COMMERCIAL CONVERSION PROGRAM GUIDELINES

August 12, 2025

I. Statutory Overview

The Affordable Homes Act (AHA) requires The Executive Office of Housing and Livable Communities (EOHLC) to establish:

(i) a program to assist in the conversion of commercial properties into residential properties (Commercial Conversion Program); and

(ii) a tax incentive program (Commercial Conversion Tax Credit) for qualifying projects under the Commercial Conversion Program (Qualified Conversion Projects). [1]

EOHLC is issuing these Guidelines, effective August 12, 2025, to help developers and municipalities determine which properties may be eligible for certification as "qualified conversion projects" and thus may be eligible for the first EOHLC awards of the Commercial Conversion Tax Credit. The eligibility requirements for certification are described in the next section of these Guidelines.

Please note: *At this time, EOHLC will only certify a Qualified Conversion Project for the Commercial Conversion Program if EOHLC intends to award Commercial Conversion Tax Credits for the project.[2] Therefore, any competition for Commercial Conversion Tax Credits will be conducted through EOHLC's designation of Qualified Conversion Projects.*

II. Commercial Conversion Program

a. Qualified Conversion Project: Statutory Criteria

Sponsors of projects seeking an allocation of the Commercial Conversion Tax Credit must first have their projects certified by EOHLC as Qualified Conversion Projects. EOHLC will certify

[1] MGL c. 23B, § 36(b); MGL c. 23B, § 36(g), as inserted by St. 2024, c. 150, § 5.

[2] This Guidance follows the terms used under the Massachusetts Tax Credit Transparency Report issued by the Department of Revenue. The report provides in Section II that *"Generally, an award of a credit is a formal acknowledgement that a particular taxpayer will be entitled to claim a tax credit upon completing certain tasks, whereas issuance is the actual receipt of the credit."* See, https://www.mass.gov/lists/massachusetts-dor-tax-credit-transparency-reports#2022-

Qualified Conversion Projects if and only if they meet the following minimum criteria, as required by statute:

- The project is the rehabilitation[3] of a commercial property[4] for multi-family residential use or mixed use, which may include retail or other commercial uses in addition to residential units, so long as the building is primarily residential;
- The converted property must contain at least two residential units;
- The converted property must contain at least 80% market rate residential units (rental or homeownership) upon completion of the rehabilitation;
    - Units will be considered market rate residential units if they are priced consistently with prevailing rents or sale prices in the municipality as determined by EOHLC in consultation with the municipality where the project is located.
- The building to be converted was nonresidential real property under §168 of the Internal Revenue Code (IRC §168) prior to the conversion of the property to residential use;[5] and all or a portion of the property was leased, or available for lease, to office tenants; and
- The property was placed in service at least five years prior to beginning the conversion to residential use.[6]

b. Qualified Conversion Project: EOHLC Certification Criteria

EOHLC will accept applications from interested sponsors to certify Qualified Conversion Projects in the following manner:

(1) Project sponsors must submit a proposal to EOHLC on the form provided in Appendix D in the Commercial Conversion Tax Credit Notice of Funding Availability (NOFA) of August 2025 and must include the following information, which must be supported by independently verifiable information and signed under the penalties of perjury:

a. Identity of the project sponsor and evidence that the sponsor is legally empowered and entitled to make commitments required to undertake and complete the project, and shall include any affiliated successor in interest formed to undertake the project;
b. Evidence that the sponsor has site control;
c. Construction plans and specifications;

[3] The term "rehabilitation" may include the complete demolition of an entire building or portions of a building for construction of residential housing or mixed-use, as determined by EOHLC.
[4]The term "commercial property" includes, but is not limited to, commercial centers, office parks and commercial buildings located on main streets or downtown municipal areas, for primary multi-unit residential use or mixed-use, which may include retail or other commercial uses.
[5] For the purposes of these Guidelines, a building will be considered a nonresidential property as defined under IRC §168 if it meets the following minimum requirements: (i) the building is subject to the allowance for depreciation for federal tax purposes; (ii) less than 80% of the gross rental income for the building for the taxable year was rental income from dwelling units (The term "dwelling units" does not include units in hotels, motels, or other establishments where more than 50% of the units are used on a transient basis); and (iii) the building has a class life of more than 27.5 years.
[6]The phrase, "beginning the conversion to residential use" means the date when construction commences on the commercial conversion project.

d. Construction cost estimate prepared by a qualified third party;
e. Construction schedule;
f. Residential marketing strategies and plan including affirmative fair housing outreach;
g. Satisfactory evidence that the market rate residential units will be priced consistently with prevailing rents or sales prices for market rate units in the municipality, including a narrative and supporting data that describes the methodology for setting unit prices;
h. Evidence of municipal support for the project, including any municipal resources that have been committed to the project;
i. Narrative describing how the project will increase residential growth, increase diversity of housing supply, support economic development, and promote neighborhood stabilization;
j. Proposed number of residential units upon completion, broken down by market rate units and affordable units;
k. Proposed commercial or non-residential uses, if any.
l. Sponsor's certification that the property was nonresidential real property under IRC §168 prior to the conversion of the property to residential use and all or a portion of the property was leased, or available for lease, to office tenants;
m. Sponsor's certification that the building was placed in service at least five years prior to beginning the conversion.

(2) EOHLC will evaluate the proposal and either grant or deny certification within 90 days from receipt of a complete project application; provided however that EOHLC's failure to act within 90 days from receipt of a complete application does not constitute an approval of the project for the Commercial Conversion Program or eligibility for the Commercial Conversion Tax Credit.

(3) Sponsors must pay the EOHLC required processing fee before EOHLC evaluates the required documentation.

III. <u>Commercial Conversion Tax Credit</u>

EOHLC, in consultation with the Department of Revenue (DOR), may award Commercial Conversion Tax Credits. Only Qualified Conversion Projects are eligible for Commercial Conversion Tax Credits. EOHLC will use the information provided by sponsors under Section II of these Guidelines to determine the tax credit allocation that will be awarded to each project receiving tax credits.

a. Credit Awards to Projects and Credit Issuance upon Completion

(1) EOHLC will award Commercial Conversion Tax Credits pursuant to the following:

i. EOHLC will determine credit awards for projects based on the estimated eligible Development Costs allocable to the total units in the project, as determined by EOHLC. In no event will tax credit awards exceed 10% of the estimated eligible Development Costs allocable to the total units in the project, and in some cases may be less than 10% of such costs. Upon project completion and before tax credit issuance, EOHLC will certify that the tax credit award does not exceed 10% of the actual eligible Development Costs applicable to the total units in the project.

a. "Development Costs" are expenditures directly related to construction or substantial rehabilitation of the Qualified Conversion Project, including, but not limited to, the cost of site assessment and remediation of hazardous materials. development costs <u>do not include</u> the purchase or acquisition of the property. EOHLC may, in its discretion, include, exclude, or limit certain expenditures from Development Costs for the demolition of an existing building.

b. "Substantial Rehabilitation" is the necessary major redevelopment, repair and renovation of a property, as determined by EOHLC, including adding stories to an existing building, expanding the footprint of an existing building by building out, and rebuilding on a site after demolition of an existing building.

ii. The amount of credit awarded to a project will be based on the following factors, as required by statute:

a. The need for residential development and diversity of housing supply in the municipality where the development is located;

b. The extent to which the Qualified Conversion Project will encourage residential development, expansion of diversity of housing supply, support neighborhood stabilization and promote economic development; and

c. The percentage of market rate residential units contained within the Qualified Conversion Project.

iii. EOHLC may limit a tax credit award to a dollar amount or in any other manner deemed appropriate by EOHLC and the Executive Office for Administration and Finance (ANF). While the statute does not cap the annual amount of authority available to EOHLC, a maximum amount may be established by the Secretary of ANF.

iv. Prior to construction, EOHLC will certify that all or a portion of the Qualified Conversion Project costs are for construction or substantial rehabilitation and identify the estimated eligible Development Costs.

v. Upon completion of a Qualified Conversion Project, EOHLC will:

a. Review whether the project is consistent with the requirements of the Act, these Guidelines, and the representations made in the Qualified Conversion Project application;

b. Review and certify the actual eligible Development Costs to ensure that the credit award does not exceed 10% of the estimated eligible Development Costs allocable to the total units in the project;

c. Subject to satisfactory review, issue a final certificate to the project sponsor that acknowledges that the project is complete and specifies the amount of Commercial Conversion Tax Credit to be issued in connection with the Qualified Conversion Project; and

d. Provide written notification to the Commissioner of DOR that the project is complete, including the amount of Commercial Conversion Tax Credit to be issued in connection with the Qualified Conversion Project, and that a final certificate evidencing this information has been received by the project sponsor.

vi. EOHLC shall review each Qualified Conversion Project that is pending construction at least once every two years until the project is completed and the final certificate is issued.

b. Suspension or Revocation of Qualified Conversion Project Certification

(1) EOHLC may revoke certification of a Qualified Conversion Project if EOHLC determines that:

i. representations made by the sponsor in its project proposal are materially different from the conduct of the sponsor subsequent to the certification and such difference frustrates the public purposes that the certification was intended to advance; or

ii. the project no longer meets the criteria of the Commercial Conversion Program, these Guidelines, or the representations made in the Qualified Conversion Project application.

IV. **Initial Competition for Credits**:

As previously indicated, sponsors who wish to seek Commercial Conversion Tax Credits first must obtain EOHLC certification that their projects are Qualified Conversion Projects. The list of documents that must be submitted for certification is included in Section II of these guidelines.

During calendar year 2025, EOHLC anticipates that approximately $10 million in credit authority will be available for an initial award round for the Commercial Conversion Program. In this initial year of the program, EOHLC intends to certify three (3) or four (4) projects as Qualified Conversion Projects and to award up to $10 million in total to these projects. The Executive Office anticipates receiving additional authority in 2026 and beyond and reserves the right to modify its approach to certification as more authority is available.

While all interested sponsors must submit the full certification documentation required in Section II, EOHLC will use additional criteria to select the initial set of projects for certification in 2025. The criteria are the following:

- Projects must be highly ready to proceed to financial closings within the first quarter of 2026;
- Projects must be at scale. EOHLC will give preference to projects with more than 50 total units;
- EOHLC also will give preference to projects supported by local funds;
- Preference will be given to adaptive re-use/rehabilitation projects. Demolition/new construction projects will be considered on a case-by-case basis.
- Finally, EOHLC will give preference to projects located in communities that applied for and are receiving conversion technical assistance from MassHousing's special conversion initiative.

Application Process for Certification:

All sponsors interested in achieving certification during 2025 must submit full certification documentation in accordance with instructions contained in the Commercial Conversion Tax Credit NOFA of August 2025. The deadline for full submission will be September 25, 2025. No certification applications will be considered after that time.

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