

SENATE BILL NO. 18

INTRODUCED BY M. MACDONALD

BY REQUEST OF THE LOCAL GOVERNMENT INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR WORKFORCE HOUSING TAX CREDITS; PROVIDING THAT THE CREDITS MAY BE TAKEN AGAINST THE INCOME TAX OR INSURANCE PREMIUM TAXES; PROVIDING FOR ADMINISTRATION OF THE CREDITS; LIMITING CREDITS FOR PROJECTS FINANCED WITH TAX-EXEMPT BONDS; AND PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Workforce housing tax credit. (1) ~~Except as provided in subsection (9), there is a credit against the~~ COMMENCING WITH TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2020, A TAXPAYER OWNING AN INTEREST IN A QUALIFIED PROJECT ISSUED AN ELIGIBILITY STATEMENT BY THE BOARD OF HOUSING MAY CLAIM A CREDIT AGAINST taxes imposed by Title 15, chapter 31, 33-2-705, 33-2-709, 50-3-109, and this chapter, ~~for a taxpayer owning an interest in a qualified project that is issued an eligibility statement by the board of housing.~~

(2) The board of housing shall issue eligibility statements for qualified projects on approval of a final cost certification. If the credit is claimed by a small business corporation as defined in 15-30-3301, a pass-through entity, or a partnership, the credit may be allocated to some or all shareholders, owners, MEMBERS, or partners, regardless of whether the shareholder, owner, MEMBER, or partner is a partner for federal income tax purposes. The eligibility statement must specify the total amount of the credit for which the qualified project is eligible ~~and the allocation of the credit among shareholders, owners, or partners~~ FOR EACH YEAR OF THE CREDIT PERIOD.

(3) ~~Except as provided in subsection (8), the credit is equal to the federal low-income housing credit provided for in section 42 of the Internal Revenue Code, 26 U.S.C. 42, and is approved for each year of the credit period as determined in section 42(f)(1) of the Internal Revenue Code, 26 U.S.C. 42(f)(1).~~

~~(4) The aggregate amount of credits for qualified projects financed with tax-exempt bonds may not exceed \$8.5 million per tax year. The board of housing shall issue eligibility statements for projects financed with tax-exempt bonds on a first-come, first-served basis.~~

(3) THE CREDIT IS APPROVED FOR A PERIOD OF 6 TAX YEARS BEGINNING WITH THE TAX YEAR IN WHICH A



1 QUALIFIED PROJECT IS PLACED IN SERVICE.

2 (4) THE TOTAL AMOUNT OF CREDITS ALLOCATED BY THE BOARD OF HOUSING TO QUALIFIED PROJECTS FOR ANY  
 3 ALLOCATION YEAR MAY NOT EXCEED THE AMOUNT OF FEDERAL LOW-INCOME HOUSING TAX CREDITS THAT MAY BE  
 4 ALLOCATED BY THE BOARD OF HOUSING FOR THAT YEAR, PLUS THE TOTAL AMOUNT OF ALL UNALLOCATED CREDITS FROM  
 5 PREVIOUS CALENDAR YEARS AND THE TOTAL AMOUNT OF ALL PREVIOUSLY ALLOCATED CREDITS THAT HAVE BEEN REVOKED  
 6 OR OTHERWISE RECOVERED BY THE BOARD OF HOUSING.

7 (5) If the amount of the credit exceeds the taxpayer's liability FOR THE YEAR, the credit may be carried  
 8 forward 5 years. The entire amount of the credit not used in the year must be carried first to the earliest tax year  
 9 in which the credit may be applied and then to each succeeding tax year.

10 (6) A taxpayer claiming the credit MUST OWN AN INTEREST, DIRECT OR INDIRECT (THROUGH ONE OR MORE  
 11 PASS-THROUGH ENTITIES), IN THE QUALIFIED PROJECT AT ANY TIME PRIOR TO FILING A TAX RETURN CLAIMING THE CREDIT  
 12 AND shall submit A COPY OF the eligibility statement with the tax return CLAIMING THE CREDIT. If the board of housing  
 13 has not issued the eligibility statement at the time the taxpayer files the return, the taxpayer shall file an amended  
 14 return to include the eligibility statement.

15 (7) If all or a portion of the federal low-income housing credit is recaptured or is otherwise disallowed  
 16 during the credit period, the same portion of the Montana credit is also recaptured or disallowed. Any credits  
 17 recaptured or disallowed increase the tax liability of the taxpayer who claimed the credit in the same amount and  
 18 must be included on the tax return of the taxpayer for the year in which the credit is recaptured or disallowed.

19 (8) The board of housing may not allocate to a project A COMBINED AMOUNT OF federal low-income  
 20 housing credits and ~~matching~~ Montana credits that ~~are~~ is more than is necessary to make the project financially  
 21 feasible. ~~Before approving the credit, the board of housing shall calculate the expected yield of the taxpayer from~~  
 22 ~~the investments in the entity owning the qualified project and shall limit the amount of the Montana credit to an~~  
 23 ~~amount that will result in a yield to the taxpayer of not more than 10 points over the 10-year treasury note. The~~  
 24 ~~yield calculation must be made based on the timing and amount of equity contributions to be made by the~~  
 25 ~~taxpayer to the owner of the qualified project.~~

26 (9) ~~A~~ NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, A developer of a qualified project, including  
 27 the owner of a developer, may not claim a credit or receive any remuneration related to a credit except for the  
 28 developer's fee and other distributions allowed by the board of housing.

29 (10) As used in this section, the following definitions apply:

30 (A) "ALLOCATION YEAR" MEANS THE YEAR FOR WHICH THE BOARD OF HOUSING RESERVES TAX CREDITS

1 PURSUANT TO THIS SECTION.

2 (a)(B) "Developer" means an individual or entity responsible for initiating and controlling the development  
3 process with respect to a qualified project and for ensuring that all or any material portions of all phases of the  
4 development process are accomplished.

5 (b)(C) "Qualified project" means a qualified low-income building, as that term is defined in section 42 of  
6 the Internal Revenue Code, 26 U.S.C. 42, located in Montana and placed into service on or after January 1, 2020.

7  
8 NEW SECTION. Section 2. Workforce housing tax credit. ~~There is a credit against the taxes imposed~~  
9 ~~under this chapter for~~ COMMENCING WITH TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2020, a taxpayer owning  
10 an interest in a qualified project, as defined in [section 1], that is issued an eligibility statement by the board of  
11 housing MAY CLAIM A CREDIT AGAINST THE TAXES IMPOSED UNDER THIS CHAPTER. The credit must be administered  
12 in accordance with the provisions of [section 1].

13  
14 NEW SECTION. Section 3. Workforce housing tax credit. (1) ~~There is a credit for taxes due under~~  
15 ~~33-2-705 and 33-2-709 for~~ COMMENCING WITH TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2020, a taxpayer  
16 owning an interest in a qualified project, as defined in [section 1], that is issued an eligibility statement by the  
17 board of housing MAY CLAIM A CREDIT AGAINST TAXES DUE UNDER 33-2-705 AND 33-2-709. The credit must be  
18 administered in accordance with the provisions of [section 1].

19 (2) An insurance company claiming a workforce housing tax credit against the taxes imposed by  
20 33-2-705 or 33-2-709 may not be required to pay any additional retaliatory tax as a result of claiming the credit.  
21 The credit may fully offset any retaliatory tax imposed by the state.

22  
23 NEW SECTION. Section 4. Workforce housing tax credit. ~~There is a credit for~~ COMMENCING WITH TAX  
24 YEARS BEGINNING ON OR AFTER JANUARY 1, 2020, A TAXPAYER OWNING AN INTEREST IN A QUALIFIED PROJECT, AS  
25 DEFINED IN [SECTION 1], THAT IS ISSUED AN ELIGIBILITY STATEMENT BY THE BOARD OF HOUSING MAY CLAIM A CREDIT  
26 AGAINST taxes due under 50-3-109 ~~for a taxpayer owning an interest in a qualified project, as defined in [section~~  
27 ~~1], that is issued an eligibility statement by the board of housing.~~ The credit must be administered in accordance  
28 with the provisions of [section 1].

29  
30 NEW SECTION. Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an

1 integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

2 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions  
3 of Title 15, chapter 31, apply to [section 2].

4 (3) [Section 3] is intended to be codified as an integral part of Title 33, chapter 2, part 7, and the  
5 provisions of Title 33, chapter 2, part 7, apply to [section 3].

6 (4) [Section 4] is intended to be codified as an integral part of Title 50, chapter 3, part 1, and the  
7 provisions of Title 50, chapter 3, part 1, apply to [section 4].

8  
9 NEW SECTION. Section 6. Applicability. [This act] applies to tax years beginning after December 31,  
10 ~~2024~~ 2019.

11  
12 NEW SECTION. SECTION 7. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 2024.

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