

CHAPTER 1A-38 TAX EXEMPTIONS FOR HISTORIC PROPERTIES

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1A-38.002 Definitions.

The following words and phrases, when used in this chapter, shall have the following meanings, except where the context clearly indicates a different meaning:

(1) "Contributing property" means a building, site, structure, or object which adds to the historical architectural qualities, historic associations, or archaeological values for which a district is significant because

(a) It was present during the period of significance of the district, and possesses historic integrity reflecting its character at that time,

(b) Is capable of yielding important information about the period, or

(c) It independently meets the National Register of Historic Places criteria for evaluation set forth in 36 CFR Part 60.4, incorporated by reference.

(2) "Division" means the Division of Historical Resources of the Department of State.

(3) "Historic property" means a building, site, structure, or object which is:

(a) Individually listed in the National Register of Historic Places;

(b) A contributing property in a National Register listed historic district;

(c) Designated as a historic property or landmark under the provisions of a local historic preservation ordinance; or

(d) A contributing property in a historic district designated under the provisions of a local historic preservation ordinance.

(4) "Improvements" means changes in the condition of real property brought about by the expenditure of labor or money for the restoration, renovation or rehabilitation of such property. Improvements shall include additions and accessory structures (i.e., a garage, cabana, guest cottage, storage/utility structure) so long as the new construction is compatible with the historic character of the building and site in terms of size, scale, massing, design and materials, and preserves the historic relationship between a building or buildings, landscape features and open space.

(5) "Local government" means the board of county commissioners or the governing authority of the municipality that has adopted an ordinance providing for property tax exemption for improvements to historic properties pursuant to Section 196.1997 or 196.1998, F.S.

(6) "Local historic preservation office" means a local government agency certified by the Division as qualified to review applications for property tax exemptions pursuant to Sections 196.1997 or 196.1998, F.S.

(7) "National Register of Historic Places" means the list of historic properties significant in American history, architecture, archeology, engineering and culture, maintained by the Secretary of the Interior, as established by the National Historic Preservation Act of 1966 (Public Law 89-665; 80 STAT. 915; 16 U.S.C. 470), as amended.

(8) "Noncontributing property" means a building, site, structure, or object which does not add to the historic architectural qualities, historic associations, or archaeological values for which a district is significant because

(a) It was not present during the period of significance of the district,

(b) Due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period, or

(c) It does not independently meet the National Register of Historic Places criteria for evaluation.

(9) "Renovation" or "rehabilitation". For historic properties or portions thereof which are of historical or architectural significance, "renovation" or "rehabilitation" means the act or 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 or features of the property which are significant to its historical, architectural, cultural and archaeological values. For historic properties or portions thereof which are of

archaeological significance or are severely deteriorated, "renovation" or "rehabilitation" means the act or process of applying measures designed to sustain and protect the existing form and integrity of a property, or reestablish the stability of an unsafe or deteriorated property while maintaining the essential form of the property as it presently exists.

(10) "Restoration" means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(11) "Useable space" means that portion of the space within a building which is available for assignment or rental to an occupant, including every type of space available for use of the occupant.

Specific Authority 196.1997, 196.1998 FS. Law Implemented 196.1997, 196.1998 FS. History--New 1-31-94, Amended 9-3-00.

1A-38.003 Application for Exemption.

(1) Except as provided in Rule 1A-38.003(2), F.A.C., application for the property tax exemption shall be made on the three-part Historic Preservation Property Tax Exemption Application, DOS Form No. HR3E101292, revised 9-3-00 and incorporated by reference. This form may be obtained by writing the Division at: Bureau of Historic Preservation, 500 South Bronough Street, Tallahassee, Florida 32399-0250, or from the local historic preservation office in the jurisdiction of the local government. Part 1-Evaluation of Property Eligibility and Part 2-Description of Improvements may be submitted before or during construction, or upon completion of the improvements; however, property owners are strongly encouraged to submit these parts of the application to ensure property eligibility and secure preliminary project approval before construction is initiated. Part 3-Request for Review of Completed Work shall be submitted upon completion of the improvements. For improvements completed before application is made, Part 3-Request for Review of Completed Work must accompany the Part 2 submission.

(2) In lieu of DOS Form No. HR3E101292, any local government with a local historic preservation office certified pursuant to Rule 1A-38.007, FAC., may develop an alternative application form for use by property owners within its jurisdiction; however, such alternative application form shall:

- (a) At a minimum, require the property owner to provide the information indicated in DOS Form No. HR3E101292,
- (b) Be in the two-part format of DOS Form No. HR3E101292, and
- (c) Be approved by the Division.

(3) The completed Part 1-Evaluation of Property Eligibility, Part 2-Description of Improvements and Part 3-Request for Review of Completed Work shall be submitted by the property owner to the local historic preservation office or the Division, whichever is designated by the local ordinance as the representative of the local government for the purpose of reviewing applications for the property tax exemption.

(4) Upon receipt of the completed Part 1-Evaluation of Property Eligibility and Part 2-Description of Improvements, and all required supporting materials, the local historic preservation office or the Division shall conduct a review to determine.

- (a) Whether the property for which an exemption has been requested satisfies Section 196.1997(11)(a), F.S.,
- (b) Whether the proposed, in progress, or completed improvements are consistent with The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Revised 1990), U.S. Department of the Interior, National Park Service, incorporated by reference, and the criteria in Chapter 1A-38, F.A.C., and

(c) For applications submitted under the provisions of Section 196.1998, F.S., whether the improvements meet the criteria in Rule 1A-38.004(3) and (4). Part 2-Description of Improvements will not be reviewed prior to review of Part 1-Evaluation of Property Eligibility and certification that the subject property is a historic property as defined in Rule 1A-38.002(3) and, for applications submitted under the provisions of Section 196.1998, F.S., that the property meets the criteria in Rules 1A-38.004(4) and (5). Copies of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings may be obtained by writing the Division at the address indicated in Rule 1A-38.003(1), F.A.C. or from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402.

(5) Upon completion of the review of Part 1-Evaluation of Property Eligibility and Part 2-Description of Improvements, the local historic preservation office or Division shall notify the applicant and the local government in writing of the results of the review and shall make recommendations for correction of any planned or completed work deemed to be inconsistent with the standards cited in Rule 1A-38.005, F.A.C.

(6) Each review of Part 1-Evaluation of Property Eligibility and Part 2-Description of Improvements conducted by the Division shall be completed within 30 days following receipt of the completed application and all required supporting materials. Each review

of Part 1-Evaluation of Property Eligibility and Part 2-Description of Improvements conducted by a local historic preservation office shall be completed consistent with the routine schedules and procedures of the local design review body as set forth by the local government.

(7) Upon receipt of Part 3-Request for Review of Completed Work and all required supporting materials, the local historic preservation office or the Division shall conduct a review to determine whether or not the completed improvements are in compliance with the work described in an approved Part 2-Description of Improvements, subsequent approved amendments, if any, and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. If Part 2-Description of Improvements and Part 3-Request for Review of Completed Work are submitted after completion of the improvements, both shall be reviewed concurrently for compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The local historic preservation office or the Division, as applicable, reserves the right to inspect the completed work to verify such compliance.

(8) On completion of the review of a Request for Review of Completed Work, the local historic preservation office or the Division shall recommend that the local government grant or deny the exemption. The recommendation, and the reasons therefor, shall be provided in writing to the applicant and to the local government. The recommendation shall advise the applicant of his right to a fair hearing pursuant to Section 120.57, F.S., and procedures set forth by the local government.

(9) Each review of a Request for Review of Completed Work conducted by the Division shall be completed within 30 days following receipt of the completed request and all required supporting materials. Each review of a Request for Review of Completed Work conducted by a local historic preservation office shall be completed consistent with the routine schedules and procedures of the local design review body as set forth by the local government.

Specific Authority 196.1997(6) FS. Law Implemented 196.1997, 196.1998 FS. History–New 1-31-94, Amended 9-3-00.

1A-38.004 Evaluation of Property.

(1) Part 1-Evaluation of Property Eligibility submitted to the Division for properties which have been individually designated as historic properties or landmarks under the provisions of a local historic preservation ordinance shall include documentation substantiating such designation and describing the historic, archaeological or architectural features which provided the basis for designation. Acceptable documentation shall include a copy of the designation report for the property and official correspondence notifying the property owner of designation.

(2) For properties located in a historic district listed in the National Register of Historic Places, the local historic preservation office or the Division shall apply the definitions of contributing and noncontributing properties as set forth in Rules 1A-38.002(1) and 1A-38.002(6), F.A.C., respectively, to determine whether the property is a contributing property.

(3) For properties located in a historic district designated by local ordinance, the local historic preservation office or the Division shall apply the criteria set forth in the local ordinance to determine whether the property is a contributing property. If the local ordinance does not include criteria or a process sufficient to determine whether the property is a contributing property, the local historic preservation office or the Division shall apply the definitions of contributing and noncontributing properties as set forth in Rules 1A-38.004(1) and 1A-38.002(6), F.A.C., respectively, to determine whether the property is a contributing property.

(4) For purposes of the exemption under Section 196.1998, F.S., a property is being used for government or nonprofit purposes if the occupant or user of at least 65 percent of the useable space of a historic building or of the upland component of an archaeological site is an agency of the federal, state or local government, or a nonprofit corporation whose articles of incorporation have been filed by the Department of State in accordance with Section 617.0125, F.S.

(5) For purposes of the exemption under Section 196.1998, F.S., a property is considered regularly and frequently open to the public if public access to the property is provided not less than 52 days a year on an equitably spaced basis, and at other times by appointment. Nothing in this rule shall prohibit the owner from charging a reasonable nondiscriminatory admission fee.

Specific Authority 196.1997(13), 196.1998(3) FS. Law Implemented 196.1997, 196.1998 FS. History–New 1-31-94, Amended 9-3-00.

1A-38.005 Evaluation of Improvements.

The local historic preservation office or the Division shall apply the recommended approaches to rehabilitation as set forth in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings in evaluating the

eligibility of improvements to the historic property. For improvements intended to protect or stabilize severely deteriorated historic properties or archaeological sites, the local historic preservation office or the Division shall apply the following additional standards:

(1) Before applying protective measures which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.

(2) Protective measures shall safeguard the physical condition or environment of a property or archaeological site from further deterioration or damage caused by weather or other natural, animal or human intrusions.

(3) If any historic material or architectural features are removed, they shall be properly recorded and, if possible, stored for future study or reuse.

(4) Stabilization shall reestablish the structural stability of a property through the reinforcement of loadbearing members or by arresting material deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

(5) Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

Specific Authority 196.1997(13), 196.1998(3) FS. Law Implemented 196.1997, 196.1998 FS. History–New 1-31-94.

1A-38.006 Covenant.

(1) Except as provided in Rule 1A-38.006(2), FAC., a property owner qualifying for an exemption pursuant to Sections 196.1997 and 196.1998, F.S., and the local government granting the exemption shall execute the Historic Preservation Property Tax Exemption Covenant, DOS Form No. HR3E111292, effective 1-31-94 and incorporated by reference. DOS Form No. HR3E111292 may be obtained by writing the Division at the address in Rule 1A-38.003(1), FAC. or from the local historic preservation office in the jurisdiction of the local government. On or before the effective date of the exemption, as established by the applicable local government, the owner of the property shall have the Covenant recorded with the deed for the property in the official records of the county in which the property is situated.

(2) In lieu of DOS Form No. HR3E111292, any local government may develop an alternative form of covenant for use within its jurisdiction; however, such alternative form of covenant shall:

(a) at a minimum, bind the parties to conditions and requirements equivalent to those set forth in DOS Form No. HR3E111292, and

(b) be approved by the Division.

(3) The following conditions shall provide justification for removal of a property from eligibility for the property tax exemption provided under Section 196.1997, F.S.:

(a) The owner is in violation of the provisions of the Historic Preservation Tax Exemption Covenant; or

(b) The property has been damaged by accidental or natural causes to the extent that the historic integrity of the features, materials, appearance, workmanship and environment, or archaeological integrity which made the property eligible for listing in the National Register or designation under the provisions of the local preservation ordinance have been lost or so damaged that restoration is not feasible.

(4) For the exemption provided under Section 196.1998, F.S., the following conditions, as well as those indicated in Rule 1A-38.006(3), FAC., shall justify removal of a property from eligibility for the exemption:

(a) The property is sold or otherwise transferred from the owner who made application and was granted the exemption; or

(b) The property no longer meets the requirements set forth in Rules 1A-38.004(4) and 1A-38.004(5), FAC.

Specific Authority 196.1997(7) FS. Law Implemented 196.1997, 196.1998 FS. History–New 1-31-94.

1A-38.007 Certification of Local Historic Preservation Office.

(1) Criteria for certification shall be as set forth in sections A and B of the Florida Certified Local Government Guidelines (Revised November 1993) promulgated by the Division and incorporated by reference. These guidelines may be obtained by writing the Division at the address in Rule 1A-38.003(1), FAC.

(2) Existing Certified Local Governments shall automatically be designated local historic preservation offices for the purposes set forth in Sections 168.1997 and 168.1998, F.S.

(3) Other local governments requesting certification of a local historic preservation office shall apply on the Application for Certification, Florida Certified Local Governments Program, which is Appendix C to the Florida Certified Local Government Guidelines.

(4) Within 45 days following receipt of a complete Application for Certification and all required supporting material, the Division shall render a written determination regarding the application, either approving or denying certification for the purposes set forth in Sections 196.1997 and 196.1998, F.S. For denials, the Division shall provide the applicant with an explanation, clearly indicating the reasons for denial.

(5) Certification pursuant to this rule shall remain in effect so long as the local government maintains a program which meets the minimum requirements set forth in sections A and B of the Florida Certified Local Government Guidelines.

Specific Authority 196.1997(6) FS. Law Implemented 196.1997, 196.1998 FS. History—New 1-31-94.