



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature  
First Regular Session

House: APPROP DP 12-1-0-0

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**[HB 2562](#): tax credit; affordable housing.**  
**Sponsor: Representative Cobb, LD 5**  
**House Engrossed**

## **Overview**

Establishes an affordable housing tax credit (tax credit) against insurance premium taxes and income taxes. Requires the Arizona Department of Housing (ADOH) to issue \$8,000,000 in tax credits in any calendar year. Repeals added statutes related to the tax credit program on January 1, 2029.

## **History**

Through the Low-Income Housing Tax Credit (LIHTC) program, the state awards federal tax credits to developers of qualified affordable rental housing. When the qualified housing project becomes available to low and moderate-income residents, investors who purchase tax credits from the developer can claim the tax credit over 10 years to reduce tax liability. Credits are awarded by the state's housing finance agency to developers according to the state's priorities and award criteria contained in the state's Qualified Allocation Plan (QAP).

The Arizona Department of Housing (ADOH) is the state's housing finance agency. Among other duties, the Department of Insurance and Financial Institutions (DIFI) collects insurance premium tax while the Department of Revenue collects corporate and individual income taxes.

Current statute allows properties that are used exclusively for affordable housing projects owned and operated by a corporation that is qualified pursuant to 501(c)(3) or 501(c)(4) of the internal revenue code or is an eligible nonprofit corporation or single purpose entity, exemption from taxes. (A.R.S. § 42-11133)

## **Provisions**

### ***Establishment and Initial Allocation of Tax Credit (ADOH)***

1. Establishes the affordable housing tax credit to be administered by ADOH. (Sec. 2)
2. Requires ADOH to allocate affordable housing tax credits on application for projects in this state that qualify for the federal low-income housing tax credit and that are placed into service by July 1, 2022. (Sec. 2)
3. Requires that the tax credit be in an amount equal to at least 50% of the amount of the federal tax credit allowed in each taxable year during the federal tax credit period. (Sec. 2)
4. Directs ADOH to allocate the tax credits according to the adopted Qualified Allocation Plan (QAP). (Sec. 2)
5. Requires ADOH to prescribe forms, procedures and criteria for applying, evaluating and qualifying for the tax credit. (Sec. 2)
6. Requires ADOH to issue an eligibility statement for each qualified project that identifies the project, the allocation year and the amounts of the tax credit allocated to the project. (Sec. 2)
7. Requires ADOH to issue \$8,000,000 of tax credits in any calendar year. (Sec. 2)

8. Specifies that an approved tax credit amount applies against the dollar limit for the year in which the application is submitted and that an unused balance under the dollar limit for the tax credit amount is reallocated in the following year. (Sec. 2)
9. Allows a tax credit beginning January 1, 2022 for any taxpayer that owns an interest in a qualified project that receives an eligibility statement if the taxpayer acquires the interest before filing a tax return claiming the tax credit. (Sec. 2)
10. Directs the taxpayer to apply the tax credit against their insurance premium tax or income tax liability as provided and subject to the procedures, terms and conditions prescribed, as applicable. (Sec. 2)
11. Requires ADOH, with the cooperation of Department Insurance and Financial Institutions (DIFI) and Department of Revenue (DOR), to adopt rules and publish and prescribe forms and procedures as necessary to administer the tax credits, including criteria on which eligibility statements are issued. (Sec. 2)
12. Requires ADOH to implement and administer the tax credit program for Arizona's 2022 and future QAPs authorized by this act. (Sec. 8)
13. Repeals added statutes related to the tax credit program on January 1, 2029 and stipulates that the repeal of the tax credit program does not limit or impair the issuance or a taxpayer's ability to redeem tax credits that receive a reservation from ADOH prior to December 31, 2028. (Sec. 7)

***Claiming the Tax Credit (DIFI and DOR)***

14. Allows a tax credit against insurance premium tax, individual or corporate income taxes if ADOH issues an eligibility statement for a qualified project. (Sec. 1, 5 and 6)
15. Sets the amount of the tax credit to at least 50% of the amount of the federal low-income housing tax credit for the qualified project;
  - a) Allows the partners, members or shareholders to allocate the tax credit as they may agree among themselves, regardless of the size of such participant's ownership interest;
  - b) Prohibits the total of the allocated tax credits among such participants from exceeding the amount of the tax credit approved by the ADOH; and
  - c) Clarifies that this paragraph does not prohibit and partner, member or shareholder from holding an investment exclusively in either state or federal tax credits allocated to the qualified project. (Sec. 1, 5 and 6)
16. Requires the taxpayer to submit the eligibility statement to the DIFI or the DOR along with the taxpayer's premium or income tax return, respectively, in order to claim the tax credit. (Sec. 1, 5 and 6)
17. Prohibits a taxpayer from receiving a tax credit until the taxpayer furnishes the required documentation. (Sec. 1, 5 and 6)
18. Allows the unused claim amount to be carried forward for not more than five consecutive years if the amount of the tax credit exceeds the taxpayer's state premium tax liability or income taxes due. (Sec. 1, 5 and 6)

***Affordable Housing Tax Credit Review Committee***

19. Adds the tax credit to the income tax credit review schedule for years ending in one and six. (Sec. 3)
20. Establishes the Affordable Housing Tax Credit Review Committee (Committee) consisting of:

<input type="checkbox"/> Prop 105 (45 votes) <input type="checkbox"/> Prop 108 (40 votes) <input type="checkbox"/> Emergency (40 votes) <input type="checkbox"/> Fiscal Note
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- a) Three members appointed by the Governor, not more than two who are members of the same political party;
  - b) Three members appointed by the President of the Senate, not more than two who are members of the same political party; and
  - c) Three members appointed by the Speaker of the House of Representatives, not more than two who are members of the same political party. (Sec. 4)
21. Stipulates that Committee members serve at the pleasure of the person who made the appointment. (Sec. 4)
22. Specifies that Committee members are not eligible to receive for compensation but are eligible for per diem. (Sec. 4)
23. Requires the Committee to review the following items relating to the affordable housing tax credits on the fifth year after the effective date of the tax credit and every five years thereafter:
- a) The history, rationale and estimated impact of the tax credit;
  - b) Whether the corporate tax credits have provided a benefit to this state, including measurable economic development, new investments and creation of new jobs or retention of existing jobs in this state;
  - c) Whether the tax credit is unnecessarily complex in the application, administration and approval process;
  - d) The number of housing units generated as a result of the tax credit; and
  - e) The average income of residents offered housing units. (Sec. 4)
24. Requires the Committee to report its findings to the President of the Senate, Speaker of the House and Governor and provide a copy of the report to the Secretary of State by December 15<sup>th</sup> of the year the Committee reviews the tax credit. (Sec. 4)
25. Sunsets the Committee on July 1, 2029. (Sec. 4)

***Other Requirements, Allowances, Exclusions and Specifications***

26. Subjects the tax credit to recapture in a proportional amount from all taxpayers claiming the tax credit if all or part of the federal low-income housing tax credit for the project becomes subject to recapture during the first ten taxable years after the project is placed in service. (Sec. 1, 5 and 6)
27. Stipulates that the recapture is calculated by increasing the amount of taxes imposed in the following year by the amount recaptured. (Sec. 1, 5 and 6)
28. Exempts a taxpayer from additional retaliatory tax as a result of claiming the premium tax credit. (Sec. 1)
29. Permits a tax credit for insurance premium tax to fully offset any retaliatory tax. (Sec. 1)
30. Excludes a qualified project that is approved for the tax credit from abatement, exemption or reduction in state or local ad valorem property taxes otherwise allowed by state law. (Sec. 2)
31. Requires ADOH to hold a public hearing by July 30<sup>th</sup> of each year to solicit and accept public comments relating to the amount of the tax credit to be used for projects that are financed through tax-exempt bond issuance and other affordable housing tax credit issues. (Sec. 2)
32. Requires ADOH to post a copy of comments submitted during the public hearing on the department's website by September 15<sup>th</sup> of the same year in which the public hearing is held. (Sec. 2)
33. Stipulates that the repeal of the tax credit program on January 1, 2029 does not affect any act done or right accruing or accrued, or any suit or proceeding had or commenced in any civil

action before the repeal and that all rights and liabilities under such acts continue and may be enforced in the same manner as before the repeal. (Sec 7.)

34. Contains a purpose statement. (Sec. 9)

35. Contains definitions. (Sec. 2)