

REFERENCE TITLE: tax credits; affordable housing

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2365

Introduced by
Representatives Toma: Bolding, Engel, Espinoza, Hernandez D, Rivero, Rodriguez, Shope, Sierra, Udall,
Weninger, Senator Livingston

AN ACT

AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-224.04; AMENDING TITLE 41, CHAPTER 37, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3954; AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1075; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1163; RELATING TO INSURANCE PREMIUM AND INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 20, chapter 2, article 1, Arizona Revised Statutes, is amended by adding section 20-224.04, to read:

20-224.04. Affordable housing premium tax credit

A. A CREDIT IS ALLOWED AGAINST THE PREMIUM TAX INCURRED BY A TAXPAYER PURSUANT TO SECTION 20-224, 20-837, 20-1010, 20-1060 OR 20-1097.07 FOR TAXPAYERS THAT APPLY TO THE ARIZONA DEPARTMENT OF HOUSING AND RECEIVE AN ELIGIBILITY STATEMENT FOR A QUALIFIED PROJECT PURSUANT TO SECTION 41-3954. THE AMOUNT OF THE CREDIT:

1. IS EQUAL TO THE AMOUNT OF THE FEDERAL LOW-INCOME HOUSING CREDIT FOR THE QUALIFIED PROJECT.

2. ON NOTICE TO THE DEPARTMENT OF INSURANCE, MAY BE ALLOCATED AMONG THE PARTNERS, MEMBERS OR SHAREHOLDERS, AS THEY MAY AGREE AMONG THEMSELVES. THE TOTAL OF THE ALLOCATED CREDITS AMONG ALL SUCH PARTICIPANTS MAY NOT EXCEED THE AMOUNT OF THE CREDIT APPROVED BY THE ARIZONA DEPARTMENT OF HOUSING.

B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST SUBMIT THE ELIGIBILITY STATEMENT PROVIDED BY THE ARIZONA DEPARTMENT OF HOUSING UNDER SECTION 41-3954 TO THE DEPARTMENT OF INSURANCE WITH THE TAXPAYER'S PREMIUM TAX RETURN. A

CREDIT UNDER THIS SECTION IS NOT ALLOWED UNTIL THE TAXPAYER FURNISHES THE REQUIRED DOCUMENTATION.

C. IF THE AMOUNT OF THE CREDIT UNDER THIS SECTION EXCEEDS THE TAXPAYER'S STATE PREMIUM TAX LIABILITY, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE PREMIUM TAX LIABILITY MAY BE CARRIED FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' PREMIUM TAX LIABILITY.

D. IF ALL OR PART OF THE FEDERAL LOW-INCOME HOUSING TAX CREDIT WITH RESPECT TO THE QUALIFIED PROJECT IS SUBJECT TO RECAPTURE UNDER SECTION 42 OF THE INTERNAL REVENUE CODE DURING THE FIRST TEN TAXABLE YEARS AFTER THE PROJECT IS PLACED IN SERVICE, THE CREDIT UNDER THIS SECTION IS ALSO SUBJECT TO RECAPTURE IN A PROPORTIONAL AMOUNT FROM ALL TAXPAYERS THAT CLAIMED THE CREDIT. THE RECAPTURE IS CALCULATED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE FOLLOWING YEAR BY THE AMOUNT RECAPTURED.

E. A TAXPAYER THAT CLAIMS A TAX CREDIT AGAINST STATE PREMIUM TAX LIABILITY IS NOT REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX IMPOSED PURSUANT TO SECTION 20-230 AS A RESULT OF CLAIMING THAT TAX CREDIT. THE CREDIT MAY FULLY OFFSET ANY RETALIATORY TAX IMPOSED BY SECTION 20-230.

F. THE DEPARTMENT OF INSURANCE, WITH THE COOPERATION OF THE DEPARTMENT OF REVENUE AND THE ARIZONA DEPARTMENT OF HOUSING, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO ADMINISTER THIS SECTION.

Sec. 2. Title 41, chapter 37, article 2, Arizona Revised Statutes, is amended by adding section 41-3954, to read:

41-3954. Affordable housing tax credit; limit; rules; definitions

A. THE AFFORDABLE HOUSING TAX CREDIT IS ESTABLISHED. THE DEPARTMENT SHALL ADMINISTER THE CREDIT AS PROVIDED BY THIS SECTION.

B. ON APPLICATION, THE DEPARTMENT SHALL ALLOCATE TAX CREDITS UNDER THIS SECTION FOR PROJECTS IN THIS STATE THAT QUALIFY FOR THE FEDERAL LOW-INCOME HOUSING TAX CREDIT UNDER SECTION 42 OF THE INTERNAL REVENUE CODE AND THAT ARE PLACED IN SERVICE, FOR PURPOSES OF THE FEDERAL CREDIT, FROM AND AFTER JUNE 30, 2020, IN AN AMOUNT EQUAL TO THE AMOUNT OF THE FEDERAL CREDIT ALLOWED IN EACH TAXABLE YEAR DURING THE FEDERAL CREDIT PERIOD. THE DEPARTMENT SHALL ALLOCATE TAX CREDITS UNDER THIS SECTION ACCORDING TO ITS CURRENT QUALIFIED ALLOCATION PLAN ADOPTED PURSUANT TO SECTION 42(m) OF THE INTERNAL REVENUE CODE.

C. THE DEPARTMENT SHALL PRESCRIBE FORMS, PROCEDURES AND CRITERIA FOR APPLYING, EVALUATING AND QUALIFYING FOR THE CREDIT UNDER THIS SECTION. THE DEPARTMENT SHALL ISSUE AN ELIGIBILITY STATEMENT FOR EACH QUALIFIED PROJECT THAT IDENTIFIES THE QUALIFIED PROJECT, THE ALLOCATION YEAR AND THE AMOUNT OF THE CREDITS ALLOCATED TO THE PROJECT.

D. THE DEPARTMENT MAY NOT APPROVE TAX CREDITS UNDER THIS SECTION IN ANY CALENDAR YEAR THAT EXCEED A TOTAL OF \$12,000,000, ACCORDING TO THE DATE OF THE ALLOCATION OF THE CREDIT. NOT MORE THAN TWENTY PERCENT OF THE TOTAL AMOUNT OF TAX CREDITS APPROVED EACH CALENDAR YEAR MAY BE AWARDED TO QUALIFIED PROJECTS THAT ARE FINANCED THROUGH TAX-EXEMPT BOND ISSUANCE. AN APPROVED AMOUNT APPLIES AGAINST THE DOLLAR LIMIT FOR THE YEAR IN WHICH THE APPLICATION IS SUBMITTED. IF, AT THE END OF ANY YEAR, AN UNUSED BALANCE OCCURS UNDER THE DOLLAR LIMIT PRESCRIBED BY THIS SUBSECTION, THE BALANCE SHALL BE REALLOCATED FOR THE PURPOSES OF THIS SUBSECTION IN THE FOLLOWING YEAR.

E. ANY TAXPAYER THAT OWNS AN INTEREST IN AN INVESTMENT IN A QUALIFIED PROJECT AND THAT RECEIVES AN ELIGIBILITY STATEMENT FROM THE DEPARTMENT IS ALLOWED A TAX CREDIT UNDER THIS SECTION FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2019. THE TAXPAYER SHALL APPLY THE CREDIT AGAINST THE TAXPAYER'S INSURANCE PREMIUM OR INCOME TAX LIABILITY AS PROVIDED AND SUBJECT TO THE PROCEDURES, TERMS AND CONDITIONS PRESCRIBED BY SECTION 20-224.04, 43-1075 OR 43-1163, AS APPLICABLE.

F. A QUALIFIED PROJECT THAT IS APPROVED FOR THE PURPOSES OF THE CREDIT UNDER THIS SECTION IS NOT ELIGIBLE FOR ANY ABATEMENT, EXEMPTION OR OTHER REDUCTION IN STATE OR LOCAL AD VALOREM PROPERTY TAXES OTHERWISE ALLOWED BY STATUTE.

G. THE ARIZONA DEPARTMENT OF HOUSING, WITH THE COOPERATION OF THE DEPARTMENT OF INSURANCE AND THE DEPARTMENT OF REVENUE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO ADMINISTER THIS SECTION, INCLUDING CRITERIA ON WHICH ELIGIBILITY STATEMENTS ARE ISSUED UNDER THIS SECTION.

H. FOR THE PURPOSES OF THIS SECTION:

1. "INTERNAL REVENUE CODE" HAS THE SAME MEANING PRESCRIBED BY SECTION 43-105.

2. "QUALIFIED PROJECT" MEANS A QUALIFIED LOW-INCOME BUILDING AS DEFINED IN SECTION 42(c)(2) OF THE INTERNAL REVENUE CODE.

3. "TAXPAYER" MEANS A PERSON, FIRM OR CORPORATION THAT IS SUBJECT TO TAXATION UNDER TITLE 20 OR UNDER TITLE 43, CHAPTER 10 OR 11.

Sec. 3. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule

The joint legislative income tax credit review committee shall review the following income tax credits:

1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02, 43-1083, 43-1083.02, 43-1164.03 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, 43-1169 and 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

5. For years ending in 4 and 9, sections 43-1075, 43-1076, 43-1081.01, 43-1083.04, 43-1084, 43-1162, 43-1163, 43-1164.05, 43-1170.01 and 43-1184 and, beginning in 2019, sections 43-1083.03 and 43-1164.04.

Sec. 4. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1075, to read:

43-1075. Affordable housing tax credit

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR TAXPAYERS WHO APPLY TO THE ARIZONA DEPARTMENT OF HOUSING AND RECEIVE AN ELIGIBILITY STATEMENT FOR A QUALIFIED PROJECT PURSUANT TO SECTION 41-3954. THE AMOUNT OF THE CREDIT:

1. IS EQUAL TO THE AMOUNT OF THE FEDERAL LOW-INCOME HOUSING CREDIT FOR THE QUALIFIED PROJECT.

2. ON NOTICE TO THE DEPARTMENT OF REVENUE, MAY BE ALLOCATED AMONG THE PARTNERS, MEMBERS OR SHAREHOLDERS, AS THEY MAY AGREE AMONG THEMSELVES. THE TOTAL OF THE ALLOCATED CREDITS AMONG ALL SUCH PARTICIPANTS MAY NOT EXCEED THE AMOUNT OF THE CREDIT APPROVED BY THE ARIZONA DEPARTMENT OF HOUSING.

B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST SUBMIT THE ELIGIBILITY STATEMENT PROVIDED BY THE ARIZONA DEPARTMENT OF HOUSING UNDER SECTION 41-3954 TO THE DEPARTMENT OF REVENUE WITH THE TAXPAYER'S INCOME TAX RETURN. A CREDIT UNDER THIS SECTION IS NOT ALLOWED UNTIL THE TAXPAYER FURNISHES THE REQUIRED DOCUMENTATION.

C. IF THE AMOUNT OF THE CREDIT FOR A TAXABLE YEAR EXCEEDS THE AMOUNT OF TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

D. IF ALL OR PART OF THE FEDERAL LOW-INCOME HOUSING TAX CREDIT WITH RESPECT TO THE QUALIFIED PROJECT IS SUBJECT TO RECAPTURE UNDER SECTION 42 OF THE INTERNAL REVENUE CODE DURING THE FIRST TEN TAXABLE YEARS AFTER THE PROJECT IS PLACED IN SERVICE, THE CREDIT UNDER THIS SECTION IS ALSO SUBJECT TO RECAPTURE IN A PROPORTIONAL AMOUNT FROM ALL TAXPAYERS WHO CLAIMED THE CREDIT. THE RECAPTURE IS CALCULATED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE FOLLOWING YEAR BY THE AMOUNT RECAPTURED.

E. THE DEPARTMENT OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT OF INSURANCE AND THE ARIZONA DEPARTMENT OF HOUSING, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO ADMINISTER THIS SECTION.

Sec. 5. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 43-1163, to read:

43-1163. Affordable housing tax credit

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR TAXPAYERS THAT APPLY TO THE ARIZONA DEPARTMENT OF HOUSING AND RECEIVE AN ELIGIBILITY STATEMENT FOR A QUALIFIED PROJECT PURSUANT TO SECTION 41-3954. THE AMOUNT OF THE CREDIT:

1. IS EQUAL TO THE AMOUNT OF THE FEDERAL LOW-INCOME HOUSING CREDIT FOR THE QUALIFIED PROJECT.

2. ON NOTICE TO THE DEPARTMENT OF REVENUE, MAY BE ALLOCATED AMONG THE PARTNERS, MEMBERS OR SHAREHOLDERS, AS THEY MAY AGREE AMONG THEMSELVES. THE TOTAL OF THE ALLOCATED CREDITS AMONG ALL SUCH PARTICIPANTS MAY NOT EXCEED THE AMOUNT OF THE CREDIT APPROVED BY THE ARIZONA DEPARTMENT OF HOUSING.

B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST SUBMIT THE ELIGIBILITY STATEMENT PROVIDED BY THE ARIZONA DEPARTMENT OF HOUSING UNDER SECTION 41-3954 TO THE DEPARTMENT OF REVENUE WITH THE TAXPAYER'S INCOME TAX RETURN. A CREDIT UNDER THIS SECTION IS NOT ALLOWED UNTIL THE TAXPAYER FURNISHES THE REQUIRED DOCUMENTATION.

C. IF THE AMOUNT OF THE CREDIT FOR A TAXABLE YEAR EXCEEDS THE AMOUNT OF TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

D. IF ALL OR PART OF THE FEDERAL LOW-INCOME HOUSING TAX CREDIT WITH RESPECT TO THE QUALIFIED PROJECT IS SUBJECT TO RECAPTURE UNDER SECTION 42 OF THE INTERNAL REVENUE CODE DURING THE FIRST TEN TAXABLE YEARS AFTER THE PROJECT IS PLACED IN SERVICE, THE CREDIT UNDER THIS SECTION IS ALSO SUBJECT TO RECAPTURE IN A PROPORTIONAL AMOUNT FROM ALL TAXPAYERS THAT CLAIMED THE CREDIT. THE RECAPTURE IS CALCULATED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE FOLLOWING YEAR BY THE AMOUNT RECAPTURED.

E. THE DEPARTMENT OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT OF INSURANCE AND THE ARIZONA DEPARTMENT OF HOUSING, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO ADMINISTER THIS SECTION.

Sec. 6. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the legislature enacts sections 43-1075 and 43-1163, Arizona Revised Statutes, as added by this act, to support the construction of new affordable housing projects in this state.

Sec. 7. Effective date

This act is effective from and after December 31, 2019.