

Chapter 815: HISTORIC PRESERVATION REVOLVING LOAN FUND

SECTION 1. GENERAL

Title 5 §13056-F instructs the Maine Historic Preservation Commission to provide funds to qualified nonprofit historic preservation organizations in the State for the purpose of acquiring endangered historic properties of local, state or national significance, as determined by the Commission, for resale to new owners who agree to preserve, rehabilitate or restore the properties as necessary, subject to preservation easements or covenants held by the qualified organization.

These rules provide guidelines for the application process and the administration of the Historic Preservation Revolving Loan Fund.

SECTION 2. DEFINITIONS

The following terms used in this rule shall be defined as below:

1. **“Appraised Value”** means an estimation of the current market value of a property. Appraised Value reports shall adhere to the *Uniform Standards of Professional Appraisal Practices* (USPAP).
2. **“Carrying Costs”** mean all expenses related to ownership of the Endangered Historic Property that will be incurred by the Qualified Organization prior to re-sale. These can include, but may not be limited to, expenses related to basic property maintenance (such as snow plowing, clearing snow from roofs, cleaning gutters, ensuring the property is secure from vandalism or break-in, etc.), real estate taxes, insurance, utilities, etc.
3. **“Certified Real Estate Appraiser”** means a certified general real property appraiser or a certified residential real property appraiser, as appropriate, who is licensed by the Maine Department of Professional and Financial Regulation.
4. **“Commission”** means the Maine Historic Preservation Commission as established in 27 MRSA §502.
5. **“Conditions Study”** means a formal report that presents an evaluation of the physical condition of the Endangered Historic Property, with a description of deteriorated areas and the cause(s) for the deterioration.
6. **“Director”** means the director of the Commission.
7. **“Endangered Historic Property”** or “EHP” means a district, site, building, structure or object which is listed in or is eligible for listing in the National Register of Historic Places, and which is subject to a threat that would substantially alter or destroy its historic or architecturally significant features or the historic property as a whole. Such properties may be listed or determined eligible for listing in the National Register either as individual properties, or as contributing resources within a listed or eligible historic

district. When necessary, determinations of eligibility for individual properties and districts will be made by the Commission; based on criteria set forth in 36 CFR 60.4 and guidance issued by the National Park Service for applying the criteria.

8. **“Inspection”** means a visit by an authorized representative of the Director to a property for the purposes of reviewing and evaluating the significance of the building and the proposed, ongoing or completed rehabilitation work.
9. **“Licensed Real Estate Professional”** means a real estate broker, an associate real estate broker or a real estate sales agent, as appropriate, who is licensed by the Maine Department of Professional and Financial Regulation.
10. **“National Register of Historic Places”** or **“National Register”** means the official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture that the Secretary of the Interior is authorized to expand and maintain pursuant to Section 101(a)(1) of the *National Historic Preservation Act of 1966*, as amended.
11. **“Preservation Easement or Covenant”** means an agreement legally binding the current and future owners to preserve the subject property in accordance with the Secretary of the Interior’s *Standards for the Treatment of Historic Properties* for a defined period of time or in perpetuity, as appropriate.
12. **“Qualified Nonprofit Historic Preservation Organization”** or **“Qualified Organization”** (QO) means either a nonprofit preservation or historical organization whose purposes include the preservation of historic properties, or a governmental body. A qualified organization must also demonstrate previous historic preservation, rehabilitation or acquisition activity; availability of staff with demonstrated professional training and experience in the administration of historic preservation programs; demonstrated experience with and a working knowledge of the Standards; and experience with the acquisition and resale of historic property.
13. **“Rehabilitation”** as defined by the Secretary of the Interior’s *Standards for Rehabilitation*, means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.
14. **“Stabilization”** means the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present. For archeological sites it includes work to moderate, prevent, or arrest erosion.
15. **“Standards for the Treatment of Historic Properties”** or **“Standards”** means the United States Secretary of the Interior’s *Standards for the Treatment of Historic Properties* codified as 36 CFR 68 in the July 12, 1995 *Federal Register* (Vol. 60, No. 133).

SECTION 3. APPLICATION FOR STATUS AS A QUALIFIED ORGANIZATION

1. Only organizations that meet the definition of a Qualified Organization as defined in Section 2.12. are eligible to receive loans from the Fund.
2. A Qualified Organization must demonstrate the capacity to undertake the project(s) proposed in the application with a reasonable prospect of bringing it to a successful conclusion. In assessing an applicant's ability to meet the requirements of this paragraph, the Commission may consider all relevant factors, including but not limited to the applicant's organizational purpose; organizational history; previous historic preservation, rehabilitation or acquisition activity; scope of economic or revitalization vision; organizational plan for negotiating the purchase, marketing, sale, and long-term enforcement of preservation easements; and proof that the organization has corporate good standing and evidence of success in previous efforts. In addition, the Commission may consider evidence of success in previous efforts, the identification of anticipated sources of matching funds and description of the timeframe for final commitment.

SECTION 4. ELIGIBLE PROPERTIES

In order to be considered eligible for a loan under this program, the property that is proposed for acquisition must be an Endangered Historic Property as defined in Section 2.7.

SECTION 5. APPLICATION PROCEDURE

Applicants are required to complete and submit the three part Historic Preservation Revolving Loan Fund Application with all checklist items in accordance with the application instructions.

1. **PART 1**
 - A. Information and materials submitted with Part 1 of the Historic Preservation Revolving Loan Fund Application (Application) will be used as the basis for:
 - (1) Evaluating the applicant organization's status as a QO; and
 - (2) Determining whether the property proposed for acquisition is an EHP, as defined in Section 2; and
 - B. Upon review of Part 1 of the Application, the Director will issue a written response stating whether the applicant's organization is a QO, and whether the subject property is an EHP. If the Director determines that the applicant organization is a QO, and the property is an EHP, the QO may proceed to Part 2 of the Historic Preservation Revolving Loan Fund Application.
 - C. If the Director determines that the applicant is not a QO or the property is not an EHP, the applicant may appeal the determination to the Commission pursuant to Section 8.

2. **PART 2**

- A. Information and materials submitted with Part 2 of the Historic Preservation Revolving Loan Fund Application will be used as the basis for evaluating the feasibility of acquiring and re-selling the EHP, and assessing the level to which the proposal meets the Evaluation Criteria in 5 MRSA §13056-F.5.
- B. Upon review of Part 2 of the Application, the Director will issue a written recommendation to the Commission for consideration at its next regularly scheduled quarterly meeting, at which time the Commission will either approve or reject the acquisition proposal.
- C. Approval of Part 2 of the Application authorizes the QO to submit documentation for payment of allowable costs associated with Part 2 and 3 of the application, up to but not exceeding \$25,000.00.

3. **PART 3**

All of the items indicated under Part 3 of the Historic Preservation Revolving Loan Fund Application must be provided to the Director before any further payment from the Revolving Loan Fund will be made to the QO.

SECTION 6. EVALUATION CRITERIA

- 1. In accordance with the criteria in 5 MRSA 13056-F(5), the Commission shall evaluate and seek to fund those proposals that best meet its historic preservation priorities for the State and region and that support its economic and community development and enhancement priorities. The criteria are explained as follows:
 - A. **The level of historic or architectural significance.** Factors that shall be considered in determining an EHP's level of historic or architectural significance shall include but not be limited to its importance to the history, architecture, archaeology, engineering, or culture of a community, the state, or the nation. If not already established in a National Register of Historic Places Nomination Form, the significance of the property will be determined by the Director using guidance published by the National Park Service. Properties that are not eligible for listing in the National Register of Historic Places cannot be EHPs for purposes of the Historic Preservation Revolving Loan Fund.
 - B. **The value with respect to historic preservation and rehabilitation.** Factors that shall be considered in determining the value of an EHP with respect to historic preservation and rehabilitation shall include but not be limited to its significance; its location relative to other historic properties (e.g. is it part of an historic district or a complex of historically and functionally related buildings?); its potential to act as a catalyst for other historic preservation and rehabilitation activities; its historic and/or cultural affiliation with other historic properties in the region; and whether it is a rare or unique resource in the region or state.
 - C. **The degree to which the property is endangered.** Factors that shall be considered in demonstrating the degree to which an EHP is endangered shall include but not

be limited to an evaluation of physical evidence that documents current structural conditions (including previous structural repairs, conditions assessments by preservation engineers or other qualified professionals, etc.); a review of the history of previous attempts to preserve the property; the threat of imminent demolition and/or destruction of the property's character defining features or physical setting; and in the case of an archaeological site, the threat of ground disturbance that could preclude future excavation and the recovery of information from it.

- D. **The economic significance to the immediate vicinity and to the State.** Factors that shall be considered in demonstrating the economic significance of preserving an EHP to the immediate vicinity and to the State shall include but not be limited to its potential to increase local property tax revenue when rehabilitated; its potential to attract other revenue and investment; its potential to stimulate additional historic rehabilitation activity; and its potential to directly or indirectly foster job creation or retention.
- E. **The value with respect to downtown revitalization, open space conservation or other public purposes.** Factors that shall be considered in demonstrating the value of preserving an EHP with respect to downtown revitalization, open space conservation or other public purposes shall include but not be limited to the economic and business climate of the downtown; the viability of long-term re-use plans; the potential impact on surrounding properties; the extent to which open space and/or cultural landscape(s) will be preserved as part of or in concert with the EHP and its proposed use; whether the EHP is in an area affected or threatened by sprawl; the types of proposed use, services or businesses to be offered within the EHP and related open space (e.g. do they serve a local need? How will they affect the cultural landscape and/or archaeological sites?); and the degree of public support for preservation of the EHP and/or the overall conservation and use plan.
- F. **The availability at fair market value.** The availability of the EHP at fair market value shall be determined by comparison of the acquisition price with the appraised value of the property by a Certified Real Estate Appraiser;
- G. **The degree to which the property is available below fair market value.** The degree to which the EHP is available below fair market value shall be determined by comparison of the acquisition price with the appraised value of the property by a Certified Real Estate Appraiser;
- H. **The potential marketability.** Factors that shall be considered in ascertaining the potential marketability of the EHP shall include but not be limited to an assessment of the property's marketability by a Licensed Real Estate Professional, taking into account the fact that the property will be offered for sale with a Preservation Easement or Covenant; the location of the property and the status of the surrounding real estate market; an evaluation of potential appropriate uses of the EHP; and the advertising and promotion strategy.
- I. **The feasibility of rehabilitation or restoration and reuse.** Factors that shall be considered in demonstrating the feasibility of rehabilitating or restoring and reusing the EHP shall include but not be limited to whether it is adaptable in a manner consistent with local zoning and modern needs/uses; its condition (e.g.

can the building be occupied in its current state, and if not, can the QO stabilize the building or otherwise mitigate hazardous conditions to facilitate its sale?); and its accessibility to public right-of-ways, services, and infrastructure.

- J. **The value of the proposed property with respect to tourism promotion and development.** Factors that shall be considered in measuring the value of preserving the EHP with respect to tourism promotion and development shall include but not be limited to its potential appeal to out-of state travelers; how it fits into an overall tourism development plan; and how its preservation will preserve or enhance the visual and physical character of a community.
- K. **The degree of community support.** Factors that shall be considered in evaluating the degree of support for preserving an EHP shall include but not be limited to the endorsement of municipal governments and their officials; endorsements and/or other past or current efforts by local or regional organizations involved in history or historic preservation to preserve the EHP; the support of other local or regional institutions or organizations (such as local or regional planning agencies, chambers of commerce, recreational or social clubs, etc.); the support of local businesses and citizens.
- L. **The extent to which the proposed project involves partnerships or meets multiple criteria.** Factors that shall be considered in evaluating the extent to which the preservation of EHP involves partnerships shall include but not be limited to documentation that shows financial or other in-kind materials or services that have been pledged or provided by private, non-profit or governmental entities or individuals to support the project; the extent to which public access to the EHP will be ensured, and the types of public use to be allowed when it is sold by the QO.

SECTION 7. FORMAT AND COMPLETENESS OF APPLICATION

1. All information and photographs must be submitted both in printed hard copy and in an electronic format as stipulated in the application. The applicant must thoroughly and accurately address all of the Evaluation Criteria discussed under Section 6 in a concise, clear, well written format. Photographs must be printed on photo paper at a minimum size of 3.5 inches by 5 inches and be good, clear images that are numbered, dated, and labeled with the property name, the view, and a brief description of what is shown. Include a photo key plan—that is, a floor plan and, if applicable, a site plan showing numbered photographs and arrows indicating the view.
2. If any part of an application is incomplete it will be returned to the applicant with a brief explanation of deficiencies and the review period will start over from the time the application is resubmitted. If an application must be returned to an applicant more than twice, it will be returned to the applicant on the third time and will not be reconsidered for a full year from the date of return unless rewritten and submitted by a different QO.

SECTION 8. APPEAL PROCEDURE

1. **Appeal Requests.** An applicant may appeal any decision by the Director. A request for an appeal shall be made in writing to the Commission Chair within 30 days of receipt of the decision which is the subject of the appeal. Any such appeal must be in writing and shall set forth the manner in which the aggrieved claims the decision was arbitrary or unreasonable.
 2. **Decisions.** In considering appeals, the Commission may take into account alleged errors in professional judgment or alleged prejudicial procedural errors.
 3. **Final Administrative Remedy.** The decision of the Commission shall be the final administrative decision on the appeal. No organization or governmental body shall be considered to have exhausted its administrative remedies with respect to decisions described in this part until the Commission Chair has issued a final administrative decision in writing to the applicant in response to this section.
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APPENDIX

Maine Revised Statutes, Title 5, Section 13056-F

36 Code of Federal Regulations, Part 60

36 Code of Federal Regulations, Part 68

Copies of all reference materials are available upon request from the Maine Historic Preservation Commission.

STATUTORY AUTHORITY: 5 MRSA §13056-F

EFFECTIVE DATE:

April 22, 2014 – filing 2014-071