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State of Connecticut
REGULATION
of

NAME OF AGENCY

[Connecticut Commission on Culture & Tourism] Department of Economic and Community Development

Concerning

SUBJECT MATTER OF REGULATION

Historic Preservation Tax Credit, C.G.S. Section 10-416b

Section 10-416b-1. Definitions

As used in sections 10-416b-1 to 10-416b-12, inclusive, of the Regulations of Connecticut State Agencies, the following terms shall have the following meanings:

- (1) "Affordable housing certificate" means a certificate issued by the Commissioner of the [state of Connecticut D] department [of Economic and Community Development] in accordance with section 8-371 of the Connecticut General Statutes;
- (2) "Assignor" means an owner or multiple owners of a certified historic structure to whom the tax credit voucher is originally issued by the [commission] department;
- (3) "Assignee" means a holder of a tax credit voucher as a result of a transfer by the assignor;
- (4) "Certified historic structure" means a certified historic structure as defined in section 10-416b of the Connecticut General Statutes;
- (5) ["Commission" means the Connecticut Commission on Culture and Tourism established pursuant to section 10-392 of the Connecticut General Statutes;] "Certified Rehabilitation" [means a certified rehabilitation as defined] has the same meaning as provided in section 10-416b of the Connecticut General Statutes;
- (6) "Complex" means a property that either is listed individually on the National or State Register of Historic Places or is located in a district listed on the National or State Register of Historic Places and that has two or more buildings that have been functionally related historically;
- (7) "Contributing taxpayer" means a third-party taxpayer with a tax liability as set forth in Chapters 207, 208, 209, 210, 211 and 212 of the Connecticut General Statutes named by the assignor to receive the tax credit voucher;
- (8) "Department" means the Department of Economic and Community Development; ["Executive director" means the executive director of the commission appointed under section 10-393 (c) of the Connecticut General Statutes or that person's designee;]
- (9) "Identifiable portion of the building" means an entire floor, a section of the building separated from another section by [a] an historic firewall or, in buildings with several periods of construction, a section that represents a distinct period of construction;
- (10) "Inspection" means an on-site visit by an authorized representative of the [commission] department for the purposes of reviewing and evaluating the significance of the certified historic structure and the proposed, ongoing or completed rehabilitation work;
- (11) "Multiple owners" means either direct owners in the form of tenants-in-common or indirect owners in cases where the limited liability partnership or limited liability company undertaking a certified rehabilitation includes more than one person or business entity as partners or members;

- (12) “Nonresidential use” means an identifiable portion of the building used for commercial, institutional, or governmental purposes, research or manufacturing facility, or occupied by a nonprofit organization;
- (13) “Officer” has the same meaning as provided in section 10-416b of the Connecticut General Statutes;
- [(13)] (14) “Owner” means owner as defined in section 10-416b of the Connecticut General Statutes;
- [(14)] (15) “Phased project” means an undertaking where the proposed rehabilitation work to a certified historic structure is to be completed in two or more stages of development;
- [(15)] (16) “Placed in service” means placed in service as defined in section 10-416b of the Connecticut General Statutes;
- [(16)] (17) “Project” means an undertaking involving rehabilitation work to a certified historic structure and any attached or adjacent new construction, and associated demolition or improvements on the site that may affect the historic character or significance of the certified historic structure;
- [(17)] (18) “Qualified rehabilitation expenditures” means qualified rehabilitation expenditures as defined in section 10-416b of the Connecticut General Statutes;
- [(18)] (19) “Rehabilitation” means the preservation of [a] an historic building, its component elements and its structural system by means of repairs or selective replacement of worn out materials and alterations that are consistent with the building’s historic character;
- [(19)] (20) “Rehabilitation plan” means rehabilitation plan as defined in section 10-416b of the Connecticut General Statutes;
- [(20)] (21) “Registered historic district” means a district that is listed on either the National or State Register of Historic Places;
- (22) “Residential Use” means an individual apartment or condominium units located in an identifiable portion of the building as well as communal facilities including, but not limited to exercise rooms, laundry rooms, lounges and tenant storage spaces;
- [(21)] (23) “Standards” means the Standards for Rehabilitation as specified under section 10-416b-7 of the Regulations of Connecticut State Agencies; and
- [(22)] (24) “Substantial rehabilitation” means substantial rehabilitation as defined in section 10-416b of the Connecticut General Statutes.

Sec. 10-416b-2. General Rules

(a) Who May Apply

- (1) The owner of a property listed on the National or State Register of Historic Places shall submit applications or, in cases of multiple owners, a duly authorized joint owner, partner or member may submit an application on behalf of the owners.
- (2) For purposes of sections 10-416b-3 and 10-416b-5 of the Regulations of Connecticut State Agencies, a person or business entity that is not the owner of a property listed on the National or State Register of Historic Places shall be eligible to apply provided such person or business entity submits evidence that the owner has been informed of the application and has no objection to the filing.
- (3) If a complex constitutes more than one legal parcel and the parcels are under separate ownership, the owner of the legal parcel who is seeking tax credits shall be eligible to apply.

(b) How to Apply

- (1) The owner shall submit requests for approvals, certifications, reservation of tax credits and issuance of a tax credit voucher on forms prescribed by the [commission] department. In cases where the owner also seeks to claim the federal historic preservation investment tax

credit for a building located in a district listed on the National Register of Historic Places, applications for determination of historic structure status and approval of proposed rehabilitation plan may be made on the Part 1 or Part 2 applications, respectively, of the Historic Preservation Certification Application used by the National Park Service, with such additional forms and information as may be required by the [commission] department.

- (2) The owner may apply at any time during a state fiscal year, subject to the application requirements under sections 10-416b-3, 10-416b-5, 10-416b-8, 10-416b-10 and 10-416b-11 of the Regulations of Connecticut State Agencies.
- (c) [Commission] Department Review
- (1) The [commission] department shall review and issue a decision not more than thirty calendar days after receipt of a complete application.
 - (2) If an application is incomplete, not more than thirty calendar days after receipt the [commission] department shall notify the owner in writing and indicate what information is needed to undertake or complete review.
 - (3) The [commission] department shall not commence review of applications for preliminary certification and reservation of tax credits, and for issuance of tax credit vouchers until receipt of the required fee payments as indicated under section 10-416b-12 of the Regulations of Connecticut State Agencies.
 - (4) The [commission] department may undertake an inspection of the historic structure prior to any application approvals or certifications.
 - (5) [Commission] Department decisions shall be made in writing by the [executive director] officer or other duly authorized representative of the [commission] department. The signature of the owner or duly authorized agent on any application form is a representation to the [commission] department that the facts contained in the application are true and correct.
 - (6) In cases where the owner has submitted Part 1 or Part 2 applications of the Historic Preservation Certification Application used by the National Park Service, and any additional application materials required by the [commission] department, if, pursuant to 16 USC 470 and in accordance with section 10-409 of the Connecticut General Statutes, a recommendation is made to the National Park Service for approval, such recommendation shall be considered certification or approval action under sections 10-416b-3 and 10-416b-5 of the Regulations of Connecticut State Agencies, respectively.

Sec. 10-416b-3 Determination of Historic Structure Status

(a) Application Requirements

- (1) No application requesting determination of historic structure status is required for a property that contains a single building and is individually listed on either the National or State Register of Historic Places.
- (2) If a property is located in a registered historic district, prior to filing a request for approval of a proposed rehabilitation plan under section 10-416b-5 of the Regulations of Connecticut State Agencies and a request for preliminary certification and reservation of tax credits under section 10-416b-8 of the Regulations of Connecticut State Agencies, the owner shall obtain a determination of historic structure status from the [commission] officer.
- (3) If the property is a complex, whether individually listed on the National or State Register of Historic Places or listed as part of a registered historic district, the owner shall apply for a determination of historic structure status for the building that is to be rehabilitated as part of a single or multi-building project.

- (4) The owner shall provide (A) photographs of the building and its surroundings; (B) a map showing the boundaries of the complex or registered historic district and the location of the building; and (C) a statement of historic and architectural significance.
- (5) The owner shall provide a certificate of title or title insurance, or if the application is submitted by the owner's duly authorized agent, a written statement from the owner in accordance with section 10-416b-2 (a) (2) of the Regulations of Connecticut State Agencies.
- (6) The [commission] officer shall review and issue a decision not more than thirty calendar days after receipt of a complete application. If an application is incomplete, not more than thirty calendar days after receipt the [commission] officer shall notify the owner in writing and indicate what information is needed to undertake or complete review. The owner shall have thirty calendar days after the date of notification by the [commission] officer to respond in writing and provide the requested information. Upon written request by the owner on or before the original deadline, the [commission] officer shall grant an extension to the owner.
- (7) The owner may satisfy the application requirements under subdivision (4) of this subsection if the owner (A) has obtained a recommendation of approval from the [commission] department of the Part 1 application of the Historic Preservation Certification Application used by the National Park Service for a building located in a district listed on the National Register of Historic Places; and (B) provides evidence of said recommendation of approval.

(b) Certification Actions

- (1) If a building located in a registered historic district meets the criteria under section 10-416b-4 of the Regulations of Connecticut State Agencies, the [commission] officer shall determine that the building qualifies as a certified historic structure.
- (2) For purposes of evaluating whether a building in a complex contributes to the historic character of the complex, the [commission] officer shall use the criteria under section 10-416b-4 of the Regulations of Connecticut State Agencies. If a building located in a complex meets the criteria, the [commission] officer shall determine that the building qualifies as a certified historic structure.
- (3) If a building located in a complex or registered historic district does not meet the criteria under section 10-416b-4 of the Regulations of Connecticut State Agencies, the [commission] officer shall determine that the building shall not qualify as a certified historic structure. The [commission] officer shall provide a written explanation citing the reason for denial.

Sec. 10-416b-4. Criteria for Evaluating Historic Character within a Registered Historic District

A building shall be considered contributing to the historic character of the registered historic district in which it is located if by design, setting, materials, workmanship, integrity and association it adds to the district's sense of time and place and historical development.

Sec. 10-416b-5. Approval of Proposed Rehabilitation Plan

- (a) Prior to requesting a preliminary certification and reservation of tax credits under section 10-416b-8 of the Regulations of Connecticut State Agencies, the owner shall apply for approval of a proposed rehabilitation plan for a certified historic structure.
- (b) Application Requirements
 - (1) The owner shall provide (A) a rehabilitation plan; (B) photographs of the interior and exterior of the certified historic structure; (C) a written description of the project including

estimated start and completion dates; (D) a project site plan that includes the location of the certified historic structure, and any associated new construction, demolition and site improvements; and (E) such additional architectural or other drawings or technical information as are necessary to evaluate rehabilitation work.

- (2) The owner shall provide a certificate of title or title insurance, or if the application is submitted by the owner's duly authorized agent, a written statement from the owner in accordance with section 10-416b-2 (a) (2) of the Regulations of Connecticut State Agencies.
- (3) The owner shall provide information as to the projected square footage of residential and nonresidential uses and the projected number of housing units in the certified historic structure. An owner seeking to qualify for a tax credit for a project that includes affordable housing as provided in section 10-416b of the Connecticut General Statutes shall also submit information as to the number of units of affordable housing, the proposed rent or sale prices of such units, and the median income for the municipality in which the project is located. The owner shall inform the [commission] officer of any change in the square footage of residential use, the number and the type of housing units and, if the proposed project contains affordable housing units, the owner shall also provide said information to the [state of Connecticut Department of Economic and Community Development] department. In such cases, the owner shall provide the [commission] officer with an amended affordable housing certificate.
- (4) In phased projects, the application shall indicate the number of phases, the timeframe for each and include sufficient information to evaluate whether all phases of the proposed rehabilitation work meet the standards.
- (5) The [commission] officer shall review and issue a decision not more than thirty calendar days after receipt of a complete application. If an application is incomplete, not more than thirty calendar days after receipt the [commission] officer shall notify the owner in writing and indicate what information is needed to undertake or complete the review. The owner shall have thirty calendar days after the date of notification by the [commission] officer to respond in writing and provide the requested information. Upon written request by the owner on or before the original deadline, the [commission] officer shall grant an extension to the owner.
- (6) The owner may satisfy the application requirements under subdivision (1) of this subsection if, prior to the commencement of construction, the owner (A) has obtained a recommendation of approval from the [commission] officer of the Part 2 application of the Historic Preservation Certification Application used by the National Park Service for a building located in a district listed on the National Register of Historic Places or for a building individually listed on the National Register of Historic Places; and (B) provides evidence of said recommendation of approval.

(c) Approval Actions

- (1) All elements of a rehabilitation plan shall meet the standards.
- (2) If the rehabilitation plan meets the standards, the [commission] officer shall issue an approval.
- (3) If the rehabilitation work as described in the application appears to meet the standards, but additional material is needed to document one or more items of proposed rehabilitation work, and such material is not available in the timeframe established for the owner's substantive response, the [commission] officer may issue a conditional approval of the rehabilitation plan. The owner shall submit such additional material required to meet the condition imposed prior to filing an application for a preliminary certification and reservation of tax credits. If the condition has been met, the [commission] officer shall approve the proposed rehabilitation plan. No preliminary certification and reservation of

tax credits shall be issued by the [commission] department until the condition imposed has been met.

- (4) If the rehabilitation plan does not meet the standards, the [commission] officer shall notify the owner in writing what modifications to the rehabilitation work are needed for conformance to the standards. The owner shall have thirty calendar days after the date of notification by the [commission] officer to respond in writing indicating how the owner intends to bring the rehabilitation work into conformance. Upon written request by the owner on or before the original deadline, the [commission] officer shall grant an extension to the owner. If the rehabilitation plan is not brought into conformance with the standards, the [commission] officer shall deny approval and provide a written explanation citing the reason for denial.
- (5) Approval of a rehabilitation plan for a certified historic structure shall not constitute certification for purposes of a reservation of tax credits as specified in section 10-416b of the Connecticut General Statutes;
- (6) The owner shall inform the [commission] officer of any changes to the approved rehabilitation plan and file an amendment in accordance with section 10-416b-6 of the Regulations of Connecticut State Agencies.

Sec. 10-416b-6 Amending an Approved Rehabilitation Plan

- (a) The owner shall file an amendment with the [commission] officer for approval of any changes to the approved rehabilitation plan. Such changes include deleting work items, adding new work items or modifying the details of work items already approved. All proposed changes shall meet the standards in order for the owner to qualify for a preliminary certification and reservation of tax credits, and for certification of completed rehabilitation.
- (b) The [commission] officer shall review and issue a decision not more than thirty calendar days after receipt of a complete application. If an application is incomplete, not more than thirty calendar days after receipt the [commission] officer shall notify the owner in writing and indicate what information is needed to undertake or complete review. The owner shall have thirty calendar days after the date of notification by the [commission] officer to respond in writing and provide the requested information. Upon written request by the owner on or before the original deadline, the [commission] officer shall grant an extension to the owner.
- (c) If the proposed change to the rehabilitation plan meets the standards, the [commission] officer shall approve the amendment.
- (d) If the proposed amendment does not meet the standards, the [commission] officer shall notify the owner in writing what modifications to the rehabilitation work are needed for conformance to the standards. The owner shall have thirty calendar days to respond in writing indicating how the owner intends to bring the proposed rehabilitation work into conformance. Upon written request by the owner on or before the original deadline, the [commission] officer shall grant an extension to the owner.
- (e) If the proposed change to the rehabilitation plan does not meet the standards, the [commission] officer shall not approve the amendment and shall provide a written explanation citing the reason for denial.

Sec. 10-416b-7. Standards for Rehabilitation

The following standards shall be used by the [commission] officer in evaluating proposed or completed rehabilitation work to a certified historic structure:

- (1) The historic character of a building shall be retained and preserved. The removal or alteration of features and spaces that characterize a building shall be avoided.
- (2) Each building shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (3) Changes that have acquired historic significance in their own right shall be retained and preserved.
- (4) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a building shall be preserved.
- (5) Deteriorated historic features shall be repaired rather than replaced. Where severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (6) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used.
- (7) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (8) New additions, exterior alterations, or related new construction shall not destroy historic materials or elements that characterize the building. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the building and its environment.
- (9) New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic building and its environment will be unimpaired.

Sec. 10-416b-8 Preliminary Certification and Reservation of Tax Credits

(a) Application Requirements

- (1) The owner shall submit (A) a certificate of title or title insurance to the certified historic structure for which reservation of tax credits is requested; (B) if the owner is a business entity, a certificate of legal existence; (C) documentation required under rating criteria in accordance with section 10-416b-9 (a) of the Regulations of Connecticut State Agencies; (D) an itemized budget of estimated qualified rehabilitation expenditures prepared by a qualified professional and signed by the preparer in accordance with subsection (b) of this section; and (E) evidence of assessed value of the certified historic structure as indicated in legal records not more than sixty calendar days before submission of a request for preliminary certification and reservation of tax credits.
- (2) The owner shall submit evidence of approval issued by the [commission] officer in accordance with section 10-416b-5 of the Regulations of Connecticut State Agencies. If a conditional approval was given by the officer in accordance with section 10-416b-5 (c) (3), the owner shall demonstrate that the conditions have been met prior to the certification of completed rehabilitation.
- (3) An owner seeking to qualify for a tax credit for a project that includes affordable housing as provided in section 10-416b of the Connecticut General Statutes shall provide an affordable housing certificate.
- (4) The owner shall remit with the application the required fee payment as indicated in section 10-416b-12 (a) of the Regulations of Connecticut State Agencies.

(b) Itemization of Costs

- (1) Costs attributable to rehabilitation include (A) in general, all interior and exterior work to a certified historic structure for mixed residential and nonresidential uses or solely

nonresidential use as necessary to execute an approved rehabilitation plan; (B) abatement of lead paint, asbestos or other hazardous building materials; (C) removal of mold or other biological growths posing risks to human health; (D) installation of new electrical, plumbing, and HVAC systems; (E) construction of any handicapped access ramp which is physically connected to the certified historic structure; (F) demolition of non-historic portions of a building prior to restoration of a documented historic appearance; (G) reconstruction of now[-]missing historic architectural features based on documentary, physical or pictorial evidence; (H) demolition of a portion of a certified historic structure owing to severe structural failure as documented in a structural engineer's report prepared by a qualified professional; and (I) rental equipment directly related to rehabilitation of a building, including dumpsters or scaffolding. Allowance for contractor's overhead and profit, and general requirements, shall not exceed fifteen percent of the total qualified rehabilitation expenditures.

- (2) Costs attributable to new construction and not considered qualified rehabilitation expenditures include (A) new additions, except as permitted under section 10-416b of the Connecticut General Statutes; (B) surface or structured parking; (C) roads, driveways and sidewalks; (D) fencing; (E) landscaping; (F) environmental remediation of the site; and (G) rehabilitation work to buildings or structures other than the certified historic structure.
- (3) Provision of site utilities, and new sewer or water lines outside the envelope of the certified historic structure shall not be considered rehabilitation.
- (4) Kitchen and laundry appliances are considered moveable property and shall not be considered rehabilitation.
- (5) Provision by the owner of blinds and shades shall not be considered rehabilitation.

(c) [Commission] Department Actions

- (1) The [commission] department shall review and issue a decision not more than thirty calendar days after receipt of a complete application. If an application is incomplete, not more than thirty calendar days after receipt the [commission] department shall notify the owner in writing and indicate what information is needed to undertake or complete review. The owner shall have thirty calendar days after the date of notification by the [commission] department to respond in writing and provide the requested information. Upon written request by the owner on or before the original deadline, the [commission] department shall grant an extension to the owner.
- (2) If the application requirements under subsection (a) of this section are met, the [commission] department shall issue (A) a preliminary certification; and (B) a reservation of tax credits in accordance with subsection (d) of this section.

(d) Reservation of Tax Credits

- (1) In accordance with section 10-416b of the Connecticut General Statutes, the [commission] department shall reserve tax credits based on the total estimated qualified rehabilitation expenditures indicated in subsection (a) (1) of this section.
- (2) Reservation of tax credits shall be subject to availability in any state fiscal year.
- (3) If at the time the [commission] department completes review of a request for preliminary certification and reservation of tax credits, the amount of available tax credits to reserve is less than that allowed under section 10-416b of the Connecticut General Statutes, the owner shall be notified. The [commission] department shall, at the request of the owner, reserve tax credits equal to the amount available. The owner shall be eligible to request the balance of tax credits when tax credits become available, provided the owner submits written confirmation that the rehabilitation plan as approved remains unchanged.
- (4) In any state fiscal year, if, at the time of receipt of a request for preliminary certification and reservation of tax credits, no tax credits allowable under section 10-416b of the Connecticut General Statutes are available, the [commission] department shall notify the

owner in writing and place the application on a waiting list. No preliminary certification action shall be taken by the [commission] department, but the [commission] department shall provide the owner with an advisory review of the application. Applications placed on a waiting list shall be reviewed in the order of receipt when tax credits become available.

- (5) The tax credit reservation shall expire sixty months from the date of issuance. Requests for certification of completed rehabilitation shall be made prior to the expiration date of the tax credit reservation.
- (6) If in the same state fiscal year that the tax credit is reserved, the owner notifies the [commission] department in writing that the project has been cancelled, the tax credit reservation shall be cancelled and tax credit may be reallocated by the [commission] department in the same state fiscal year for pending or new applications in order of their receipt.

Sec. 10-416b-9. Rating Criteria for Preliminary Certification

(a) The following materials documenting project readiness and credibility shall serve as the rating criteria:

- (1) Statement indicating sources of existing, pending, and proposed financing, including private lenders, municipal, state or federal funds, state or federal tax credits and the approximate dollar values for each source of funding.
- (2) Evidence of applicable federal, state and municipal approvals necessary to execute the project.
- (3) Evidence of project consistency with municipal or regional plans of conservation and development, including municipal historic preservation plans, historic preservation component of a municipal plan of conservation and development or other land-use management plans.
- (4) Evidence of project conformance to applicable building and fire codes. A building permit is not required.

(b) No application for preliminary certification and reservation of tax credits shall be approved until all documents required under subsection (a) of this section have been submitted.

Sec.10-416b-10. Certification of Completed Rehabilitation

(a) Prior to issuance of a tax credit voucher, the owner shall obtain certification of completed rehabilitation from the [commission] officer. The owner may apply for certification for a certified historic structure in its entirety, or, in the case of phased projects, for the completed rehabilitation to an identifiable portion of the building placed in service.

(b) Application Requirements

- (1) The owner shall provide photographs of the interior and exterior of a certified historic structure and its surroundings which document the completed rehabilitation.
- (2) The owner shall (A) indicate the date the building was placed in service or, in phased projects, indicate which phase and identifiable portion of the building was placed in service; and (B) submit a copy of a certificate of occupancy issued by the municipal authority having jurisdiction.
- (3) The owner shall provide a certificate of title or title insurance.
- (4) The [commission] officer shall review and issue a decision not more than thirty calendar days after receipt of a complete application. If an application is incomplete, not more than thirty calendar days after receipt the [commission] officer shall notify the owner in writing and indicate what information is needed to undertake or complete review. The owner shall have thirty calendar days after the date of notification by the [commission] officer to

respond in writing and provide the requested information. Upon written request by the owner on or before the original deadline, the [commission] officer shall grant an extension to the owner.

(c) Certification Actions

- (1) If the completed rehabilitation work conforms to the approved rehabilitation plan, the [commission] officer shall so certify.
- (2) If the completed rehabilitation work does not meet the standards, the [commission] officer shall notify the owner in writing what modifications to rehabilitation work are needed for conformance to the standards. The owner shall have thirty calendar days to respond in writing indicating how the owner intends to bring the rehabilitation work into conformance prior to the expiration date of the tax credit reservation. Upon written request by the owner on or before the original deadline, the [commission] officer shall grant an extension to the owner. If the completed rehabilitation work is not brought into conformance with the standards, the [commission] officer shall deny approval of the application and provide a written explanation of the reason for denial. In such cases, the reservation of tax credits under section 10-416b-8 of the Regulations of Connecticut State Agencies shall be revoked and the owner shall be so notified.

Sec.10-416b-11. Issuance of Tax Credit Vouchers

(a) As used in this section, the term “contributing” means providing funds, including cash, grants, and extensions of credit, with, in cases of extension of credit, the tax credit being applied toward the reduction of the amount owing on the extension of credit.

(b) Application Requests

- (1) In order to obtain a tax credit voucher, the owner shall (A) provide a certificate of title or title insurance; (B) if the owner is a business entity, provide a certificate of legal existence; (C) provide evidence of certification of completed rehabilitation; (D) attach a copy of the reservation certificate; and (E) submit a certification of costs in accordance with subsection (c) of this section.
- (2) In cases where the owner has qualified for a tax credit reservation equal to thirty percent of the estimated qualified rehabilitation expenditures in accordance with section 10-416b of the Connecticut General Statutes, the owner shall provide the [commission] officer (A) written confirmation from the [state of Connecticut D] department [of Economic and Community Development] that the project is compliant with the affordable housing certificate (i) as submitted to the commission under section 10-416b-8 (a) (3) of the Regulations of Connecticut State Agencies or (ii) as amended and (B) a copy of a recorded Declaration of Land Use Restrictive Covenants, as may be required pursuant to section 8-37III of the Connecticut General Statutes, and which covenant has been approved as to form and content by the [state of Connecticut D] department [of Economic and Community Development] prior to recordation. If the owner does not provide said confirmation and a copy of the recorded Declaration of Land Use Restrictive Covenants, or if the owner files a plan change indicating that the number of affordable housing units is less than the percentage required under section 10-416b of the Connecticut General Statutes, the owner shall no longer qualify for the thirty percent tax credit. In such cases, the tax credit voucher shall be in an amount equivalent to the lesser of twenty-five percent of the original estimated qualified rehabilitation expenditures submitted in accordance with section 10-416b-8 (a) (1) of the Regulations of Connecticut State Agencies or twenty-five percent of the actual qualified rehabilitation expenditures, not to exceed five million dollars.
- (3) The owner shall indicate the phase or phases for which the application is being made.

- (4) The owner shall request that the [commission] department issue a tax credit voucher to (A) the owner; (B) a contributing taxpayer; (C) multiple owners; or (D) in cases where there is a written agreement among multiple owners, a single business entity which is the limited liability partnership or limited liability company in whose name the deed to the certified historic structure is recorded. The owner may request that the tax credits be allocated to one or more contributing taxpayers or one or more owners or both.
- (5) For each contributing taxpayer, the owner shall provide a taxpayer identification number, Federal Employer Identification Number (FEIN) or Connecticut Tax Registration Number, as applicable. If two or more taxpayers are so named, the owner shall specify the percentage of the tax credits to be allocated to each recipient.
- (6) In cases of multiple owners, the application shall (A) list the names and addresses of multiple owners and indicate for each a social security, taxpayer identification number, Federal Employer Identification Number (FEIN) or Connecticut Tax Registration Number, as applicable; and (B) indicate the percentage of the tax credits to be allocated to each owner.
- (7) If, pursuant to a written agreement among multiple owners, the [commission] department is requested to issue a single tax credit voucher to an assignor, the assignor's taxpayer identification number, Federal Employer Identification Number (FEIN) or Connecticut Tax Registration Number, as applicable, shall be provided.
- (8) Upon request by the [commission] department, the owner shall remit the required application fee payment as indicated in section 10-416b-12 (b) of the Regulations of Connecticut State Agencies.

(c) Certification of Costs

- (1) The owner shall submit a certification of costs prepared by an independent certified public accountant.
- (2) The accountant's certification shall include (A) the total of qualified rehabilitation expenditures incurred prior to the date of submission of a request for certification of completed rehabilitation under section 10-416b-10 of the Regulations of Connecticut State Agencies; (B) separate itemization of qualified rehabilitation expenditures and costs that are not qualified rehabilitation expenditures for the certified historic structure in its entirety or, in cases of phased projects, qualified rehabilitation expenditures and costs that are not qualified rehabilitation expenditures for the identifiable portion of the building placed in service; (C) verification of qualified rehabilitation expenditures by the examination of invoices, cancelled checks, settlement sheets and related documents; and (D) verification that the substantial rehabilitation test as required pursuant to section 10-416b of the Connecticut General Statutes has been met based on the evidence of the assessed value of the certified historic structure submitted at the time of application for preliminary certification and reservation of tax credits.
- (3) In cases of phased projects, the certification of costs shall include verification that the substantial rehabilitation test has been met in accordance with section 10-416b of the Connecticut General Statutes.

(d) [Commission] Department Actions

- (1) The [commission] department shall issue one or more tax credit vouchers in accordance with section 10-416b of the Connecticut General Statutes not more than thirty calendar days after receipt of a complete application.
- (2) If an application is incomplete, not more than thirty calendar days after receipt the [commission] department shall notify the owner in writing and indicate what information is needed to undertake or complete review. The owner shall have thirty calendar days after the date of notification by the [commission] department to respond in writing and provide

the requested information. Upon written request by the owner on or before the original deadline, the [commission] department shall grant an extension to the owner.

- (3) The [commission] department shall notify the state of Connecticut Department of Revenue Services of the issuance of a tax credit voucher not more than fifteen calendar days after issuance.

(e) Notification Requirement for Transfer of Tax Credits

- (1) If an assignor wishes to transfer in whole or in part its interest in tax credits, the assignor shall endorse the original tax credit voucher and indicate the name and address of the assignee, the assignee's taxpayer identification number, Federal Employer Identification Number (FEIN) or Connecticut Tax Registration Number, as applicable, the amount of the tax credits transferred, and the date of transfer. The assignee shall attach the endorsed original tax credit voucher to the required state of Connecticut Department of Revenue Services tax form to claim the credit.
- (2) An assignor shall notify the [commission] department of a transfer of tax credits to an assignee not more than thirty calendar days from the date of the transfer. Such notification shall include a certified copy of the endorsed tax credit voucher and shall indicate the amount of tax credits previously claimed by the assignor and the amount of tax credits that remain unclaimed. The [commission] department shall notify the state of Connecticut Department of Revenue Services of the transfer not more than fifteen calendar days after receipt.
- (3) If the tax credits allocated to the assignor have not been claimed in their entirety, the assignor may request the [commission] department to issue a new tax credit voucher for the remaining unused allocated tax credits.
- (4) Upon receipt of notification of transfer and written request by the assignor, the [commission] department shall issue a new tax credit voucher to the assignor in the amount of the remaining unused allocated tax credits in not more than thirty calendar days. The [commission] department shall notify the state of Connecticut Department of Revenue Services of issuance of a tax credit voucher in not more than fifteen calendar days after issuance.
- (5) The assignor may transfer, in whole or in part, the remaining unused allocated tax credits by following the procedures under subdivisions (1) through (4), inclusive, of this subsection.

(NEW) Sec. 10-416b-12. Recapture of Tax Credit Voucher

- (a) If the residential portion of a mixed residential and nonresidential rehabilitation is not completed within the scheduled timeframe as provided in section 10-416b-5 (b) (1) of the Regulations of Connecticut State Agencies the owner shall recapture one hundred percent of the tax credit voucher.
- (b) The department, at its discretion, may provide an extension of time for completion of a residential portion of the rehabilitation plan, but in no event shall such extension be more than three years.
- (c) If the owner fails to complete the residential portion of the building within the allotted timeframe, the department shall notify the Department of Revenue Services of the owner's default.

Sec.10-416b-[12] 13. Fees for Processing Applications

- (a) The [commission] department shall charge a fee of one thousand dollars upon request for a preliminary certification and reservation of tax credits. Such one thousand[-]dollar fee shall be credited toward the total fee charged.

- (b) The [commission] department shall charge a fee in an amount equal to one-tenth of one percent of the total qualified rehabilitation expenditures upon request for issuance of a tax credit voucher.
- (c) The total of all fees charged shall not exceed ten thousand dollars.
- (d) No fee shall be charged for the issuance of additional tax credit vouchers as provided in section 10-416b-11(e) of the Regulations of Connecticut State Agencies.
- (e) All payments shall be made by check and payable to the Treasurer, State of Connecticut. Fees shall not be refundable.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

To amend the existing regulations to establish Department of Economic and Community Development application requirements, standards and procedures for application review and approval and to determine owner-eligibility for the historic tax credit voucher administered by the Department of Economic and Community Development under Connecticut General Statute 10-416b.

R-39 Rev. 03/2012
(Certification page—see Instructions on back)

CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

- 1) I hereby certify that the above (check one) Regulations Emergency Regulations
- 2) are (check all that apply) adopted amended repealed by this agency pursuant to the following authority(ies): (complete all that apply)
 - a. Connecticut General Statutes section(s) 10-416b.
 - b. Public Act Number(s) _____.
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)
- 3) And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the **Connecticut Law Journal** on March 13, 2012;
(Insert date of notice publication if publication was required by CGS Section 4-168.)
- 4) And that a public hearing regarding the proposed regulations was held on _____;
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)
- 5) And that said regulations are **EFFECTIVE** (check one, and complete as applicable)
 - When filed with the Secretary of the State
 - OR on (insert date) _____

DATE April 18, 2012	SIGNED (Head of Board, Agency or Commission) 	OFFICIAL TITLE, DULY AUTHORIZED Deputy Commissioner
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APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE <u>5/11/12</u>	SIGNED (Attorney General or AG's designated representative) Joseph Rubin	OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL
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Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.
(For Regulation Review Committee Use ONLY)

- Approved Rejected without prejudice
- Approved with technical corrections Disapproved in part, (Indicate Section Numbers disapproved only)
- Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets []. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>.
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the statement)

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2. a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.
b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.