



Chairman Phil Mendelson

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 48 of Title 47 of the District of Columbia Official Code to add additional definitions for the terms “eligible” and “MFI” and to repeal the definition of “qualified project”; to specify the total value of credits available for the Department of Housing and Community Development to award; to prohibit the amount of a credit from exceeding 9% of the project’s qualified basis; to require that each tax credit be awarded on a competitive basis; to prohibit the use of a tax credit against taxes imposed under Title 47 unless the owner has filed an affidavit with the Department certifying that the value received by the owner was used to ensure the financial feasibility of the project; to limit current recapture provisions to low-income housing tax credits awarded before October 1, 2024; and to provide the Department authority to recapture credits held by the project or owner or impose a fine on the owner for non-compliance pursuant to § 47-4807 on credits awarded on or after October 1, 2024.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “District of Columbia Low-Income Housing Tax Credit Amendment Act of 2023”.

Sec. 2. Chapter 48 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-4801 is amended as follows:

(1) A new paragraph (5A) is added to read as follows:

“(5A) “Eligible project” means a rental housing development in the District that includes:

“(A) More than 5 housing units; and

36 “(B) Units that will be affordable to tenants at an income level no greater
37 than 80% of MFI.”.

38 (2) A new paragraph (6A) is added to read as follows:

39 “(6A) “MFI” means the median family income for a household in the Washington
40 Metropolitan Statistical Area as set forth in the periodic calculation provided by the U.S.
41 Department of Housing and Urban Development (“HUD”), adjusted for family size, without
42 regard to any adjustments made by HUD for the purposes of the programs it administers.”.

43 (3) Paragraph (8) is repealed.

44 (b) Section 47-4802 is amended as follows:

45 (1) Subsection (d) is amended to read as follows:

46 “(d) The Department may award District of Columbia low-income housing tax credits to
47 eligible projects in accordance with § 47-4803.”.

48 (2) A new subsection (e) is added to read as follows:

49 “(e) The total credits available for the Department to award are as follows:

50 “(1) In Fiscal Year 2024, \$7,800,000;

51 “(2) In Fiscal Year 2025, \$8,400,000;

52 “(3) In Fiscal Year 2026, \$8,820,000;

53 “(4) In Fiscal Year 2027, \$9,261,000; and

54 “(5) In each subsequent fiscal year, 105% of the total credits available for award
55 in the prior fiscal year.”.

56 (c) Section 47-4803 is amended as follows:

57 (1) Subsection (a) is amended to read as follows:

58 “(a)(1) An owner of an eligible project may be awarded a District of Columbia low-
59 income housing tax credit with respect to that eligible project. The amount of the credit shall not
60 exceed 9% of the project’s qualified basis, as determined in accordance with paragraph (3) of
61 this subsection.

62 “(2) Each District of Columbia low-income housing tax credit shall be awarded
63 on a competitive basis.

64 “(3) The qualified basis of a project shall be determined pursuant to the standards
65 set forth in section 42(c) of the Internal Revenue Code of 1986, approved October 22, 1986 (100
66 Stat. 2189; 26 U.S.C. § 42(c)).”.

67 (2) Subsection (b)(1) is amended to read as follows:

68 “(b)(1) If an owner of a project that was awarded or otherwise granted a District of
69 Columbia low-income housing tax credit transfers, sells, or assigns the credit to another
70 taxpayer, pursuant to § 47-4806, the District of Columbia low-income housing tax credit shall
71 not be taken, pursuant to subsection (c) of this section, against taxes imposed under this
72 title unless the owner has filed with the Department, in a form determined by the Department, an
73 affidavit certifying that the value received by the owner of the eligible project was used to ensure
74 financial feasibility of the eligible project.”.

75 (3) Subsection (d)(2) is amended as follows:

76 (A) Strike the phrase “An owner of a qualified project” and insert the
77 phrase “An owner” in its place.

78 (B) Strike the phrase “The owner of a qualified project” and insert the
79 phrase “The owner” in its place.

80 (4) Subsection (f)(1) is amended as follows:

81 (A) Strike the phrase “qualified project” and insert the phrase “eligible
82 project” in its place.

83 (B) Strike the phrase “qualified District of Columbia project” and insert
84 the phrase “eligible project” in its place.

85 (d) Section 47-4804 is amended as follows:

86 (1) Subsection (a) is amended as follows:

87 (A) Strike the phrase “The owner of a qualified project eligible for the”
88 and insert the phrase “An owner of a project that claims a” in its place.

89 (B) Strike the phrase “eligibility statement” and insert the word
90 “statement” in its place.

91 (C) Strike the phrase “with respect to the qualified project” and insert the
92 phrase “with respect to the project” in its place.

93 (D) Strike the phrase “with respect to such qualified project” and insert the
94 phrase “with respect to the project” in its place.

95 (2) Subsection (b) is amended as follows:

96 (A) The existing text is designated as paragraph (1).

97 (B) A new paragraph (2) is added to read as follows:

98 “(2) This subsection shall apply to District of Columbia low-income housing tax
99 credits awarded before October 1, 2024.”.

100 (3) A new subsection (c) is added to read as follows:

101 “(c)(1) If a project that claims a District of Columbia low-income tax credit, or the owner
102 of such a project, is found to be non-compliant pursuant to § 47-4807, the Department may
103 recapture credits held by the project or owner or impose a fine on the owner.

104 “(2) This subsection shall apply to District of Columbia low-income housing tax
105 credits awarded on or after October 1, 2024.”.

106 (e) Section 47-4806(a) is amended as follows:

107 (1) Paragraph (1) is amended by striking the phrase “qualified project” and
108 inserting the word “project” in its place.

109 (2) Paragraph (2) is amended by striking the phrase “qualified project” both times
110 it appears and inserting the word “project” in its place.

111 (f) Section 47-4808 is amended by striking the phrase “a qualified District of Columbia
112 project” and inserting the phrase “a project” in its place.

113 (g) Section 47-4810 is amended by striking the phrase “qualified project” and inserting
114 the word “project” in its place.

115 Sec. 3. Fiscal impact statement.

116 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
117 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
118 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

119 Sec. 4. Effective date.

120 This act shall take effect following approval by the Mayor (or in the event of veto by
121 the Mayor, action by the Council to override the veto), a 30-day period of congressional review
122 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
123 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
124 Columbia Register.

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