debt Service

Current Law if 33% of projects complete

In millions

*Issued  Projected


$0.0 $5.0 $10.0 $15.0 $20.0 $25.0 $30.0 $35.0 $40.0 $45.0

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