

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 766 entitled “An act relating to creating a
4 homeowner’s rehabilitation tax credit” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. HOMEOWNER’S REHABILITATION TAX CREDIT

8 (a) Definitions. As used in this section:

9 (1) “Qualified applicant” means an owner of a qualified building, or a
10 holder of a legally enforceable contract or option to purchase a qualified
11 building, who is in good standing on any State and local taxes.

12 (2) “Qualified building” means a one- to four-unit building, including
13 the primary residence and accessory buildings such as a barn or garage, that:

14 (A) is occupied by a qualified applicant at the time of application or
15 that the qualified applicant intends to occupy upon completion of the qualified
16 project;

17 (B) is located within a neighborhood planning area, as defined in
18 24 V.S.A. § 2793e; and

19 (C) is assessed at or below the State median home value.

1 (3) “Qualified project” means a construction project for which a
2 qualified applicant makes qualified rehabilitation expenditures for the
3 rehabilitation of a qualified building.

4 (4) “Qualified rehabilitation expenditure” means a construction-related
5 expense for the rehabilitation of a qualified building, including design fees,
6 labor, materials, capital improvements, and the rehabilitation or construction of
7 an accessory dwelling unit as defined in 24 V.S.A. § 4412(1)(E).

8 (5) “State Board” means the Vermont Downtown Development Board
9 established pursuant to 24 V.S.A. chapter 76A.

10 (b) Application and eligibility.

11 (1) In fiscal year 2019, Vermont municipalities may apply to the State
12 Board to compete for a portion of a \$625,000.00 allocation of homeowner’s
13 rehabilitation tax credits, which the Board may award to not more than three
14 municipalities.

15 (2) The State Board shall adopt approval criteria and minimum
16 application requirements, including:

17 (A) information specifying the applicable neighborhood planning
18 area and the addresses and grand list values for potential qualified projects;

19 (B) information concerning municipal staff capacity to support
20 review and implementation of projects; banks and insurance companies

1 interested in purchasing tax certificates; and local partner organizations
2 committed to supporting projects; and

3 (C) requirements concerning energy audits and participation in
4 energy rebates and incentive programs.

5 (c) Homeowner's rehabilitation tax credit. The qualified applicant of a
6 completed qualified project who occupies the qualified building shall be
7 entitled, upon inspection and certification of compliance by the municipality:

8 (1) to claim against the income tax imposed under 32 V.S.A. § 5822 for
9 the taxable year a credit of 30 percent of qualified rehabilitation expenditures
10 for a qualified project completed during the taxable year, not to exceed
11 \$20,000.00 per qualified project or \$25,000.00 per qualified project that
12 creates one or more accessory dwelling units; or

13 (2) to claim a tax credit certificate in the amount of 30 percent of
14 qualified rehabilitation expenditures for a qualified project completed during
15 the taxable year, not to exceed \$20,000.00 per qualified project or \$25,000.00
16 per qualified project that creates ~~an~~ one or more accessory dwelling units,
17 which certificate the applicant may transfer to a bank, an insurance company,
18 or a captive insurance company to apply against the bank franchise tax
19 imposed under 32 V.S.A. § 5836 for the taxable year, insurance premium tax
20 imposed under 32 V.S.A. § 8551 for the taxable year, or captive insurance
21 premium tax imposed under 8 V.S.A. § 6014 for the taxable year.

1 (d) Claims; availability.

2 (1) On or before the date prescribed for filing the relevant return, a
3 taxpayer claiming a credit under this section shall submit to the Department of
4 Taxes a copy of the certification of compliance issued by the municipality, and
5 for a credit approved under subdivision (c)(2) of this section, a copy of the tax
6 credit certificate.

7 (2) A credit available under this section is non-refundable.

8 (3) If no claim for a credit has been filed within five years after the date
9 of the certification of compliance by the municipality, the tax credit shall
10 expire.

11 (4) The State Board may award one or more new credits pursuant to
12 this section that are of equal or lesser value to the amount of any credits that
13 are expired pursuant to subdivision (3) of this subsection, or that are recaptured
14 pursuant to subsection (e) of this section.

15 (5) A taxpayer may carry forward an unused credit for not more than
16 nine tax years following the first taxable year for which a portion of the credit
17 is first claimed.

18 (e) Recapture.

19 (1) A credit claimed under this section is subject to recapture if within
20 five years after completion of a qualified project the State Board finds:

1 (A) rehabilitation work performed on the qualified project is
2 inconsistent with a local permit or the approved application; or

3 (B) a qualified applicant knowingly failed to supply information, or
4 supplied incorrect or untrue information required by the State Board, or failed
5 to comply with an award condition required by the State Board.

6 (C) the qualified applicant has not continuously owned or occupied
7 the qualified building as his or her primary residence since completion of the
8 qualified project.

9 (2) If the State Board finds any of the conditions specified in
10 subdivision (1) of this subsection, the Board shall submit its findings to the
11 Department of Taxes, which shall recapture from the qualified applicant a
12 proportional share of the credit for each year he or she was noncompliant.

13 Sec. 2. 32 V.S.A. § 5930ee is amended to read:

14 § 5930ee. LIMITATIONS

15 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
16 credits to all qualified applicants under this subchapter, provided that:

17 (1) the total amount of tax credits awarded annually, together with sales
18 tax reallocated under section 9819 of this title, does not exceed ~~\$2,400,000.00~~
19 \$2,650,000.00;

1 (2) a total annual allocation of ~~no~~ not more than 30 percent of these tax
2 credits in combination with sales tax reallocation may be awarded in
3 connection with all of the projects in a single municipality;

4 (3) façade tax credits shall not be available for projects that qualify for
5 the federal rehabilitation tax credit;

6 (4) no credit shall be allowed under this subchapter for the cost of
7 acquiring any building or interest in a building;

8 (5) credit under any one subsection of 5930cc of this subchapter may
9 not be allocated more often than once every two years with respect to the same
10 building; and

11 (6) credit awarded under section 5930cc of this subchapter that is
12 rescinded or recaptured by the State Board shall be available for the State
13 Board to award to applicants in any subsequent year, in addition to the total
14 amount of tax credits authorized under this section.

15 Sec. 3. 32 V.S.A. § 5930u is amended to read:

16 § 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

17 (a) As used in this section:

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

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

1 (B) owner-occupied housing identified in 26 U.S.C. § 143(c)(1) or
2 that qualifies under Vermont Housing Finance Agency criteria governing
3 owner-occupied housing.

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

6 (3) “Allocating agency” or “Agency” means the Vermont Housing
7 Finance Agency.

8 (4) “Committee” means the Joint Committee on Tax Credits consisting
9 of five members: a representative from the Department of Housing and
10 Community ~~Affairs~~ Development, the Vermont Housing and Conservation
11 Board, the Vermont Housing Finance Agency, the Vermont State Housing
12 Authority, and the Office of the Governor.

13 (5) “Credit certificate” means a certificate issued by the allocating
14 agency to a taxpayer that specifies the amount of affordable housing tax credits
15 that can be applied against the taxpayer’s individual or corporate income tax,
16 or franchise, captive insurance premium, or insurance premium tax liability as
17 provided in this subchapter.

18 (6) “Eligible applicant” means any municipality, ~~private sector~~
19 ~~developer~~, State agency as defined in 10 V.S.A. § 6301a, the Vermont Housing
20 Finance Agency, ~~or a~~ for-profit organization, a nonprofit organization
21 qualifying under 26 U.S.C. § 501(c)(3), or a cooperative housing organization,

1 ~~the purpose of which is to create and retain affordable housing for Vermonters~~
2 ~~with lower income and which has in its bylaws a requirement that the housing~~
3 ~~the organization creates be maintained as affordable housing for Vermonters~~
4 ~~with lower income on a perpetual basis~~ that meets the application requirements
5 of the allocation plan.

6 (7) “Eligible cash contribution” means an amount of cash:

7 (A) contributed to the owner, developer, or sponsor of an affordable
8 housing project and determined by the allocating agency as eligible for
9 affordable housing tax credits; or

10 (B) paid to the Agency in connection with the purchase of affordable
11 housing tax credits pursuant to subdivision (b)(2) or (3) of this section.

12 (8) “Section 42 credits” means tax credit provided by 26 U.S.C.
13 §§ 38 and 42.

14 (9) “Allocation plan” means the plan recommended by the Committee
15 and approved by the Vermont Housing Finance Agency, which sets forth the
16 eligibility requirements and process for selection of eligible multifamily rental
17 housing projects to receive affordable housing tax credits, and eligible owner-
18 occupied housing projects to receive loans, under this section. The allocation
19 plan shall include:

20 (A) requirements for creation and retention of affordable housing for
21 persons with low income; and

1 (B) requirements to ensure that eligible multifamily rental housing is
2 maintained as affordable by subsidy covenant, as defined in 27 V.S.A. § 610
3 on a perpetual basis, and that eligible owner-occupied housing or program
4 funds for owner-occupied housing remain as an affordable housing source for
5 future owners or buyers, and meets all other requirements of the Vermont
6 Housing Finance Agency related to affordable housing.

7 (10) “Taxpayer” means a taxpayer who makes an eligible cash
8 contribution or the assignee or transferee of, or successor to, the taxpayer as
9 determined by the Department of Taxes.

10 (b) Eligible tax credit allocations.

11 (1) Affordable housing credit allocation for multifamily rental housing.

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

1 finds that the applicant meets the priorities, criteria, and other provisions of
2 subdivision (B) of this subdivision (b)(1). The burden of proof shall be on the
3 applicant.

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

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

12 (ii) The project has received community support.

13 (2) Affordable housing credit allocation for loans or grants for owner-
14 occupied housing.

15 (A) The Vermont Housing Finance Agency shall have the authority
16 to allocate affordable housing tax credits to provide funds to make loans or
17 grants to eligible applicants for affordable owner-occupied housing. An
18 eligible applicant may apply to the allocating agency for a loan or grant under
19 this section related to an affordable owner-occupied housing project authorized
20 by the allocating agency under the allocation plan. In the case of a specific
21 affordable owner-occupied housing project, the eligible applicant shall also be

1 the owner or a person having the right to acquire ownership of the unit and
2 shall apply prior to the sale of the unit to the homeowner.

3 (B) The Agency shall require that the loan or grant recipient use such
4 funds to maintain the unit as an affordable owner-occupied unit or as an
5 affordable housing source for future owners or buyers.

6 (C) The Agency shall use the proceeds of loans or grants made under
7 subdivision (A) of this subdivision (b)(2) for future loans or grants to eligible
8 applicants for affordable owner-occupied housing projects.

9 (D) The Agency may assign its rights under any loan or grant made
10 under subdivision (A) of this subdivision (b)(2) to the Vermont Housing and
11 Conservation Board or any nonprofit organization qualifying under 26 U.S.C.
12 § 501(c)(3) as long as such assignee acknowledges and agrees to comply with
13 the provisions of this subdivision (b)(2).

14 (3) 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 homebuyer 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 transfer 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, captive insurance premium, or insurance premium tax liability a
10 credit in an amount specified on the taxpayer's credit certificate. The first-year
11 allocation of a credit amount to a taxpayer shall also be deemed an allocation
12 of the same amount in each of the following four years.

13 (d) Availability of credit. The amount of affordable housing tax credit
14 ~~allocated with respect to a project~~ provided on the taxpayer's credit certificate
15 shall be available to the taxpayer every year for five consecutive tax years,
16 beginning with the tax year in which the eligible cash contribution is made.
17 Total tax credits available to the taxpayer shall be the amount of the first-year
18 allocation plus the succeeding four years' deemed 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, and for credits issued under subdivision (b)(1) of
2 this section, a copy of the allocating agency's credit allocation to the affordable
3 housing project. Any unused affordable housing tax credit may be carried
4 forward to reduce the taxpayer's tax liability for ~~no~~ not more than
5 14 succeeding tax years, following the first year the affordable housing tax
6 credit is allowed.

7 (f) [Repealed.]

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

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

12 (B) \$300,000.00 in total first-year credit allocations for loans or
13 grants for owner-occupied unit financing or down payment loans as provided
14 in subdivision (b)(2) of this section, consistent with the allocation plan,
15 including for new construction and manufactured housing, for an aggregate
16 limit of \$1,500,000.00 over any given five-year period that credits are
17 available under this subdivision (B).

18 (2) In any fiscal year, total first-year credit allocations under subdivision
19 (1) of this subsection plus succeeding-year deemed allocations shall not exceed
20 \$3,500,000.00.

1 (h)(1)(A) In fiscal year 2016 through fiscal year ~~2022~~ 2018, the allocating
2 agency may award up to \$125,000.00 in total first-year credit allocations for
3 loans through the Down Payment Assistance Program created in subdivision
4 (b)(~~2~~)(3) of this section.

5 (B) In fiscal year 2019 through fiscal year 2022, the allocating
6 agency may award up to \$250,000.00 in total first-year credit allocations for
7 loans through the Down Payment Assistance Program created in subdivision
8 (b)(3) of this section.

9 (C) In fiscal year 2023 through fiscal year 2025, the allocating
10 agency may award up to \$125,000.00 in total first-year credit allocations for
11 loans through the Down Payment Assistance Program created in subdivision
12 (b)(3) of this section.

13 (2)(A) In ~~any~~ fiscal year 2016 through fiscal year 2018, total first-year
14 credit allocations under subdivision (1) of this subsection (h) plus succeeding-
15 year deemed allocations shall not exceed \$625,000.00.

16 (B) In fiscal year 2019 through fiscal year 2022, total first-year credit
17 allocations under subdivision (1) of this subsection (h) plus succeeding-year
18 deemed allocations shall not exceed \$1,250,000.00.

19 (C) In fiscal year 2023 through fiscal year 2025, total first-year credit
20 allocations under subdivision (1) of this subsection (h) plus succeeding-year
21 deemed allocations shall not exceed \$625,000.00.

1 Sec. 4. EFFECTIVE DATE

2 This act shall take effect on July 1, 2018.

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9 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE