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Supporting Investment Outside the Three C's: The Expanded Ohio Historic Preservation Tax Credit Enhances Another Tool for Projects beyond Ohio's Major Cities

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On June 14th of this year, Governor Mike DeWine signed Substitute Senate Bill Number 225 (S.B. 225), effective September 13, 2022, which will, among other changes, expand the pool of funding available for Ohio Historic Preservation Tax Credits (HPTC) and increase the credit for projects outside of the "Three C's": Cincinnati, Cleveland and Columbus. The credit percentage increase reflects an ongoing commitment to provide additional support for economic development beyond the largest cities in Ohio.

The HPTC program currently gives the owner or qualified lessee of an historic property a state income tax credit for up to 25% of qualified expenses associated with a historic preservation project. The tax credit is refundable and is generally capped at \$5 million per project. HPTC applicants must participate in a competitive, multi-step process in order to receive funding during either the spring or fall application cycle. Applicants must first submit a brief intent to apply form and will have the opportunity to request a pre-application meeting with the State Historic Preservation Office (SHPO). Next, applicants must submit historic documentation, including an evaluation of historical significance and a rehabilitation proposal, to the SHPO. Then, applicants must submit the final application. Each project application will be weighed on a 100 point rubric, with scoring based on economic impact, regional balance and a cost-benefit analysis of credit amount versus resulting state and local tax revenues. The HPTC program already takes into account geographic diversity, and the current round of HPTC recipients highlights the importance of projects outside of Ohio's major cities, providing awards for projects in Marietta, Marion, Middletown, Sandusky, Shawnee and Van Wert.

S.B. 225 represents a significant additional investment in the HPTC program, increasing both the amount available to all applicants but also increasing the amount specifically for projects outside the Three

C's:

- increasing the total pool of HPTC funding available for all projects for state fiscal years 2023 and 2024 from \$60 million to \$120 million;
- increasing the project cap from \$5 million to \$10 million for all projects during state fiscal years 2023 and 2024 and for taxpayers who have already been awarded tax credits after June 30, 2020 so long as construction has not yet commenced;
- increasing the HPTC award from up to 25% to up to 35% for qualified expenses for projects in any county, township or municipalities with populations under 300,000 (per the 2020 census);
- allowing the increased maximum credit, up to \$10 million, to be refundable (if the credit claimed in any tax year exceeds the tax otherwise due, the excess is refunded to the taxpayer);
- giving consideration to the rehabilitation of historic buildings previously used as theaters that will be rehabilitated and used as theaters (with the Ohio Department of Development (ODOD) considering the extent to which the rehabilitation will increase attendance and gross revenue at the theater); and
- aligning state and federal law to make the state tax credit certificates effective at the same time as the federal historic tax credits, with Ohio Revised Code Section 149.311(K) clarifying that a tax credit certificate is effective on the last date the historic buildings are "placed in service" as such term is used for purposes of Section 47 of the Internal Revenue Code.

The eligibility for a 35% tax credit will apply to any Ohio projects outside of the Three C's, since those are the only three cities with populations above 300,000.

The HPTC is an important part of Ohio's economic development toolbox for projects in Ohio's smaller cities and rural areas, especially since it gives weight to geographic diversity and now provides a higher tax credit amount for projects outside the Three C's. Ohio has made similar efforts to incentivize geographic diversity in other economic development programs, including but not limited to:

- the Transformational Mixed-Use Development tax credit program, for projects that will help catalyze a community's economic development and social well-being, which caps the pool of funding available to Ohio's major cities to ensure other parts of Ohio have access to at least \$20,000,000 of the \$100,000,000 in tax credits available each round
- the Rural Industrial Park Loan Program makes partially forgivable loans available for projects in certain counties that contain populations of 125,000 or fewer and certain other distressed and labor surplus areas that are not part of MSAs
- recently enacted H.B. 377, which invests \$500,000,000 to transform Appalachian communities in 32 Ohio counties
- JobsOhio's Vibrant Community Program, supporting economic development in 96 cities with populations between 5,000 and 75,000 and poverty rates that are at or above the State's average poverty rate

The HPTC program supports preserving Ohio's history and generating economic development. The new law aligns geographic diversity in the application scoring process with the possibility of higher tax credit amounts for projects outside of the Three C's. Round 29 of the HPTC program for the fall 2022 Cycle will

begin in August with the SHPO pre-application meeting request deadline of August 1st, with applications due September 30th. Read more [here](#). For additional guidance regarding S.B. 225 released by the ODOD on July 19th, [click here](#).

Vorys encourages you to contact your Vorys attorney or advisor with questions about Ohio's State Historic Preservation Tax Credit or any of the other programs that provide incentives, including those that provide additional support outside the Three C's. Please feel free to contact the following Vorys attorneys: Scott J. Ziance, 614.464.8287, sjziance@vorys.com; Christopher J. Knezevic, 614.464.5627, cjknezevic@vorys.com; Sean Byrne, 614.464.8247, spbyrne@vorys.com; Jonathan K. Stock, 614.464.5647, jkstock@vorys.com; or R. Elissa Wilson, 614.464.6224; rewilson@vorys.com.