

Senate File 373 - Introduced

SENATE FILE 373

BY LOFGREN

A BILL FOR

1 An Act creating a homeownership development tax credit
2 available for charitable contributions to certain low-income
3 housing developers in this state, and including retroactive
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 15E.152 Short title.

2 This subchapter shall be known and may be cited as the
3 "*Homeownership Development Tax Credit Act*".

4 Sec. 2. NEW SECTION. 15E.153 Purpose.

5 The purpose of this subchapter is to increase the
6 availability of affordable housing in this state by encouraging
7 taxpayers to make charitable contributions to certain nonprofit
8 housing developers that create affordable single-family housing
9 to be sold to low-income households in this state.

10 Sec. 3. NEW SECTION. 15E.154 Definitions.

11 As used in this subchapter, unless the context otherwise
12 requires:

13 1. "*Department*" means the department of revenue.

14 2. "*Eligible housing developer*" means an organization
15 meeting the requirements of section 15E.155, subsection 2, and
16 certified as an eligible housing developer by the authority
17 pursuant to that section.

18 3. "*Eligible rural housing developer*" means an organization
19 meeting the requirements of section 15E.155, subsection 3,
20 and certified as an eligible rural housing developer by the
21 authority pursuant to that section.

22 4. "*Low-income household*" means a household with income
23 of eighty percent or less of the area median family income by
24 county as determined by the United States department of housing
25 and urban development.

26 Sec. 4. NEW SECTION. 15E.155 Developer certification.

27 1. *Application.* An organization may apply to the authority
28 in the manner prescribed by the authority to be certified as
29 an eligible housing developer or an eligible rural housing
30 developer.

31 2. *Eligible housing developer.* In order to be certified as
32 an eligible housing developer, an organization must meet the
33 requirements of paragraph "a" or "b":

34 a. (1) The organization is organized under chapter 504 and
35 qualifying under section 501(c)(3) of the Internal Revenue Code

1 as an organization exempt from federal income tax under section
2 501(a) of the Internal Revenue Code.

3 (2) The organization has, for a minimum of three years prior
4 to the time of the application, been developing single-family
5 housing in this state to be sold to low-income households.

6 (3) The bylaws, articles, or other document relating to the
7 establishment of the organization provide that a purpose of the
8 organization is to develop affordable housing in this state to
9 be sold to low-income households.

10 (4) The organization agrees to provide to the authority
11 information reasonably required by the authority in order to
12 verify the receipt, donor identity, value, and eligibility for
13 the tax credit of contributions received by the organization.

14 *b.* (1) The organization is organized under chapter 504 and
15 qualifying under section 501(c)(3) of the Internal Revenue Code
16 as an organization exempt from federal income tax under section
17 501(a) of the Internal Revenue Code.

18 (2) A purpose of the organization is to serve or support
19 an organization certified as an eligible housing developer
20 pursuant to paragraph "a" of this subsection.

21 (3) The organization accepts contributions on behalf of
22 an organization certified as an eligible housing developer
23 pursuant to paragraph "a" of this subsection, and redistributes
24 any and all such contributions to that organization.

25 (4) The organization agrees to provide to the authority
26 information reasonably required by the authority in order to
27 verify the receipt, donor identity, value, and eligibility for
28 the tax credit of contributions received by the organization.

29 *3. Eligible rural housing developer.* In order to be
30 certified as an eligible rural housing developer, an
31 organization must meet the requirements of paragraph "a" or "b":

32 *a.* The organization meets the requirements of subsection
33 2, paragraph "a", and for the three years preceding the
34 application, the organization has conducted at least fifty-one
35 percent of its housing development activities in Iowa counties

1 with a population of fewer than fifty thousand as determined by
2 the most recent federal decennial census.

3 *b.* (1) The organization is organized under chapter 504 and
4 qualifying under section 501(c)(3) of the Internal Revenue Code
5 as an organization exempt from federal income tax under section
6 501(a) of the Internal Revenue Code.

7 (2) A purpose of the organization is to serve or support an
8 organization certified as an eligible rural housing developer
9 pursuant to paragraph "a" of this subsection.

10 (3) The organization accepts contributions on behalf of an
11 organization certified as an eligible rural housing developer
12 pursuant to paragraph "a" of this subsection, and redistributes
13 any and all such contributions to that organization.

14 (4) The organization agrees to provide to the authority
15 information reasonably required by the authority in order to
16 verify the receipt, donor identity, value, and eligibility for
17 the tax credit of contributions received by the organization.

18 4. *Length of certification and recertification.* Unless
19 certification is revoked pursuant to subsection 5, a
20 certification received pursuant to this section shall be valid
21 for a period of three years, at which time the organization
22 may apply to the authority in the manner prescribed by the
23 authority to become recertified as an eligible housing
24 developer or eligible rural housing developer pursuant to this
25 section.

26 5. *Revocation of certification.* An organization shall
27 notify the authority in a timely manner of any changes that
28 affect the organization's ability to qualify as an eligible
29 housing developer or eligible rural housing developer. The
30 authority shall revoke the certification of an organization
31 certified as an eligible housing developer or eligible rural
32 housing developer if that organization subsequently fails to
33 meet the requirements of subsection 2 or 3, as applicable.
34 The revocation of a certification under this subsection shall
35 not prohibit an organization from subsequently applying to be

1 certified as an eligible housing developer or eligible rural
2 housing developer under this section.

3 Sec. 5. NEW SECTION. 15E.156 Tax credit application —
4 maximum tax credits.

5 1. *Application.*

6 a. To receive a tax credit under section 15E.157, a taxpayer
7 must submit an application in the manner and form prescribed
8 by the authority on or after the date of the charitable
9 contribution to the eligible housing developer or eligible
10 rural housing developer for which a tax credit is sought. The
11 eligible housing developer or eligible rural housing developer
12 shall forward the application to the authority.

13 b. The authority shall issue tax credits and related tax
14 credit certificates on a first-come, first-served basis in
15 the order applications are received from eligible housing
16 developers and eligible rural housing developers until the
17 maximum amount of tax credits authorized pursuant to subsection
18 2 is reached. If for a calendar year the maximum amount
19 of tax credits applied for exceeds the amount specified in
20 subsection 2, the authority shall establish a wait list for
21 tax credits. Valid applications received but not approved
22 by the authority shall be placed on a wait list in the order
23 the applications were received by the authority and those
24 applicants shall be given priority for receiving tax credits in
25 succeeding calendar years. Placement on a wait list pursuant
26 to this paragraph shall not constitute a promise binding the
27 state. The availability of a tax credit and approval of a tax
28 credit application pursuant to this section in a future year
29 is contingent upon the availability of tax credits in that
30 particular year.

31 2. *Maximum tax credit amounts.*

32 a. The aggregate amount of tax credits issued pursuant to
33 this section shall not exceed a total of seven million dollars
34 per calendar year.

35 b. Twenty percent of the aggregate amount of tax credits

1 issued in a calendar year shall be reserved for charitable
2 contributions to an eligible rural housing developer.

3 *c.* (1) Except as provided in subparagraph (2), the maximum
4 amount of tax credits issued to any one taxpayer for charitable
5 contributions in a tax year shall not exceed two hundred fifty
6 thousand dollars.

7 (2) The maximum amount of tax credits issued to any one
8 taxpayer for charitable contributions in a tax year shall
9 not exceed three hundred thousand dollars if at least twenty
10 percent of the taxpayer's total charitable contributions made
11 during the tax year that are eligible for the tax credit in
12 section 15E.157 are to one or more eligible rural housing
13 developers.

14 **Sec. 6. NEW SECTION. 15E.157 Homeownership development tax**
15 **credit.**

16 1. *a.* A tax credit shall be allowed against the taxes
17 imposed in chapter 422, subchapters II, III, and V, and in
18 chapter 432, and against the moneys and credits tax imposed in
19 section 533.329, equal to fifty percent of the amount of the
20 voluntary cash or noncash charitable contributions made by a
21 taxpayer during the tax year to an eligible housing developer
22 or eligible rural housing developer.

23 *b.* The charitable contribution must equal or exceed five
24 hundred dollars in order to qualify for the tax credit.
25 However, an eligible housing developer or eligible rural
26 housing developer may set a higher minimum qualifying amount
27 pursuant to rules prescribed by the authority.

28 2. The tax credit shall be claimed for the tax year during
29 which the taxpayer was issued the tax credit.

30 3. An individual may claim a tax credit under this section
31 of a partnership, limited liability company, S corporation,
32 estate, or trust electing to have income taxed directly to
33 the individual. The amount claimed by the individual shall
34 be based upon the pro rata share of the individual's earnings
35 from the partnership, limited liability company, S corporation,

1 estate, or trust.

2 4. Any tax credit in excess of the taxpayer's tax liability
3 for the tax year may be credited to the tax liability for the
4 following five years or until depleted, whichever occurs first.
5 A tax credit shall not be carried back to a tax year prior to
6 the tax year in which the taxpayer claims the tax credit.

7 5. a. To claim a tax credit under this section, a taxpayer
8 shall include one or more tax credit certificates with the
9 taxpayer's tax return.

10 b. The tax credit certificate shall contain the taxpayer's
11 name, address, tax identification number, the amount of the
12 credit, and any other information required by the department.

13 c. The tax credit certificate, unless rescinded by the
14 authority, shall be accepted by the department as payment for
15 taxes imposed pursuant to chapter 422, subchapters II, III,
16 and V, and in chapter 432, and against the moneys and credits
17 tax imposed in section 533.329, subject to any conditions or
18 restrictions placed by the authority upon the face of the tax
19 credit certificate and subject to the limitations of this
20 subchapter.

21 d. Tax credit certificates issued pursuant to this
22 subchapter shall not be transferred to any other person.

23 6. The amount of the charitable contribution for which the
24 tax credit is claimed shall not be deductible in determining
25 taxable income for state income tax purposes.

26 Sec. 7. NEW SECTION. 15E.158 Reports to general assembly.

27 The authority shall publish an annual report of the
28 activities conducted pursuant to this subchapter and shall
29 submit the report to the governor and the general assembly.
30 The report shall include a listing of certified eligible
31 housing developers and certified eligible rural housing
32 developers, the number of tax credit certificates and the
33 amount of tax credits issued by the authority, and the number
34 of taxpayers and the amount of tax applications on the tax
35 credit wait list, if any.

1 Sec. 8. NEW SECTION. **15E.159 Rules.**

2 The authority and the department shall each adopt rules
3 pursuant to chapter 17A as necessary for the implementation of
4 this subchapter.

5 Sec. 9. NEW SECTION. **422.120 Homeownership development tax**
6 **credit.**

7 The taxes imposed under this subchapter, less the
8 credits allowed under section 422.12, shall be reduced by a
9 homeownership development tax credit allowed under section
10 15E.157.

11 Sec. 10. Section 422.33, Code 2021, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 23. The taxes imposed under this subchapter
14 shall be reduced by a homeownership development tax credit
15 allowed under section 15E.157.

16 Sec. 11. Section 422.60, Code 2021, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 14. The taxes imposed under this subchapter
19 shall be reduced by a homeownership development tax credit
20 allowed under section 15E.157.

21 Sec. 12. NEW SECTION. **432.120 Homeownership development**
22 **tax credit.**

23 The taxes imposed under this chapter shall be reduced by
24 a homeownership development tax credit allowed under section
25 15E.157.

26 Sec. 13. Section 533.329, subsection 2, Code 2021, is
27 amended by adding the following new paragraph:

28 NEW PARAGRAPH. 1. The moneys and credits tax imposed under
29 this section shall be reduced by a homeownership development
30 tax credit allowed under section 15E.157.

31 Sec. 14. **RETROACTIVE APPLICABILITY.** This Act applies to tax
32 years beginning on or after January 1, 2021.

33 Sec. 15. **RETROACTIVE APPLICABILITY.** This Act applies
34 retroactively to January 1, 2021, to charitable contributions
35 to eligible housing developers and eligible rural housing

1 developers made on or after January 1, 2021.

2

EXPLANATION

3

The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5

This bill creates a homeownership development tax credit
6 that will be administered by the economic development authority
7 (EDA) and that will provide tax credits to taxpayers who make
8 charitable contributions to eligible housing developers or
9 eligible rural housing developers in this state.

10

An "eligible housing developer" is defined in the bill to
11 include an Iowa nonprofit, tax-exempt organization that has
12 been developing single-family housing for at least three years
13 in this state to be sold to low-income households, as defined
14 in the bill, that includes the development of such housing in
15 this state for low-income households as a purpose in its bylaws
16 or other organizational documents, and that agrees to provide
17 EDA with certain information in order to properly verify
18 charitable contributions. An "eligible housing developer"
19 also includes an Iowa nonprofit, tax-exempt organization whose
20 purpose is to support an organization described above and who
21 redistributes any charitable contributions received on behalf
22 of that eligible housing developer to the developer.

23

An "eligible rural housing developer" is defined in the
24 bill to include an Iowa nonprofit, tax-exempt organization
25 that meets the requirements of an eligible housing developer
26 described above but that additionally has conducted for the
27 last three years at least 51 percent of its housing development
28 activities in Iowa counties with a population of fewer than
29 50,000 as determined by the most recent federal decennial
30 census.

31

An organization must apply to EDA to be certified as an
32 eligible housing developer or an eligible rural housing
33 developer. A certification by EDA will last for a period of
34 three years, at which time an eligible housing developer or
35 eligible rural housing developer may apply to be recertified.

1 Failure to meet the requirements specified above may cause the
2 organization to lose its certification as an eligible housing
3 developer or eligible rural housing developer, but the loss
4 of such certification does not prohibit an organization from
5 subsequently reapplying to EDA for certification.

6 In order to receive a tax credit for a charitable
7 contribution to an eligible housing developer or eligible rural
8 housing developer, a taxpayer is required to apply to the
9 developer in the manner and form prescribed by EDA on or after
10 the date the charitable contribution is made. The developer is
11 then required to forward the application to EDA.

12 The tax credit equals 50 percent of the amount of the cash or
13 noncash charitable contribution made to the eligible housing
14 developer or eligible rural housing developer during the tax
15 year. The minimum amount of charitable contribution that may
16 qualify for the tax credit is \$500, but each eligible housing
17 developer or eligible rural housing developer is allowed to
18 set a higher minimum contribution amount. The bill provides
19 that EDA shall not issue more than \$7 million in tax credits
20 per calendar year. Of that \$7 million maximum aggregate
21 amount, 20 percent (\$1.4 million) of the tax credits shall
22 be reserved for charitable contributions to eligible rural
23 housing developers. The maximum amount of tax credits that
24 may be issued per taxpayer for charitable contributions in a
25 tax year is \$250,000, or \$300,000 if at least 20 percent of
26 the taxpayer's total charitable contributions to the eligible
27 housing development organizations during the tax year were to
28 one or more eligible rural housing developers.

29 The tax credit may be claimed against the individual income
30 tax, the corporate income tax, the franchise tax, the insurance
31 companies tax, and the moneys and credits tax. To claim a tax
32 credit, a taxpayer must include a tax credit certificate with
33 the taxpayer's tax return. The tax credit is nonrefundable
34 and nontransferable, but any excess may be carried forward for
35 five tax years. The amount of the charitable contribution for

1 which the tax credit is claimed shall not be deductible in
2 determining taxable income for state tax purposes.

3 EDA is required to issue tax credits on a first-come,
4 first-served basis until the maximum amount of \$7 million
5 per calendar year is reached. If the amount of tax credit
6 applications exceeds \$7 million in a calendar year, EDA
7 is required to establish a wait list and give priority in
8 subsequent years to applications on the wait list.

9 The bill requires EDA and the department of revenue to
10 adopt rules as necessary for the implementation of the bill,
11 and requires EDA to publish and submit annual reports to
12 the governor and general assembly containing information as
13 described in the bill.

14 The bill applies retroactively to tax years beginning on or
15 after January 1, 2021, and applies retroactively to charitable
16 contributions to eligible housing developers and eligible rural
17 housing developers on or after that date.