

Title V
Taxation Chapter 79-E
Community Revitalization Tax Relief Incentive

LAW and FACT SUMMARY for the TOWN OF KINGSTON, NH



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Chapter 79-E Revitalization Overview & Qualification

Overview

The Community Revitalization Tax Relief Incentive (RSA 79-E) Program allows the Town of Kingston to provide a temporary period of limited tax relief for property owners who wish to undertake substantial rehabilitation of a qualifying structure which will provide at least one public benefit. Under the statute, use of the 79-E program is limited to designated or recognized downtowns, town centers, or village centers. In Kingston this area is designated as properties lying in Historic District I.

How to Qualify

- 1. The project must provide at least one Public Benefit listed in the statute.**
- 2. The building or structure must be a Qualifying Structure.**
- 3. The proposed project must be a Substantial Rehabilitation.**

Chapter 79-E:1 Declaration of Public Benefit

RSA 79-E:1 Public Benefit - Interpretation:

The project must provide at least one Public Benefit listed in the statute, including:

Enhancement of the economic vitality of the downtown; (RSA 79-E:7, I)

Enhancement or improvement of a culturally or historically important structure; (RSA 79-E:7, II)

Promotion of the preservation and reuse of existing building stock; (RSA 79-E:7, II-a)

Promotion of the development of municipal centers, providing for efficiency, safety, and a greater sense of community (RSA 79-E:7, III); or

Growth of residential housing in urban or town centers. (RSA 79-E:7, IV)

RSA 79-E:1 Public Benefit - The Statute as written:

79-E:1 Declaration of Public Benefit. –

I. It is declared to be a public benefit to enhance downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.

II. It is further declared to be a public benefit to encourage the rehabilitation of the many underutilized structures in urban and town centers as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern, in accordance with RSA 9-B.

II-a. In instances where a qualifying structure is determined to possess no significant historical, cultural, or architectural value and for which the governing body makes a specific finding that rehabilitation would not achieve one or more of the public benefits established in RSA 79-E:7 to the same degree as the replacement of the underutilized structure with a new structure, the tax relief incentives provided under this chapter may be extended to the replacement of an underutilized structure in accordance with the provisions of this chapter.

II-b. It is further declared to be a public benefit to encourage the rehabilitation of historic structures in a municipality by increasing energy efficiency in the preservation and reuse of existing building stock.

III. Short-term property assessment tax relief and a related covenant to protect public benefit as provided under this chapter are considered to provide a demonstrated public benefit if they encourage substantial rehabilitation and use of qualifying structures, or in certain cases, the replacement of a qualifying structure, as defined in this chapter.

Chapter 79-E:2 Qualifying Structure and Substantial rehabilitation Definitions

RSA 79-E:2 II Qualifying Structure - **Interpretation:**

A qualifying structure is a building or structure located within Kingston areas designated by the Town as part of its adoption of the program (See map of Historic District I). However, historic structures located anywhere in the Town are also considered qualifying structures for purposes of the program.

RSA 79-E:2 IV Substantial rehabilitation - **Interpretation:**

A substantial rehabilitation is a project that costs at least 15% of the pre-rehabilitation assessed valuation or \$75,000, whichever is less. For historic structures, substantial rehabilitation means devoting at least 10% of the pre-rehabilitation assessed valuation or \$5,000, whichever is less, to energy efficiency improvements in accordance with the Secretary of the Interior's Standards for Rehabilitation guidelines for historic structures.

RSA 79-E:2 Definitions - **The Statute as written:**

79-E:2 Definitions. –

In this chapter:

I. "Historic structure" means a building that is listed on or determined eligible for listing on the National Register of Historic Places or the state register of historic places.

II. "Qualifying structure" means a building located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center for purposes of this chapter. Qualifying structure shall also mean historic structures in a municipality whose preservation and reuse would conserve the embodied energy in existing building stock. Cities or towns may further limit "qualifying structure" according to the procedure in RSA 79-E:3 as meaning only a structure located within such districts that meet certain age, occupancy, condition, size, or other similar criteria consistent with local economic conditions, community character, and local planning and development goals. Cities or towns may further modify "qualifying structure" to include buildings that have been destroyed by fire or act of nature, including where such destruction occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town. In a city or town that has adopted the provisions of RSA 79-E:4-a, "qualifying structure" also means potentially impacted structures identified by the municipality within the coastal resilience incentive zone established under RSA 79-E:4-a.

III. "Replacement" means the demolition or removal of a qualifying structure and the construction of a new structure on the same lot.

IV. "Substantial rehabilitation" means rehabilitation of a qualifying structure which costs at least 15 percent of the pre-rehabilitation assessed valuation or at least \$75,000, whichever is less. In addition, in the case of historic structures, substantial rehabilitation means devoting a portion of the total cost, in the amount of at least 10 percent of the pre-rehabilitation assessed valuation or at least \$5,000, whichever is less, to energy efficiency in accordance with the U.S. Secretary of the Interior's Standards for Rehabilitation. Cities or towns may further limit "substantial rehabilitation" according to the procedure in RSA 79-E:3 as meaning rehabilitation which costs a

percentage greater than 15 percent of pre-rehabilitation assessed valuation or an amount greater than \$75,000

based on local economic conditions, community character, and local planning and development goals.

V. "Tax increment finance district" means any district established in accordance with the provisions of RSA 162-K.

VI. "Tax relief" means:

(a) For a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation thereof.

(b) For the replacement of a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a replacement structure shall not exceed the property tax on the replaced qualifying structure as a result of the replacement thereof.

(c) For a qualifying structure which is a building destroyed by fire or act of nature, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on such qualifying structure shall not exceed the tax on the assessed value of the structure that would have existed had the structure not been destroyed.

VII. "Tax relief period" means the finite period of time during which the tax relief will be effective, as determined by a local governing body pursuant to RSA 79-E:5.

Chapter 79-E:4 Owner Application & Town Approval/Denial Processes

RSA 79-E:4 I I-a Owner Application Process - Interpretation:

Complete the application (sample see separate doc) including a cover letter describing the project and providing any appropriate supporting information or materials, Town of Kingston Application Fee and all required documentation must be submitted to the Selectmen's office. Applications would not be accepted if submission to the Selectmen's office does not include (at a minimum):

- 1) Address of the property, description of intended rehabilitation or replacements, any changes in use resulting from the rehabilitation or replacement (RSA 79-E:4 I)
- 2) Application fee (RSA 79-E:4 I)
- 3) Applications must include (RSA 79-E:4I-a:
 - a. NH historical resource inventory form prepared by a qualified architectural historian.
 - b. Letters from Heritage Commission (and Historic District Commission if in Historic District) that identifies the historical, cultural or architectural value of the structure(s) of the property.

RSA 79-E:4 II -to E:4 VI – Town Approval or Denial Interpretation:

The Selectmen's Office reviews the application with the Town Assessor to verify the subject property's assessed valuation as of the application date and to verify the reasonableness of the estimated rehabilitation costs.

Within 60 days of receipt, the application is reviewed by the Board of Selectmen at a public hearing to determine whether the building or structure is a qualifying structure, whether the proposed project is a substantial rehabilitation, and whether there is a public benefit to granting the requested tax relief. (RSA 79-E:4 II)

No later than 45 days after the public hearing, Board of Selectmen shall render a decision granting or denying the requested tax relief and, if so granted, establishing the tax relief period. (RSA 79-E:4 III).

If approved, the owner and the Town will execute and record a Declaration of Covenant, which protects the public benefit(s) that the project provides and ensures that the building is used and maintained as proposed. (RSA 79E:4(b)).

- 1) A 'covenant', is a document between the owner and the Town which protects the public benefit(s) that the project provides and ensures that the building is used and maintained as proposed. If the owner fails to abide by the terms of the covenant, the Board of Selectmen must determine whether the public benefit has been diminished and whether to reduce or terminate the tax relief period. If the covenant is terminated, the Board of Selectmen shall assess all taxes to the owner, with interest, as though no tax relief was granted.

If denied (BOS' discretion), the Town will issue a written explanation. Appeal by owner is only allowed if decision to deny was based on bad faith or discrimination. (RSA 79-E:V)

Finance district – NA Kingston (RSA 79-E:VI)

Upon completion of the substantial rehabilitation, the property shall be taxed based on the pre-rehabilitation assessed value for the duration of the tax relief period and such value shall not increase as a result of the substantial rehabilitation project. Upon the expiration of the tax relief period, the property shall be taxed at its full market value.

BOS generally would grant the tax relief, provided:

- 4) Public benefit found. (RSA 79-E:4 IV(1))
- 5) Covenant to preserve Public Benefit is obtained. (RSA 79-E:4 IV(2))
- 6) Proposed use is consistent with Master Plan and/or development regulations. (RSA 79-E:4 IV(3))
- 7) If a replacement the determination was made that the historical resource(s) are not adversely affected. (RSA 79-E:4 IV(4))

RSA 79-E:4 Community Revitalization Tax Relief Incentive - The Statute as written:

79-E:4 Community Revitalization Tax Relief Incentive. –

I. An owner of a qualifying structure who intends to substantially rehabilitate or replace such structure may apply to the governing body of the municipality in which the property is located for tax relief. The applicant shall include the address of the property, a description of the intended rehabilitation or replacement, any changes in use of the property resulting from the rehabilitation or replacement, and an application fee.

I-a. In order to assist the governing body with the review and evaluation of an application for replacement of a qualifying structure, an owner shall submit to the governing body as part of the application, a New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian and a letter issued by the local heritage commission and if the qualifying structure is located within a designated historic district established in accordance with RSA 674:46, a letter from the historic district commission or, if such local commissions are not established, a letter issued by the New Hampshire division of historical resources that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which those structures are located. The application for tax relief shall not be deemed to be complete and the governing body shall not schedule the public hearing on the application for replacement of a qualifying structure as required under RSA 79-E:4, II until the inventory form and the letter, as well as all other required information, have been submitted.

II. Upon receipt of an application, the governing body shall hold a duly noticed public hearing to take place no later than 60 days from receipt of the application, to determine whether the structure at issue is a qualifying structure; whether any proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration.

III. No later than 45 days after the public hearing, the governing body shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.

IV. (a) The governing body may grant the tax relief, provided:

- (1) The governing body finds a public benefit under RSA 79-E:7; and
- (2) The specific public benefit is preserved through a covenant under RSA 79-E:8; and

- (3) The governing body finds that the proposed use is consistent with the municipality's master plan or development regulations; and
- (4) In the case of a replacement, the governing body specifically finds that the local heritage commission or historic district commission or, if such local commissions are not established, the New Hampshire division of historical resources has determined that the replaced qualifying structure does not possess significant historical, cultural, or architectural value, the replacement of the qualifying structure will achieve one or more of the public benefits identified in RSA 79-E:7 to a greater degree than the renovation of the underutilized structure, and the historical, cultural, or architectural resources in the community will not be adversely affected by the replacement. In connection with these findings, the governing body may request that the division of historical resources conduct a technical evaluation in order to satisfy the governing body that historical resources will not be adversely affected.
- (b) If the governing body grants the tax relief, the governing body shall identify the specific public benefit achieved under RSA 79-E:7 and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8.

V. If the governing body, in its discretion, denies the application for tax relief, such denial shall be accompanied by a written explanation. The governing body's decision may be appealed either to the board of tax and land appeals or the superior court in the same manner as provided for appeals of current use classification pursuant to RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and shall not be set aside by the board of tax and land appeals or the superior court except for bad faith or discrimination.

VI. Municipalities shall have no obligation to grant an application for tax relief for properties located within tax increment finance districts when the governing body determines, in its sole discretion, that the granting of tax relief will impede, reduce, or negatively affect:

- (a) The development program or financing plans for such tax increment finance districts; or
- (b) The ability to satisfy or expedite repayment of debt service obligations incurred for a tax increment financing district; or
- (c) The ability to satisfy program administration, operating, or maintenance expenses within a tax increment financing district.

Chapter 79-E:5/ Chapter 79-E:13 Duration /Extent of Tax Relief

RSA 79-E:5 – Duration of Tax Relief **Interpretation:**

Once adopted, applications are reviewed by the Board of Selectmen at a public hearing to determine whether the property and project comply with the program requirements. Approval of an application allows the property owner a finite tax relief period, during which the property tax shall not increase as a result of the substantial rehabilitation. Property owners may be granted 1-5 years of tax relief starting upon completion of the project.

The Board of Selectmen may grant additional years of tax relief for specific reasons:

- 1) Up to 2 years for projects resulting in new residential units. (RSA 79-E:5, II)
- 2) Up to 4 years for projects resulting in new affordable residential units. (RSA 79-E:5, II)
- 3) Up to 4 years for the substantial rehabilitation of a historic structure if the project adheres to U.S. Secretary of Interior's Standards for Rehabilitation. (RSA 79-E:5, III)

RSA 79-E:5 Duration of Tax Relief - The Statute as written:

79-E:5 Duration of Tax Relief Period. –

I. The governing body may grant such tax assessment relief for a period of up to 5 years, beginning with the completion of the substantial rehabilitation.

I-a. For the approval of a replacement of a qualifying structure, the governing body may grant such tax assessment relief for a period of up to 5 years, beginning only upon the completion of construction of the replacement structure. The governing body may, in its discretion, extend such additional years of tax relief as provided for under this section, provided that no such additional years of tax relief may be provided prior to the completion of construction of the replacement structure. The municipal tax assessment of the replacement structure and the property on which it is located shall not increase or decrease in the period between the approval by the governing body of tax relief for the replacement structure and the time the owner completes construction of the replacement structure and grants to the municipality the covenant to protect the public benefit as required by this chapter. The governing body may not grant any tax assessment relief under this chapter with respect to property and structures for which an election has been made for property appraisal under RSA 75:1-a.

II. The governing body may, in its discretion, add up to an additional 2 years of tax relief for a project that results in new residential units and up to 4 years for a project that includes affordable housing.

III. The governing body may, in its discretion, add up to an additional 4 years of tax relief for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.

IV. The governing body may adopt local guidelines to assist it in determining the appropriate duration of the tax assessment relief period.

RSA 79-E:13 – Extent of Tax Relief **Interpretation:**

Under the 79-E program, property taxes are not eliminated during the tax relief period. Instead, the property valuation simply does not increase as a result of the rehabilitation for a period of time to allow the owner to recoup some of the project costs. Following expiration of the tax relief period, the structure is assessed at its full market value including the rehabilitation.

RSA 79-E:13 Extent of Tax Relief - The Statute as written:

79-E:13 Extent of Tax Relief. –

- I. (a) Tax relief granted under this chapter shall pertain only to assessment increases attributable to the substantial rehabilitation performed under the conditions approved by the governing body and not to those increases attributable to other factors including but not limited to market forces; or
- (b) Tax relief granted under this chapter shall be calculated on the value in excess of the original assessed value. Original assessed value shall mean the value of the qualifying structure assessed at the time the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect public benefit as required in this chapter, provided that for a qualifying structure which is a building destroyed by fire or act of nature, original assessed value shall mean the value as of the date of approval of the application for tax relief of the qualifying structure that would have existed had the structure not been destroyed.
- II. The tax relief granted under this chapter shall only apply to substantial rehabilitation or replacement that commences after the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect the public benefit as required in this chapter, provided that in the case of a qualifying structure which is a building destroyed by fire or act of nature, and which occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town, the tax relief may apply to such qualifying structure for which replacement has begun, but which has not been completed, on the date the application for relief under this chapter is approved.

Chapter 79-E:11 Enforcement

RSA 79-E:11 Enforcement - The Statute as written:

79-E:11 Enforcement. – All taxes levied pursuant to RSA 79-E:9 which are not paid when due shall be collected in the same manner as provided in RSA 80 Collection of Taxes.

Conclusion:

The Kingston Heritage Commission, Kingston Historic District Commission and the Envision Kingston II Subcommittee all support the Community Revitalization Tax Incentive (RSA 79-E) as a tool that encourages investment in Kingston's village center and Historic District I. It provides a tax incentive for the rehabilitation and active use of under-utilized commercial buildings and, in so doing, aims to promote strong local economies and smart, sustainable growth as an alternative to sprawl.

