

SECOND REGULAR SESSION

# HOUSE BILL NO. 1985

96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ZERR.

6194H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 135.815, 253.545, 253.550, 253.557, and 253.559, RSMo, and to enact in lieu thereof five new sections relating to tax credits.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 135.815, 253.545, 253.550, 253.557, and 253.559, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 135.815, 253.545,  
3 253.550, 253.557, and 253.559, to read as follows:

135.815. 1. Prior to authorization of any tax credit application, an administering agency  
2 shall verify through the department of revenue that the tax credit applicant does not owe any  
3 delinquent income, sales, or use taxes, or interest or penalties on such taxes, and through the  
4 department of insurance, financial institutions and professional registration that the applicant  
5 does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization  
6 of the application for such tax credits, except that the amount of credits issued shall be reduced  
7 by the applicant's tax delinquency. If the department of revenue or the department of insurance,  
8 financial institutions and professional registration concludes that a taxpayer is delinquent after  
9 June fifteenth but before July first of any year, and the application of tax credits to such  
10 delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be  
11 granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall  
12 be tolled. After applying all available credits towards a tax delinquency, the administering  
13 agency shall notify the appropriate department, and that department shall update the amount of  
14 outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all  
15 insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the  
16 applicant, subject to the restrictions of other provisions of law.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           2. Any applicant of a tax credit program contained in the definition of the term "all tax  
18 credit programs" who purposely and directly employs unauthorized aliens shall forfeit any tax  
19 credits issued to such applicant which have not been redeemed, and shall repay the amount of  
20 any tax credits redeemed by such applicant during the period of time such unauthorized alien was  
21 employed by the applicant. As used in this subsection, the term "unauthorized alien" shall mean  
22 an alien who does not have the legal right or authorization under federal law to work in the  
23 United States, as defined under Section 8 U.S.C. 1324a(h)(3).

24           **3. Any administering agency may, by rule, provide for the recapture of tax credits**  
25 **from the applicant or original recipient for noncompliance with program requirements in**  
26 **a manner not more restrictive than applicable federal recapture rules, if any.**

27           **4. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
28 **created under the authority delegated in this section shall become effective only if it**  
29 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
30 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
31 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
32 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
33 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2012,**  
34 **shall be invalid and void.**

          253.545. As used in sections 253.545 to 253.559, the following terms mean, unless the  
2 context requires otherwise:

3           (1) "Certified historic structure", a property located in Missouri and listed individually  
4 on the National Register of Historic Places;

5           (2) "Deed in lieu of foreclosure or voluntary conveyance", a transfer of title from a  
6 borrower to the lender to satisfy the mortgage debt and avoid foreclosure;

7           (3) "Eligible property", property located in Missouri and offered or used for residential  
8 or business purposes;

9           (4) "Leasehold interest", a lease in an eligible property for a term of not less than thirty  
10 years;

11           (5) "Principal", a managing partner, general partner, or president of a taxpayer;

12           (6) "Structure in a certified historic district", a structure located in Missouri which is  
13 certified by the department of natural resources as contributing to the historic significance of a  
14 certified historic district listed on the National Register of Historic Places, or a local district that  
15 has been certified by the United States Department of the Interior;

16           (7) "Taxpayer", any person, firm, partnership, trust, estate, limited liability company, or  
17 corporation;

18           **(8) "Total costs and expenses of rehabilitation", all costs and expenses related to**  
19 **the rehabilitation of eligible property that is a certified historic structure or a structure in**  
20 **a certified historic district including, but not limited to, qualified rehabilitation**  
21 **expenditures as defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as**  
22 **amended, and any related regulations promulgated under such section. Such costs and**  
23 **expenses shall include, but not be limited to, rehabilitation work in progress, accrued**  
24 **developer fees, and costs and expenses related to rehabilitation incurred at the taxpayers**  
25 **own risk up to one year before the date of submission of a preliminary application under**  
26 **section 253.559. Provided however, that accrued developer fees shall only be considered**  
27 **"total costs and expenses of rehabilitation" if an agreement or other contractual document**  
28 **provides for the payment of such fees within no more than six years of completion of the**  
29 **rehabilitation.**

253.550. 1. Any taxpayer incurring costs and expenses for the rehabilitation of eligible  
2 property, which is a certified historic structure or structure in a certified historic district, [may]  
3 **shall**, subject to the provisions of this section and section 253.559, receive a credit against the  
4 taxes imposed pursuant to chapters 143 and 148, except for sections 143.191 to 143.265, on such  
5 taxpayer in an amount equal to twenty-five percent of the total costs and expenses of  
6 rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified  
7 rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code  
8 of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs  
9 associated with rehabilitation and the expenses exceed fifty percent of the total basis in the  
10 property and the rehabilitation meets standards consistent with the standards of the Secretary of  
11 the United States Department of the Interior for rehabilitation as determined by the state historic  
12 preservation officer of the Missouri department of natural resources. **The department of**  
13 **economic development shall determine the total costs and expenses of rehabilitation**  
14 **pursuant to subsection 7 of section 253.559, but in no case shall such total costs and**  
15 **expenses of rehabilitation be defined more narrowly than qualified rehabilitation**  
16 **expenditures as defined in Section 47 (c) (2) (A) of the Internal Revenue Code of 1986, as**  
17 **amended, and any related regulations promulgated under such section, as required by**  
18 **section 253.545.**

19           2. During the period beginning on January 1, 2010, but ending on or after June 30, 2010,  
20 the department of economic development shall not approve applications for tax credits under the  
21 provisions of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed seventy  
22 million dollars, increased by any amount of tax credits for which approval shall be rescinded  
23 under the provisions of section 253.559. For each fiscal year beginning on or after July 1, 2010,  
24 **but ending on or before June 30, 2013**, the department of economic development shall not

25 approve applications for tax credits under the provisions of subsections 3 and 8 of section  
26 253.559 which, in the aggregate, exceed one hundred forty million dollars, increased by any  
27 amount of tax credits for which approval shall be rescinded under the provisions of section  
28 253.559. The limitations provided under this subsection shall not apply to applications approved  
29 under the provisions of subsection 3 of section 253.559 for projects to receive less than two  
30 hundred seventy-five thousand dollars in tax credits.

31 3. For all applications for tax credits approved on or after January 1, 2010, **but before**  
32 **July 1, 2013**, no more than two hundred fifty thousand dollars in tax credits may be issued for  
33 eligible costs and expenses incurred in the rehabilitation of an eligible property which is a  
34 nonincome producing single-family, owner-occupied residential property and is either a certified  
35 historic structure or a structure in a certified historic district.

36 4. The limitations on tax credit authorization provided under the provisions of  
37 subsections 2 and 3 of this section shall not apply to:

38 (1) Any application submitted by a taxpayer, which has received approval from the  
39 department prior to January 1, 2010; or

40 (2) Any taxpayer applying for tax credits, provided under this section, which, on or  
41 before January 1, 2010, has filed an application with the department evidencing that such  
42 taxpayer:

43 (a) Has incurred costs and expenses for an eligible property which exceed the lesser of  
44 five percent of the total project costs or one million dollars and received an approved Part I from  
45 the Secretary of the United States Department of Interior; or

46 (b) Has received certification, by the state historic preservation officer, that the  
47 rehabilitation plan meets the standards consistent with the standards of the Secretary of the  
48 United States Department of the Interior, and the rehabilitation costs and expenses associated  
49 with such rehabilitation shall exceed fifty percent of the total basis in the property.

50 **5. For each fiscal year beginning on or after July 1, 2013, the department of**  
51 **economic development shall not approve applications for tax credits under the provisions**  
52 **of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed one hundred ten**  
53 **million dollars, increased by any amount of tax credits for which approval shall be**  
54 **rescinded under the provisions of section 253.559. The limitations provided under this**  
55 **subsection shall not apply to applications approved under the provisions of subsection 3**  
56 **of section 253.559 for projects to receive less than two hundred seventy-five thousand**  
57 **dollars in tax credits.**

58 **6. For all applications for tax credits approved on or after July 1, 2013, no more**  
59 **than one hundred twenty-five thousand dollars in tax credits may be issued for eligible**  
60 **costs and expenses incurred in the rehabilitation of an eligible property which is a**

61 **nonincome producing single-family, owner-occupied residential property and is either a**  
62 **certified historic structure or a structure in a certified historic district.**

63 **7. In lieu of the limitations on tax credit authorization provided under the**  
64 **provisions of subsections 5 and 6 of this section, the limitations on tax credit authorization**  
65 **provided under the provisions of subsections 2 and 3 of this section shall apply to:**

66 **(1) Any application submitted by a taxpayer, which has received approval from the**  
67 **department prior to July 1, 2013; or**

68 **(2) Any application for tax credits provided under this section for a project, which**  
69 **on or before July 1, 2013:**

70 **(a) Received an approved Part I from the Secretary of the United States**  
71 **Department of Interior and has incurred costs and expenses for an eligible property which**  
72 **exceed the lesser of fifteen percent of the total project costs or three million dollars; or**

73 **(b) Has received certification, by the state historic preservation officer, that the**  
74 **rehabilitation plan meets the standards consistent with the standards of the Secretary of**  
75 **the United States Department of the Interior, and the rehabilitation costs and expenses**  
76 **associated with such rehabilitation would, upon completion, be expected to exceed fifty**  
77 **percent of the total basis in the property.**

253.557. 1. If the amount of such credit exceeds the total tax liability for the year in  
2 which the rehabilitated property is placed in service, the amount that exceeds the state tax  
3 liability may be carried back to any of the three preceding years and carried forward for credit  
4 against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191  
5 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first.  
6 **For all tax credits authorized under the provisions of sections 253.545 to 253.559 on or**  
7 **after July 1, 2013, if the total amount of such credit exceeds the total tax liability for the**  
8 **year in which the rehabilitated property is placed in service, the amount that exceeds the**  
9 **state tax liability may be carried back to the preceding year and carried forward for credit**  
10 **against the taxes imposed pursuant to chapters 143 and 148, except for sections 143.191 to**  
11 **143.265 for the succeeding five years, or until the full credit is used, whichever occurs first.**  
12 Not-for-profit entities, including but not limited to corporations organized as not-for-profit  
13 corporations pursuant to chapter 355 shall be ineligible for the tax credits authorized under  
14 sections 253.545 [through 253.561] to 253.559. **Any taxpayer that receives state tax credits**  
15 **under the provisions of sections 135.350 to 135.363 for a project that is not financed**  
16 **through tax exempt bonds issuance shall be ineligible for the state tax credits authorized**  
17 **under sections 253.545 to 253.559 for the same project.** Taxpayers eligible for such tax  
18 credits may transfer, sell or assign the credits **to any other taxpayer including, but not limited**  
19 **to, a not-for-profit entity.** Credits granted to a partnership, a limited liability company taxed

20 as a partnership or multiple owners of property shall be passed through to the partners, members  
21 or owners **including, but not limited to, any not-for-profit entity that is a partner, member,**  
22 **or owner,** respectively pro rata or pursuant to an executed agreement among [the] **such** partners,  
23 members or owners documenting an alternate distribution method.

24 2. The assignee of the tax credits, hereinafter the assignee for purposes of this  
25 subsection, may use acquired credits to offset up to one hundred percent of the tax liabilities  
26 otherwise imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to  
27 143.265. The assignor shall perfect such transfer by notifying the department of economic  
28 development in writing within thirty calendar days following the effective date of the transfer  
29 and shall provide any information as may be required by the department of economic  
30 development to administer and carry out the provisions of this section.

253.559. 1. To obtain approval for tax credits allowed under sections 253.545 to  
2 253.559, a taxpayer shall submit an application for tax credits to the department of economic  
3 development. Each application for approval, including any applications received for  
4 supplemental allocations of tax credits as provided under subsection 8 of this section, shall be  
5 prioritized for review and approval, in the order of the date on which the application was  
6 postmarked, with the oldest postmarked date receiving priority. Applications postmarked on the  
7 same day shall go through a lottery process to determine the order in which such applications  
8 shall be reviewed.

9 2. Each application shall be reviewed by the department of economic development for  
10 approval. In order to receive approval, an application, other than applications submitted under  
11 the provisions of subsection 8 of this section, shall include:

12 (1) Proof of ownership or site control. Proof of ownership shall include evidence that  
13 the taxpayer is the fee simple owner of the eligible property, such as a warranty deed or a closing  
14 statement. Proof of site control may be evidenced by a leasehold interest or an option to acquire  
15 such an interest. If the taxpayer is in the process of acquiring fee simple ownership, proof of site  
16 control shall include an executed sales contract or an executed option to purchase the eligible  
17 property;

18 (2) Floor plans of the existing structure, architectural plans, and, where applicable, plans  
19 of the proposed alterations to the structure, as well as proposed additions;

20 (3) The estimated cost of rehabilitation, the anticipated total costs of the project, the  
21 actual basis of the property, as shown by proof of actual acquisition costs, the anticipated total  
22 labor costs, the estimated project start date, and the estimated project completion date;

23 (4) Proof that the property is an eligible property and a certified historic structure or a  
24 structure in a certified historic district, **or evidence that the taxpayer has submitted the**  
25 **necessary documentation to qualify the property as an eligible property and a certified**

26 **historic structure or as a structure in a certified historic district. A final determination of**  
27 **such qualifications shall not be a prerequisite for approval of the application or the**  
28 **incurrence of eligible costs; and**

29 (5) Any other information which the department of economic development may  
30 reasonably require to review the project for approval. Only the property for which a property  
31 address is provided in the application shall be reviewed for approval. Once selected for review,  
32 a taxpayer shall not be permitted to request the review of another property for approval in the  
33 place of the property contained in such application. Any disapproved application shall be  
34 removed from the review process. If an application is removed from the review process, the  
35 department of economic development shall notify the taxpayer in writing of the decision to  
36 remove such application. Disapproved applications shall lose priority in the review process. A  
37 disapproved application, which is removed from the review process, may be resubmitted, but  
38 shall be deemed to be a new submission for purposes of the priority procedures described in this  
39 section.

40 3. If the department of economic development deems the application sufficient, the  
41 taxpayer shall be notified in writing of the approval for an amount of tax credits equal to the  
42 amount provided under section 253.550 less any amount of tax credits previously approved.  
43 Such approvals shall be granted to applications in the order of priority established under this  
44 section and shall require full compliance thereafter with all other requirements of law as a  
45 condition to any claim for such credits. **Notwithstanding any provision of law to the**  
46 **contrary, a determination of the department of economic development, in consultation with**  
47 **the department of natural resources, whether the completed rehabilitation meets the**  
48 **standards of the Secretary of the United States Department of the Interior for**  
49 **rehabilitation as determined by the state historic preservation officer of the department**  
50 **of natural resources under subsection 7 of this section, shall not be required for the**  
51 **department of economic development to approve an application under this subsection.**

52 4. Following approval of an application, the identity of the taxpayer contained in such  
53 application shall not be modified except:

54 (1) The taxpayer may add partners, members, or shareholders as part of the ownership  
55 structure, so long as the principal remains the same, provided however, that subsequent to the  
56 commencement of renovation and the expenditure of at least ten percent of the proposed  
57 rehabilitation budget, removal of the principal for failure to perform duties and the appointment  
58 of a new principal thereafter shall not constitute a change of the principal; or

59 (2) Where the ownership of the project is changed due to a foreclosure, deed in lieu of  
60 a foreclosure or voluntary conveyance, or a transfer in bankruptcy. **Upon any such change in**

61 **ownership, the taxpayer contained in such application, or any successor owner of the**  
62 **project, shall notify the department of such change.**

63 5. In the event that the department of economic development grants approval for tax  
64 credits equal to the **applicable** total amount available under subsection 2 **or 5** of section 253.550,  
65 or sufficient that when totaled with all other approvals, the **applicable** amount available under  
66 subsection 2 **or 5** of section 253.550 is exhausted, all taxpayers with applications then awaiting  
67 approval or thereafter submitted for approval shall be notified by the department of economic  
68 development that no additional approvals shall be granted during the fiscal year and shall be  
69 notified of the priority given to such taxpayer's application then awaiting approval. Such  
70 applications shall be kept on file by the department of economic development and shall be  
71 considered for approval for tax credits in the order established in this section in the event that  
72 additional credits become available due to the rescission of approvals or when a new fiscal year's  
73 allocation of credits becomes available for approval.

74 6. All taxpayers with applications receiving approval on or after the effective date of this  
75 act shall commence rehabilitation within two years of the date of issuance of the letter from the  
76 department of economic development granting the approval for tax credits. "Commencement  
77 of rehabilitation" shall mean that as of the date in which actual physical work, contemplated by  
78 the architectural plans submitted with the application, has begun, the taxpayer has incurred no  
79 less than ten percent of the estimated costs of rehabilitation provided in the application.  
80 Taxpayers with approval of a project shall submit evidence of compliance with the provisions  
81 of this subsection. If the department of economic development determines that a taxpayer has  
82 failed to comply with the requirements provided under this section, the approval for the amount  
83 of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be  
84 included in the **applicable** total amount of tax credits, provided under subsection 2 **or 5** of  
85 section 253.550, from which approvals may be granted. Any taxpayer whose approval shall be  
86 subject to rescission shall be notified of such from the department of economic development and,  
87 upon receipt of such notice, may submit a new application for the project.

88 7. To claim the credit authorized under sections 253.550 to 253.559, a taxpayer with  
89 approval shall apply for final approval and issuance of tax credits from the department of  
90 economic development [which,] . **Such application for final approval and issuance of tax**  
91 **credits shall include a cost and expense certification, prepared by a licensed certified public**  
92 **accountant that is not an affiliate of the applicant, certifying the total costs and expenses**  
93 **of rehabilitation and the total amount of tax credits for which such taxpayer is eligible**  
94 **under sections 253.550 to 253.559. Cost and expense certifications required under this**  
95 **section shall separately state any accrued developer fees. No later than forty-five calendar**  
96 **days following receipt of a taxpayer's application for final approval and issuance of tax**



97 **credits, the department of economic development shall determine**, in consultation with the  
98 department of natural resources, [shall determine the final amount of eligible rehabilitation costs  
99 and expenses and] whether the completed rehabilitation meets the standards of the Secretary of  
100 the United States Department of the Interior for rehabilitation [as determined by the state historic  
101 preservation officer of the Missouri department of natural resources]. **If the completed**  
102 **rehabilitation meets such standards, the department of economic development shall, within**  
103 **forty-five calendar days following the receipt of the taxpayer's application for final**  
104 **approval and tax credit issuance, inform such taxpayer of its initial determination by letter**  
105 **and issue such taxpayer an initial tax credit issuance. A taxpayer receiving an initial tax**  
106 **credit issuance shall receive tax credit certificates in an amount equal to the lesser of**  
107 **seventy-five percent of the total amount of tax credits for which the taxpayer is eligible**  
108 **under sections 253.550 to 253.559, as certified in the cost and expense certification, or the**  
109 **amount of tax credits approved for such project under subsection 3 of this section. Within**  
110 **one hundred and twenty calendar days following receipt of a taxpayer's application for**  
111 **final approval and tax credit issuance, the department shall determine the final amount of**  
112 **eligible rehabilitation costs and expenses. For a taxpayer receiving an initial tax credit**  
113 **issuance, no later than one hundred and twenty calendar days following receipt of such**  
114 **taxpayer's application for final approval and tax credit issuance, the department shall notify**  
115 **such taxpayer of its final determination by letter and issue such taxpayer tax credit**  
116 **certificates in an amount equal to the lesser of the remaining amount of tax credits for**  
117 **which such taxpayer is eligible to receive under sections 253.550 to 253.559, as determined**  
118 **by the department, or the remaining amount of tax credits for which such taxpayer was**  
119 **approved under subsection 3 of this section, but not issued under the initial tax credit**  
120 **issuance. If the department of economic development determines that the amount of tax**  
121 **credits issued to a taxpayer in the initial tax credit issuance is in excess of the total amount**  
122 **of tax credits such taxpayer is eligible to receive under sections 253.550 to 253.559, the**  
123 **department shall notify such taxpayer and such taxpayer shall repay the state an amount**  
124 **equal to such excess.** For financial institutions credits authorized pursuant to sections 253.550  
125 to [253.561] **253.559** shall be deemed to be economic development credits for purposes of  
126 section 148.064. The approval of all applications and the issuing of certificates of eligible credits  
127 to taxpayers shall be performed by the department of economic development. [The department  
128 of economic development shall inform a taxpayer of final approval by letter and shall issue, to  
129 the taxpayer, tax credit certificates.] The taxpayer shall attach the certificate to all Missouri  
130 income tax returns on which the credit is claimed. **Taxpayers which receive tax credit**  
131 **certificates under sections 253.550 to 253.559, attributable to accrued developer fees shall,**  
132 **within six years of completion of rehabilitation, submit an additional cost and expense**

133 **certification verifying the total amount of developer fees actually accrued and paid. To the**  
134 **extent the amount of developer fees contained in a taxpayer's cost and expense certification**  
135 **included with such taxpayers application for final approval and tax credit issuance exceeds**  
136 **the amount of developer fees actually accrued and paid, as evidenced by the additional cost**  
137 **and expense certification, such taxpayer shall repay to the state an amount equal to twenty-**  
138 **five percent of such excess.**

139       8. Except as expressly provided in this subsection, tax credit certificates shall be issued  
140 in the final year that costs and expenses of rehabilitation of the project are incurred, or within the  
141 twelve-month period immediately following the conclusion of such rehabilitation. In the event  
142 the amount of eligible rehabilitation costs and expenses incurred by a taxpayer would result in  
143 the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's  
144 approval granted under subsection 3 of this section, such taxpayer may apply to the department  
145 for issuance of tax credits in an amount equal to such excess. Applications for issuance of tax  
146 credits in excess of the amount provided under a taxpayer's application shall be made on a form  
147 prescribed by the department **and shall be substantially in the form of the department of**  
148 **economic development form titled "Historic Preservation Tax Credit Program - Request**  
149 **for Additional Credits" in effect by the effective date of this act.** Such applications shall be  
150 subject to all provisions regarding priority provided under subsection 1 of this section.

151       9. The department of economic development shall determine, on an annual basis, the  
152 overall economic impact to the state from the rehabilitation of eligible property.

153       **10. (1) Taxpayers or duly authorized representatives may appeal any official**  
154 **decision, including all preliminary or final approvals and denials of approvals, made by**  
155 **the department or the department of natural resources with regard to an application**  
156 **submitted under sections 253.550 to 253.559 to an independent third-party appeals officer**  
157 **designated by the department within fourteen days of receipt of the appeal by the**  
158 **department. Such appeals under this section shall constitute an administrative review of**  
159 **the decision appealed from and shall not be conducted as an adjudicative proceeding.**

160       **(2) Appeals shall be submitted to the designated appeals officer in writing within**  
161 **thirty days of receipt by the taxpayer or the taxpayer's duly authorized representative of**  
162 **the decision that is the subject of the appeal, and shall include all information the appellant**  
163 **wishes the appeals officer to consider in deciding the appeal.**

164       **(3) Within fourteen days of receipt of an appeal, the appeals officer shall notify the**  
165 **department or the department of natural resources that an appeal is pending, identify the**  
166 **decision being appealed, and forward a copy of the information submitted by the appellant.**  
167 **The department or the department of natural resources may submit a written response to**  
168 **the appeal within thirty days.**

169           **(4) The appellant shall be entitled to one meeting with the appeals officer to discuss**  
170 **the appeal, but the appeals officer may schedule additional meetings at the officer's**  
171 **discretion. The department or the department of natural resources may appear at all**  
172 **meetings.**

173           **(5) The appeals officer shall consider the record of the decision in question, any**  
174 **further written submissions by the appellant and the department or the department of**  
175 **natural resources, and other available information, and shall deliver a written decision to**  
176 **all parties as promptly as circumstances permit, but not later than ninety days after the**  
177 **initial receipt of an appeal by the appeals officer.**

178           **11. By no later than January 1, 2013, the department shall propose rules to**  
179 **implement the provisions of sections 253.550 to 253.559. Prior to proposing such rules, the**  
180 **department shall conduct a stakeholder process designed to solicit input from interested**  
181 **parties. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
182 **created under the authority delegated herein shall become effective only if it complies with**  
183 **and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.**  
184 **This section and chapter 536 are nonseverable and if any of the powers vested with the**  
185 **general assembly pursuant to chapter 536 to review, to delay the effective date, or to**  
186 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**  
187 **rulemaking authority and any rule proposed or adopted after the effective date of this act,**  
188 **shall be invalid and void.**

✓