

VERMONT STATUTES ANNOTATED
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*** Statutes current through the 2013 Session ***

TITLE THIRTY-TWO. TAXATION AND FINANCE
SUBTITLE 2. TAXATION
PART 3. INCOME AND FRANCHISE TAXES
CHAPTER 151. INCOME TAXES
SUBCHAPTER 11I. AFFORDABLE HOUSING TAX CREDIT

32 V.S.A. § 5930u (2013)

§ 5930u. Tax credit for affordable housing

(a) As used in this section:

(1) "Affordable housing project" or "project" means a rental housing project identified in 26 U.S.C. § 42(g) or owner-occupied housing identified in 26 U.S.C. § 143(e) and (f) and eligible under the Vermont Housing Finance Agency allocation plan criteria.

(2) "Affordable housing tax credits" means the tax credit provided by this subchapter.

(3) "Allocating agency" means the Vermont Housing Finance Agency.

(4) "Committee" means the Joint Committee on Tax Credits consisting of five members; a representative from the Department of Housing and Community Affairs, the Vermont Housing and Conservation Board, the Vermont Housing Finance Agency, the Vermont State Housing Authority, and the Office of the Governor.

(5) "Credit certificate" means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer's individual or corporate income tax or franchise or insurance premium tax liability as provided in this subchapter.

(6) "Eligible applicant" means any municipality, private sector developer, department of state government as defined in 10 V.S.A. § 6302(a), nonprofit organization qualifying under 26 U.S.C. § 501(c)(3), or cooperative housing organization, the purpose of which is the creation and retention of affordable housing for lower income Vermonters, and the bylaws that require that housing to be maintained as affordable housing for lower income Vermonters on a perpetual basis.

(7) "Eligible cash contribution" means an amount of cash contributed to the owner,

developer, or sponsor of an affordable housing project and determined by the allocating agency as eligible for affordable housing tax credits.

(8) "Section 42 credits" means tax credit provided by 26 U.S.C. §§ 38 and 42.

(9) "Allocation plan" means the plan recommended by the Committee and approved by the Vermont Housing Finance Agency, which sets forth the eligibility requirements and process for selection of eligible housing projects to receive affordable housing tax credits under this section. The allocation plan shall include requirements for creation and retention of affordable housing for low income persons, and requirements to ensure that eligible housing is maintained as affordable by subsidy covenant, as defined in 27 V.S.A. § 610 on a perpetual basis, and meets all other requirements of the Vermont Housing Finance Agency related to affordable housing.

(b) (1) Affordable housing credit allocation. -- An eligible applicant may apply to the allocating agency for an allocation of affordable housing tax credits under this section related to an affordable housing project authorized by the allocating agency under the allocation plan. In the case of a specific affordable rental housing project, the eligible applicant must also be the owner or a person having the right to acquire ownership of the building and must apply prior to placement of the affordable housing project in service. In the case of owner-occupied housing units, the applicant must apply prior to purchase of the unit and must ensure that the allocated funds will be used to ensure that the housing qualifies as affordable for all future owners of the housing. The allocating agency shall issue a letter of approval if it finds that the applicant meets the priorities, criteria, and other provisions of subdivision (2) of this subsection. The burden of proof shall be on the applicant.

(2) Upon receipt of a completed application, an allocation of affordable housing tax credits with respect to a project under this section shall be granted to an applicant, provided the applicant demonstrates to the satisfaction of the committee all of the following:

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

(B) The project has received community support.

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

(d) Availability of credit. -- The amount of affordable housing tax credit allocated with respect to a project shall be available to the taxpayer every year for five consecutive tax

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

(e) Claim for credit. -- A taxpayer claiming affordable housing tax credits shall submit with each return on which such credit is claimed a copy of the allocating agency's credit allocation to the affordable housing project and the taxpayer's credit certificate. Any unused affordable housing tax credit may be carried forward to reduce the taxpayer's tax liability for no more than 14 succeeding tax years, following the first year the affordable housing tax credit is allowed.

(f) [Deleted.]

(g) In any fiscal year, the allocating agency may award up to \$ 400,000.00 in total first-year credit allocations to all applicants for rental housing projects; and may award up to \$ 300,000.00 per year for owner-occupied unit applicants. In any fiscal year, total first-year allocations plus succeeding-year deemed allocations shall not exceed \$ 3,500,000.00.