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H.401

Introduced by Representatives Ram of Burlington, Burke of Brattleboro,
Buxton of Tunbridge, Carr of Brandon, Chesnut-Tangerman of
Middletown Springs, Donovan of Burlington, French of
Randolph, Gonzalez of Winooski, Krowinski of Burlington,
LaLonde of South Burlington, Martin of Wolcott, McCormack
of Burlington, O’Sullivan of Burlington, Stuart of Brattleboro,
Toleno of Brattleboro, Townsend of South Burlington, and
Zagar of Barnard

Referred to Committee on

Date:

Subject: Commerce and trade; housing; first-time home buyer

Statement of purpose of bill as introduced: This bill proposes to create a
first-time home buyer down payment assistance program and authorizes the
Vermont Housing Finance Agency to use tax credits for affordable housing to
fund the program.

An act relating to creating a first-time home buyer down payment assistance
program

It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 32 V.S.A. § 5930u is amended to read:

2 § 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

3 (a) As used in this section:

4 (1) “Affordable housing project” or “project” means:

5 (A) a rental housing project identified in 26 U.S.C. § 42(g); or

6 (B) owner-occupied housing identified in 26 U.S.C. § 143(e) and (f)

7 and eligible (c)(1) or that qualifies under the Vermont Housing Finance

8 Agency allocation plan criteria governing owner-occupied housing.

9 (2) “Affordable housing tax credits” means the tax credit provided by
10 this subchapter.

11 (3) “Allocating agency” means the Vermont Housing Finance Agency.

12 (4) “Committee” means the Joint Committee on Tax Credits consisting

13 of five members; a representative from the Department of Housing and

14 Community Affairs, the Vermont Housing and Conservation Board, the

15 Vermont Housing Finance Agency, the Vermont State Housing Authority, and

16 the Office of the Governor.

17 (5) “Credit certificate” means a certificate issued by the allocating

18 agency to a taxpayer that specifies the amount of affordable housing tax credits

19 that can be applied against the taxpayer’s individual or corporate income tax or

20 franchise or insurance premium tax liability as provided in this subchapter.

1 (6) “Eligible applicant” means any municipality, private sector
2 developer, ~~department of state government as defined in 10 V.S.A. § 6302(a),~~
3 State agency as defined in 10 V.S.A. § 6301a, the Vermont Housing Finance
4 Agency, or a nonprofit organization qualifying under 26 U.S.C. § 501(c)(3); or
5 cooperative housing organization, the purpose of which is ~~the creation and~~
6 ~~retention of~~ to create and retain affordable housing for ~~lower income~~
7 Vermonters; with lower income and ~~the~~ which has in its bylaws ~~that require a~~
8 requirement that ~~housing to~~ the housing the organization creates be maintained
9 as affordable housing for ~~lower income~~ Vermonters with lower income on a
10 perpetual basis.

11 (7) “Eligible cash contribution” means an amount of cash contributed to
12 the owner, developer, or sponsor of an affordable housing project and
13 determined by the allocating agency as eligible for affordable housing tax
14 credits.

15 (8) “Section 42 credits” means tax credit provided by 26 U.S.C.
16 §§ 38 and 42.

17 (9) “Allocation plan” means the plan recommended by the Committee
18 and approved by the Vermont Housing Finance Agency, which sets forth the
19 eligibility requirements and process for selection of eligible housing projects to
20 receive affordable housing tax credits under this section. The allocation plan
21 shall include;

1 (A) requirements for creation and retention of affordable housing for
2 ~~low income~~ persons; with low income; and

3 (B) requirements to ensure that eligible housing is maintained as
4 affordable by subsidy covenant, as defined in 27 V.S.A. § 610 on a perpetual
5 basis, and meets all other requirements of the Vermont Housing Finance
6 Agency related to affordable housing.

7 (b) Eligible tax credit allocations.

8 (1) Affordable housing credit allocation.

9 (A) An eligible applicant may apply to the allocating agency for an
10 allocation of affordable housing tax credits under this section related to an
11 affordable housing project authorized by the allocating agency under the
12 allocation plan. In the case of a specific affordable rental housing project, the
13 eligible applicant ~~must~~ shall also be the owner or a person having the right to
14 acquire ownership of the building and ~~must~~ shall apply prior to placement of
15 the affordable housing project in service. In the case of owner-occupied
16 housing units, the applicant ~~must apply prior to purchase of the unit and must~~
17 shall ensure that the allocated funds ~~will be used to ensure that the housing~~
18 qualifies or program funds remain as an affordable housing resource for all
19 future owners ~~of the housing~~. The allocating agency shall issue a letter of
20 approval if it finds that the applicant meets the priorities, criteria, and other

1 provisions of subdivision ~~(2)(B)~~ of this ~~subsection~~ subdivision (1). The burden
2 of proof shall be on the applicant.

3 ~~(2)(B)~~ Upon receipt of a completed application, the allocating agency
4 shall award an allocation of affordable housing tax credits with respect to a
5 project ~~under this section shall be granted~~ to an applicant, provided the
6 applicant demonstrates to the satisfaction of the ~~committee~~ allocating agency
7 all of the following:

8 ~~(A)(i)~~ The owner of the project has received from the allocating
9 agency a binding commitment for, a reservation or allocation of, or an
10 out-of-cap determination letter for, Section 42 credits, or meets the
11 requirements of the allocation plan for development or financing of units to be
12 owner-occupied;

13 ~~(B)(ii)~~ The project has received community support.

14 (2) Down payment assistance program.

15 (A) The Vermont Housing Finance Agency shall have the authority
16 to allocate affordable housing tax credits to finance down payment assistance
17 loans that meet the following requirements:

18 (i) the loan is made in connection with a mortgage through an
19 Agency program;

20 (ii) the borrower is a first-time home buyer of an owner-occupied
21 primary residence; and

1 (iii) the borrower uses the loan for the borrower's down payment
2 or closing costs, or both.

3 (B) The Agency shall require the borrower to repay the loan upon the
4 sale or refinance of the residence.

5 (C) The Agency shall use the proceeds of loans made under the
6 program for future down payment assistance.

7 (c) Amount of credit. A taxpayer who makes an eligible cash contribution
8 shall be entitled to claim against the taxpayer's individual income, corporate,
9 franchise, or insurance premium tax liability a credit in an amount specified on
10 the taxpayer's credit certificate. The first-year allocation of a credit amount to
11 a taxpayer shall also be deemed an allocation of the same amount in each of
12 the following four years.

13 (d) Availability of credit. The amount of affordable housing tax credit
14 allocated with respect to a project shall be available to the taxpayer every year
15 for five consecutive tax years, beginning with the tax year in which the eligible
16 cash contribution is made. Total tax credits available to the taxpayer shall be
17 the amount of the first-year allocation plus the succeeding four years' deemed
18 allocations.

19 (e) Claim for credit. A taxpayer claiming affordable housing tax credits
20 shall submit with each return on which such credit is claimed a copy of the
21 allocating agency's credit allocation to the affordable housing project and the

1 taxpayer's credit certificate. Any unused affordable housing tax credit may be
2 carried forward to reduce the taxpayer's tax liability for no more than 14
3 succeeding tax years, following the first year the affordable housing tax credit
4 is allowed.

5 (f) ~~{Deleted.}~~ [Repealed.]

6 (g)(1) In any fiscal year, the allocating agency may award up to:

7 (A) \$400,000.00 in total first-year credit allocations to all applicants
8 for rental housing projects; and may award up to, for a total aggregate limit of
9 \$2,000,000.00 over any given five-year period that credits are available under
10 this subdivision.

11 (B) \$300,000.00 per year for owner-occupied unit applicants
12 financing or down payment loans consistent with the allocation plan, including
13 for new construction and manufactured housing, for a total aggregate limit of
14 \$1,500,000.00 over any given five-year period that credits are available under
15 this subdivision.

16 (2) In fiscal years 2016 through 2020, the allocating agency may award
17 up to \$125,000.00 per year for loans through the down payment assistance
18 program created in subdivision (b)(2) of this section for a total aggregate limit
19 of \$625,000.00 over the five-year period that credits are available under this
20 subdivision.

1 (h) ~~In any fiscal year, total first year allocations plus succeeding year~~
2 ~~deemed allocations shall not exceed \$3,500,000.00~~ The aggregate limit for all
3 credit allocations available under this section in any fiscal year is
4 \$4,125,000.00.

5 Sec. 2. EFFECTIVE DATE

6 This act shall take effect on July 1, 2015.