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H.479

Introduced by Representatives Donovan of Burlington, Anthony of Barre City,
Austin of Colchester, Birong of Vergennes, Campbell of St.
Johnsbury, Chesnut-Tangerman of Middletown Springs,
Christie of Hartford, Cina of Burlington, Colburn of Burlington,
Colston of Winooski, Gonzalez of Winooski, Hooper of
Burlington, Houghton of Essex, Killacky of South Burlington,
Kitzmilller of Montpelier, Macaig of Williston, Masland of
Thetford, O’Sullivan of Burlington, Patt of Worcester, Ralph of
Hartland, Redmond of Essex, Scheu of Middlebury, Szott of
Barnard, Till of Jericho, Troiano of Stannard, and Yacovone of
Morristown

Referred to Committee on

Date:

Subject: Taxation; tax credit; affordable housing

Statement of purpose of bill as introduced: This bill proposes to amend the
requirements for the tax credit for affordable housing.

An act relating to amending the tax credit for affordable housing

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

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

3 § 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

4 (a) As used in this section:

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

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

7 (B) owner-occupied housing identified in 26 U.S.C. § 143 (c)(1) or

8 that qualifies under Vermont Housing Finance Agency criteria governing

9 owner-occupied housing.

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

12 (3) “Allocating agency” or “Agency” means the Vermont Housing
13 Finance Agency.

14 (4) “Committee” means the Joint Committee on Tax Credits consisting
15 of five members: a representative from the Department of Housing and
16 Community ~~Affairs~~ Development, the Vermont Housing and Conservation
17 Board, the Vermont Housing Finance Agency, the Vermont State Housing
18 Authority, and the Office of the Governor.

19 (5) “Credit certificate” means a certificate issued by the allocating
20 agency to a taxpayer that specifies the amount of affordable housing tax credits
21 that can be applied against the taxpayer’s individual or corporate income tax,

1 or franchise, captive insurance premium, or insurance premium tax liability as
2 provided in this subchapter.

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

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

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

16 (B) paid to the Agency in connection with the purchase of affordable
17 housing tax credits.

18 (8) “Section 42 credits” means tax credit provided by 26 U.S.C.
19 §§ 38 and 42.

20 (9) “Allocation plan” means the plan recommended by the Committee
21 and approved by the Vermont Housing Finance Agency, which sets forth the

1 eligibility requirements and process for selection of eligible rental housing
2 projects to receive affordable housing tax credits and eligible owner-occupied
3 housing projects to receive loans or grants under this section. The allocation
4 plan shall include:

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

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

13 (10) “Taxpayer” means a taxpayer who makes an eligible cash
14 contribution or the assignee or transferee of or successor to such taxpayer as
15 determined by the Department of Taxes.

16 (b) Eligible tax credit allocations.

17 (1) Affordable housing credit allocation for rental housing.

18 (A) An eligible applicant may apply to the allocating agency for an
19 allocation of affordable rental housing tax credits under this section related to
20 an affordable housing project authorized by the allocating agency under the
21 allocation plan. In the case of a specific affordable rental housing project,

1 the eligible applicant shall also be the owner or a person having the right to
2 acquire ownership of the building and shall apply prior to placement of the
3 affordable housing project in service. ~~In the case of owner-occupied housing~~
4 ~~units, the applicant shall ensure that the allocated housing or program funds~~
5 ~~remain as an affordable housing resource for future owners.~~ The allocating
6 agency shall issue a letter of approval if it finds that the applicant meets the
7 priorities, criteria, and other provisions of subdivision (B) of this
8 subdivision (b)(1). The burden of proof shall be on the applicant.

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

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

17 (ii) The project has received community support.

18 (2) Affordable housing credit allocation for loans or grants for owner-
19 occupied housing.

20 (A) The Vermont Housing Finance Agency shall have the authority
21 to allocate affordable housing tax credits to provide funds to make loans or

1 grants to eligible applicants for affordable owner-occupied housing. An
2 eligible applicant may apply to the allocating agency for a loan or grant under
3 this section related to an affordable owner-occupied housing project authorized
4 by the allocating agency under the allocation plan. In the case of a specific
5 affordable owner-occupied housing project, the eligible applicants shall also be
6 the owner or a person having the right to acquire ownership of the unit and
7 shall apply prior to sale of the unit to the homeowner.

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

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

14 (D) The Agency may assign its rights under any loan or grant made
15 under subdivision (b)(2)(A) of this section to any State agency or nonprofit
16 organization qualifying under 26 U.S.C. § 501(c)(3) so long as such assignee
17 acknowledges and agrees to comply with the provisions of subdivision (b)(2)
18 of this section.

19 (3) Down Payment Assistance Program.

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

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

6 (ii) the borrower is a first-time ~~homebuyer~~ home buyer of an
7 owner-occupied primary residence; and

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

10 (B) The Agency shall require the borrower to repay the loan upon the
11 transfer or refinance of the residence.

12 (C) The Agency shall use the proceeds of loans made under the
13 Program for future down payment assistance.

14 (c) Amount of credit. A taxpayer ~~who makes an eligible cash contribution~~
15 shall be entitled to claim against the taxpayer's individual income, corporate,
16 franchise, captive insurance premium, or insurance premium tax liability a
17 credit in an amount specified on the taxpayer's credit certificate. The first-year
18 allocation of a credit amount to a taxpayer shall also be deemed an allocation
19 of the same amount in each of the following four years.

20 (d) Availability of credit. The amount of affordable housing tax credit
21 ~~allocated with respect to a project~~ set forth on the taxpayer's credit certificate

1 shall be available to the taxpayer every year for five consecutive tax years,
2 beginning with the tax year in which the eligible cash contribution is made.
3 Total tax credits available to the taxpayer shall be the amount of the first-year
4 allocation plus the succeeding four years' deemed allocations.

5 (e) Claim for credit. A taxpayer claiming affordable housing tax credits
6 shall submit with each return on which such credit is claimed ~~a copy of the~~
7 ~~allocating agency's credit allocation to the affordable housing project and the~~
8 taxpayer's credit certificate and with respect to credits issued under
9 subdivision (b)(1), a copy of the allocating agency's credit allocation to the
10 affordable housing project. Any unused affordable housing tax credit may be
11 carried forward to reduce the taxpayer's tax liability for no more than
12 14 succeeding tax years, following the first year the affordable housing tax
13 credit is allowed.

14 (f) [Repealed.]

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

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

19 (B) ~~\$300,000.00~~ \$425,000.00 in total first-year credit allocations for
20 loans or grants for owner-occupied unit financing or down payment loans as
21 provided in subdivision (b)(2) consistent with the allocation plan, including for

1 new construction and manufactured housing, for an aggregate limit of
2 ~~\$1,500,000.00~~ \$2,125,000.00 over any given five-year period that credits are
3 available under this subdivision (B).

4 (2) ~~In any fiscal year, total first-year credit allocations under subdivision~~
5 ~~(1) of this subsection plus succeeding year deemed allocations shall not exceed~~
6 ~~\$3,500,000.00~~ If the full amount of first-year credits authorized by an award is
7 not allocated to a taxpayer, the Agency may reclaim the amount not allocated
8 and re-award such allocations to other applicants, and such re-awards shall not
9 be subject to the limits set forth in subdivision (1) of this subsection.

10 (h)(1) In fiscal year 2016 through fiscal year ~~2022~~ 2019, the allocating
11 agency may award up to \$125,000.00 in total first-year credit allocations for
12 loans through the Down Payment Assistance Program created in
13 subdivision (b)(2) of this section.

14 (2) ~~In any fiscal year, total first-year credit allocations under~~
15 ~~subdivision (1) of this subsection plus succeeding year deemed allocations~~
16 ~~shall not exceed \$625,000.00~~ 2020 through fiscal year 2026, the allocating
17 agency may award up to \$250,000.00 in total first-year credit allocations for
18 loans through the Down Payment Assistance Program created in subdivision
19 (b)(3) of this section.

20 Sec. 2. EFFECTIVE DATE

21 This act shall take effect on passage.