

Unofficial Draft Copy

As of: July 19, 2018 (9:19am)

LChctl

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing for workforce housing tax credits; providing 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."

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 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 issued an eligibility statement by the board of housing.

(2) The board of housing shall issue eligibility statements for qualified projects upon 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, or partners, regardless of whether the shareholder, owner, or partner is a partner for federal income tax purposes. The eligibility statement must specify the total

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amount of the credit for which the qualified project is eligible and the allocation of the credit among shareholders, owners, or partners.

(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.

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

(6) A taxpayer claiming the credit shall submit the eligibility statement with the tax return. If the board of housing has not issued the eligibility statement at the time the taxpayer files the return, the taxpayer shall file an amended return to include the eligibility statement.

(7) If all or a portion of the federal low-income housing credit is recaptured or is otherwise disallowed during the credit period, the same portion of the Montana credit is also recaptured

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or disallowed. Any credits recaptured or disallowed increase the tax liability of the taxpayer who claimed the credit in the same amount and must be included on the tax return of the taxpayer for the year in which the credit is recaptured or disallowed.

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

(9) A developer of a qualified project, including the owner of a developer, may not claim a credit or receive any remuneration related to a credit except for the developer's fee and other distributions allowed by the board of housing.

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

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

(b) "Qualified project" means a qualified low-income

building as that term is defined in section 42 of the Internal Revenue Code, 26 U.S.C. 42, located in Montana and placed into service on or after January 1, 2020.

NEW SECTION. **Section 2. Workforce housing tax credit.**

There is a credit against the taxes imposed under this chapter for a taxpayer owning an interest in a qualified project, as defined in [section 1], issued an eligibility statement by the board of housing. The credit must be administered in accordance with the provisions of [section 1].

NEW SECTION. **Section 3. Workforce housing tax credit. (1)**

There is a credit for taxes due under 33-2-705 and 33-2-709 for a taxpayer owning an interest in a qualified project, as defined in [section 1], issued an eligibility statement by the board of housing. The credit must be administered in accordance with the provisions of [section 1].

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

NEW SECTION. **Section 4. Workforce housing tax credit.**

There is a credit for taxes due under 50-3-109 for a taxpayer owning an interest in a qualified project, as defined in [section 1], issued an eligibility statement by the board of housing. The

credit must be administered in accordance with the provisions of [section 1].

NEW SECTION. **Section 5. Codification instruction.** (1)

[Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

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

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

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

NEW SECTION. **Section 6. Applicability.** [This act] applies to tax years beginning after December 31, 2021.

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