

.03 Duties of Insurer Following Determination of Total Loss of Motor Vehicle.

A. (text unchanged)

B. First-Party Claimants—In General. Except as provided in §C of this regulation, within 10 [business] calendar days after an insurer determines that a motor vehicle of a first-party claimant is a total loss, the insurer shall:

(1)—(2) (text unchanged)

C. (text unchanged)

D. Third-Party Claimants. Within 10 calendar days after an insurer determines that a motor vehicle of a third-party is a total loss, the insurer shall make an offer of a cash settlement pursuant to Regulation .04 of this chapter.

ALFRED W. REDMER, JR.
Insurance Commissioner

Title 34
DEPARTMENT OF
PLANNING
Subtitle 04 HISTORICAL AND
CULTURAL PROGRAMS

Notice of Proposed Action
[19-022-P]

The Maryland Department of Planning proposes to amend:

- (1) Regulation .09 under COMAR 34.04.01 Maryland Historical Trust Historic Preservation Grant Program;
- (2) Regulation .08 under COMAR 34.04.02 Maryland Historical Trust Historic Preservation Loan Program; and
- (3) Regulation .08 under COMAR 34.04.09 Maryland Historical Trust African American Heritage Preservation Program.

Statement of Purpose

The purpose of this action is to implement, in part, revised policies regarding the Trust's easement program. At its October 2018 meeting, the Board of Trustees of the Trust adopted policy changes to the Trust Historic Preservation Easement Program to assure the long-term sustainability of the program. These regulation amendments implement, in part, these changes.

The Trust currently holds 706 perpetual historic preservation easements and similar preservation instruments which collectively protect over 924 properties and 7,720 acres of land in Maryland. These easements are crafted to protect and preserve the historic character and integrity of historic properties. Easements provide a public benefit by ensuring that significant historic properties are preserved and made accessible to the public, even though most are privately owned. Easements encourage private stewardship and assist the State in safeguarding investments — which are often substantial — in historic properties over the long term.

The Trust began acquiring historic preservation easements on properties assisted through various State grant and loan programs in the 1970s. Currently, the regulations for the Maryland Historical Trust Grant Program, Maryland Historical Trust Loan Program, and the African American Heritage Preservation Program require the conveyance of a perpetual easement to the Trust on assisted properties.

As approved by the Board of Trustees, the Trust intends to no longer require conveyance of a perpetual easement on properties assisted through State grant or loan funding; instead, historic preservation easements acquired as condition of State funding will be

for a fixed term of years. Under the Trust's new policy, easement terms will be tied to the amount of funding received: for grant funding, each \$5,000, or portion thereof, will result in 1 year of easement term, with a minimum easement term of 15 years. This will ensure (a) minimum protection of properties beyond the performance period of the grant and (b) easement protection for the minimum required useful life expectancy of the funded capital improvements.

Acceptance of term easements will help promote the long-term sustainability of the easement program by enabling, over time, the Trust's easement inspection staff to focus its limited time and resources on ensuring the preservation of the State's most valuable historic resources. This change will bring the Trust's program in line with similar programs in other states.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. These amendments will have minimal economic impact.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency: Personnel costs	(E-)	Minimal
B. On other State agencies:	NONE	
C. On local governments: Maintenance costs	NONE	Minimal
	Benefit (+) Cost (-)	Magnitude

D. On regulated industries or trade groups:

NONE

E. On other industries or trade groups:

NONE

F. Direct and indirect effects on public:

Homeowner expenses (+) Minimal to low

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. In the long term, personnel costs may be lowered as fewer easements need to be monitored in future years.

C. Owners costs may lessen as easements become term easements, with protective covenants implemented in relation to the expected benefit period for capital improvements funded by grants or loans.

F. Homeowner costs may lessen as easements become term easements, with protective covenants implemented in relation to the expected benefit period for capital improvements funded by grants or loans.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Anne Raines, Deputy Director, Maryland Historical Trust, 100 Community Place, 3rd Floor,

Crownsville, MD 21032, or call 410-697-9584, or email to anne.raines@maryland.gov, or fax to 410-697-9616. Comments will be accepted through February 19, 2019. A public hearing has not been scheduled.

34.04.01 Maryland Historical Trust Historic Preservation Grant Program

Authority: State Finance and Procurement Article, §§5-7B-01—5-7B-10 and 5A-328, Annotated Code of Maryland; Executive Orders 01.01.1992.27C and 01.01.1998.04

.09 Grant Terms and Conditions.

A. — C. (text unchanged)

D. Requirements for Site-Specific Projects. Except for education and promotion grants under Regulation .05B(1) of this chapter, grants shall have the following additional requirements:

(1) [Preservation Agreements and] Deeds of Easement and Preservation Agreements.

(a) If the historic property assisted by the grant is real property, the grantee and the owner of the real property, if the owner is not the grantee, shall convey to the Trust a [perpetual] deed of easement containing preservation covenants applicable to the [historic] real property in form, [and] substance, and duration satisfactory to the Trust, which shall be recorded in the land records of the political subdivision in which the real property is situated.

(b) [The] A deed of easement conveyed pursuant to §D(1)(a) of the regulation may [also] contain conditional lien provisions and other provisions which require reimbursement of the grant if the encumbrance of the deed of easement is extinguished by the foreclosure of a prior lien or otherwise or if the deed of easement is determined not to be legally enforceable by the Trust for any reason. [The grantee shall record the deed of easement among the land records of the political subdivision in which the real property is situated.]

[(b)] (c) If the historic property assisted by the grant is other than real property, the grantee and the owner of the historic property, if the owner is not the grantee, shall enter into an agreement with the Trust to preserve and maintain the historic property in such manner and duration as is acceptable to the Trust.

[(c)] (d) The [requirement of a] preservation agreement or deed of easement requirements set forth in §D(1)(a) and [(b)](c) of this regulation may be modified or waived by the Secretary if the Secretary [has issued a written determination] determines that such an agreement or easement is impracticable [or infeasible] under the circumstances. [Evidence of impracticability or infeasibility may include, among other things, the existence of a previous agreement or deed of easement in form and substance satisfactory to the Trust.]

[(d)] (e) The [provision] requirement in §D(1)(a) of this regulation [requiring execution of the] that a deed of easement be conveyed by [the] a property owner if the owner is not the grantee[,] may be modified or waived by the Director, as necessary, if the subject property is [in the case of] long-term leasehold property[, if necessary].

(2) — (4) (text unchanged)

E. (text unchanged)

34.04.02 Maryland Historical Trust Historic Preservation Loan Program

Authority: State Finance and Procurement Article, §§5-7B-01—5-7B-10 and 5A-327, Annotated Code of Maryland; Executive Orders 01.01.1992.27C and 01.01.1998.04

.08 Loan Terms and Requirements.

A. — B. (text unchanged)

C. Real Property Requirements. In addition to the conditions and requirements of §§A and B of this regulation, when real property

secures [a loan, or historic real property is] or is assisted by the loan, the loan shall meet the following requirements:

(1) — (4) (text unchanged)

(5) Deed of Easement.

(a) [The] If the real property assisted by the loan is historic property, the borrower[,] and the owner of the [historic] real property, if the owner is not the borrower, shall convey to the Trust a [perpetual] deed of easement containing preservation covenants applicable to the [historic] real property, [assisted by the loan,] in form, [and] substance, and duration satisfactory to the Trust[.], which shall:

(i) [The borrower shall record the deed of easement among] Be recorded in the land records of the political subdivision in which the real property is situated[. A recorded deed of easement under this paragraph satisfies];

(ii) Satisfy the [requirement of a] preservation agreement requirement of [in] §A(8) of this regulation.

(b) The [requirement of a] preservation agreement or deed of easement requirements set forth in §§A(8) and C(5)(a) of this regulation may be modified or waived by the Secretary if the Secretary [has issued a written determination] determines that such an agreement or easement is impracticable [or infeasible] under the circumstances. [Evidence of impracticability or infeasibility may include, among other things, the existence of a previous agreement or deed of easement in form and substance satisfactory to the Trust.]

(c) The [provision] requirement in §C(5)(a) of this regulation[, requiring execution of the] that a deed of easement be conveyed by [the] a property owner if the owner is not the borrower[,] may be modified or waived by the Director [in the case of], as necessary, if, the subject property is long-term leasehold property[, if necessary].

34.04.09 Maryland Historical Trust African American Heritage Preservation Program

Authority: State Finance and Procurement Article, §§5-7B-01—5-7B-10 and 5A-330, Annotated Code of Maryland; Executive Orders 01.01.1992.27C and 01.01.1998.04

.08 Grant Terms and Conditions.

A. — C. (text unchanged)

D. Additional Grant Requirements.

(1) Deeds of Easement and Preservation Agreements.

(a) If a grant is for a project [located on historic] on real property that is individually listed in, or individually eligible for listing in, the Maryland Register of Historic Properties, the grantee and the owner of the real property, if the owner is not the grantee, shall convey to the Trust [or an entity acceptable to the Trust] a [perpetual] deed of easement containing preservation covenants applicable to the [historic] real property, in form, [and] substance, and duration satisfactory to the Trust, which shall be recorded in the land records of the political subdivision in which the real property is situated.

(b) [The] A deed of easement conveyed pursuant to §D(1)(a) of the regulation may [also] contain conditional lien provisions and other provisions which require reimbursement of the grant if the encumbrance of the deed of easement is extinguished by the foreclosure of a prior lien or otherwise or if the deed of easement is determined not to be legally enforceable for any reason. [The grantee shall record the deed of easement among the land records of the political subdivision in which the real property is situated.]

[(b)] (c) If a grant is for a project affecting [historic personal] property that is individually listed in, or individually eligible for listing in, the Maryland Register of Historic Properties, and is other than real property, the grantee and the owner of the [historic personal] property, if the owner is not the grantee, shall enter into an agreement with the Trust [or an entity acceptable to the

Trust] to preserve and maintain the [historic personal] property in such manner and duration as is acceptable to the Trust.

[(c)] (d) The preservation agreement or deed of easement requirements of §D(1)(a) and [(b)] (c) of this regulation may be modified or waived by the Director if the Director determines that such an agreement or easement is impracticable, infeasible, or not necessary under the circumstances. [Evidence of impracticability, infeasibility, or lack of necessity may include, among other things, the existence of a previous agreement or deed of easement in form and substance satisfactory to the beneficiary of the agreement or holder of the easement, as the case may be.]

[(d)] (e) The requirement in §D(1)(a) of this regulation that a deed of easement be conveyed by a property owner if the owner is not the grantee may be modified or waived by the Director, as necessary, if the subject property is long-term leasehold property.

(2) — (4) (text unchanged)

E. (text unchanged)

ROBERT McCORD
Secretary of Planning

Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS

34.04.07 Heritage Structure Rehabilitation Tax Credit Certifications

Authority: State Finance and Procurement Article, §5A-303, Annotated Code of Maryland

Notice of Proposed Action [19-023-P]

The Maryland Department of Planning proposes to amend Regulations .02, .03, .05, and .06 under COMAR 34.04.07 Heritage Structure Rehabilitation Tax Certifications.

Statement of Purpose

The purpose of this action is to:

(1) Permit an additional 5 percent tax credit for commercial rehabilitation projects that result in a housing project that qualifies as "affordable housing." This amendment will bring COMAR into conformance with a statutory change made by the General Assembly during the 2018 Session. See Ch. 842, Acts of 2018.

(2) Clarify that, for commercial rehabilitation projects, the tax credit may not exceed 20 percent of the estimated rehabilitation expenditures identified in the applicant's "Part 2" application, plus the additional 5 percent for achieving LEED status or affordable housing. This clarification brings the regulations in line with long-standing administrative practices.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Collin Ingraham, Administrator, Preservation Financial Incentives, Maryland Historical Trust, 100 Community Place, 3rd Floor, Crownsville, Maryland 21032-2023, or call 410-697-9558, or email to Collin.Ingraham@maryland.gov, or

fax to 410-697-9616. Comments will be accepted through February 19, 2019. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Affordable housing" means a housing project that has received an allocation of federal low-income housing tax credits by the Department of Housing and Community Development.

[(2)] (3) — [(13)] (14) (text unchanged)

[(14)] (15) "Qualified rehabilitation expenditure" means any amount that is:

(a) (text unchanged)

(b) Expended on a certified rehabilitation:

(i) — (ii) (text unchanged)

(iii) For work undertaken after approval by the Director of the rehabilitation plan under Part 2 and during a continuous 24-month period selected by the applicant; and

(c) (text unchanged)

[(15)] (16) — [(23)] (24) (text unchanged)

.03 The Heritage Structure Rehabilitation Tax Credit Program.

A. — B. (text unchanged)

C. The Homeowner Tax Credit.

(1) (text unchanged)

(2) The Homeowner Tax Credit shall equal the lesser of:

(a) 20 percent of the qualified rehabilitation expenditures incurred [during the continuous 24-month period selected] by the applicant; or

(b) (text unchanged)

(3) (text unchanged)

D. The Small Commercial Tax Credit.

(1) (text unchanged)

(2) The Small Commercial Tax Credit shall equal the lesser of:

(a) 20 percent of the qualified rehabilitation expenditures incurred [during the continuous 24-month period selected] by the applicant; or

(b) 20 percent of estimated qualified rehabilitation expenditures identified in the Part 2 application; or

[(b)] (c) (text unchanged)

(3) (text unchanged)

E. The Competitive Commercial Tax Credit.

(1) (text unchanged)

(2) The Commercial Tax Credit:

(a) Shall equal the sum of:

(i) The lesser of 20 percent of the qualified rehabilitation expenditures incurred [during the continuous 24-month period selected] by the applicant or the estimated qualified rehabilitation expenditures identified in the Part 2 application; and

(ii) If applied for in the Part 2 application, an additional 5 percent of those qualified rehabilitation expenditures if the certified rehabilitation results in either a high performance building or a project that qualifies as affordable housing; and

(b) (text unchanged)

.05 Procedures for Application for and Review of Certifications of Eligibility of Certified Historic Structure Rehabilitations (Part 2).

A. Part 2 Application Process.

(1) — (2) (text unchanged)

(3) A Part 2 application shall be deemed incomplete, and may not be accepted or reviewed by the Trust, if the application does not:

(a) (text unchanged)

(b) [For an application for either the Small Commercial Tax Credit or the Competitive Commercial Tax Credit, state the maximum amount of the tax credit for which the rehabilitation may