

REFERENCE TITLE: affordable housing tax credits; extension.

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2576

Introduced by
Representatives Quiñonez: Dunn, Livingston, Ortiz; Senators Bennett,
Bravo, Gowan, Hernandez

AN ACT

AMENDING SECTIONS 20-224.04, 41-3954, 43-1075 AND 43-1163, ARIZONA REVISED
STATUTES; AMENDING LAWS 2021, CHAPTER 430, SECTIONS 3, 6, 8, 11, 14 AND
19; RELATING TO AFFORDABLE HOUSING TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-224.04, Arizona Revised Statutes, is amended
3 to read:

4 20-224.04. Affordable housing premium tax credit

5 A. A taxpayer is allowed a credit against the premium tax incurred
6 pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07 if the
7 Arizona department of housing issues an eligibility statement for a
8 qualified project pursuant to section 41-3954. The amount of the credit:

9 1. Is equal to ~~at least fifty percent of the amount of the federal~~
10 ~~low-income housing credit~~ **THE AMOUNT DETERMINED BY THE DEPARTMENT PURSUANT**
11 **TO SECTION 41-3954** for the qualified project.

12 2. On notice to the department of insurance and financial
13 institutions, may be allocated among the partners, members or
14 shareholders, as they may agree among themselves, regardless of the size
15 of such participant's ownership interest. The total of the allocated
16 credits among all such participants may not exceed the amount of the
17 credit approved by the Arizona department of housing. This paragraph does
18 not prohibit a partner, member or shareholder from holding an investment
19 exclusively in either the state credits or federal credits allocated to
20 the qualified project.

21 B. To claim the credit under this section, the taxpayer must submit
22 the eligibility statement provided by the Arizona department of housing
23 under section 41-3954 to the department of insurance and financial
24 institutions with the taxpayer's premium tax return. A credit under this
25 section is not allowed until the taxpayer furnishes the required
26 documentation.

27 C. If the amount of the credit under this section exceeds the
28 taxpayer's state premium tax liability, the amount of the claim not used
29 to offset the premium tax liability may be carried forward for not more
30 than five consecutive taxable years' premium tax liability.

31 D. If all or part of the federal low-income housing tax credit with
32 respect to the qualified project is subject to recapture under section 42
33 of the internal revenue code during the first ten taxable years after the
34 project is placed in service, the credit under this section is also
35 subject to recapture in a proportional amount from all taxpayers that
36 claimed the credit. The recapture is calculated by increasing the amount
37 of taxes imposed in the following year by the amount recaptured.

38 E. A taxpayer that claims a tax credit against state premium tax
39 liability is not required to pay any additional retaliatory tax imposed
40 pursuant to section 20-230 as a result of claiming that tax credit. The
41 credit may fully offset any retaliatory tax imposed by section 20-230.

42 F. The department of insurance and financial institutions, with the
43 cooperation of the department of revenue and the Arizona department of
44 housing, shall adopt rules and publish and prescribe forms and procedures
45 as necessary to administer this section.

1 Sec. 2. Section 41-3954, Arizona Revised Statutes, is amended to
2 read:

3 41-3954. Affordable housing tax credit; limit; eligibility
4 statement; rules; public hearings; annual report;
5 definitions

6 A. The affordable housing tax credit is established. The
7 department shall administer the credit as provided by this section.

8 B. On application, the department shall allocate tax credits under
9 this section for projects in this state that qualify for the federal
10 low-income housing tax credit under section 42 of the internal revenue
11 code and that are placed in service, for purposes of the federal credit,
12 from and after June 30, 2022, in an amount ~~equal to at least fifty percent~~
13 ~~of the amount of the federal credit~~ THAT THE DEPARTMENT DETERMINES IS
14 NECESSARY FOR THE ECONOMIC FEASIBILITY OF THE QUALIFIED PROJECT. THE
15 CREDIT IS allowed in each taxable year during the federal credit
16 period. The department shall allocate tax credits under this section
17 according to the department's current qualified allocation plan adopted
18 pursuant to section 42(m) of the internal revenue code.

19 C. The department shall prescribe forms, procedures and criteria
20 for applying, evaluating and qualifying for the credit under this section.
21 The department shall issue an eligibility statement for each qualified
22 project that identifies the qualified project, the allocation year and the
23 amount of the credits allocated to the project.

24 D. FOR CALENDAR YEARS 2022 THROUGH 2024, the department shall
25 allocate a total of \$4,000,000 of tax credits under this section in any
26 calendar year according to the date of the allocation of the credit. FOR
27 CALENDAR YEARS 2025 THROUGH 2031, THE DEPARTMENT SHALL ALLOCATE A TOTAL OF
28 \$8,000,000 OF TAX CREDITS UNDER THIS SECTION IN ANY CALENDAR YEAR
29 ACCORDING TO THE DATE OF THE ALLOCATION OF THE CREDIT. A CREDIT ALLOCATED
30 IN CALENDAR YEAR 2025 MAY NOT BE CLAIMED UNTIL THE FEDERAL FISCAL YEAR
31 BEGINNING OCTOBER 1, 2026. An approved amount applies against the dollar
32 limit for the year in which the application is submitted. If, at the end
33 of the calendar year, an unused balance occurs under the dollar limit
34 prescribed by this subsection, the balance shall be reallocated for the
35 purposes of this subsection in the following year.

36 E. Any taxpayer that owns an interest in an investment in a
37 qualified project that receives an eligibility statement from the
38 department is allowed a tax credit under this section for taxable years
39 beginning from and after December 31, 2021 if the taxpayer acquires the
40 interest before filing a tax return claiming the tax credit. The taxpayer
41 shall apply the credit against the taxpayer's insurance premium or income
42 tax liability as provided by and subject to the procedures, terms and
43 conditions prescribed by section 20-224.04, 43-1075 or 43-1163, as
44 applicable.

1 F. A qualified project that is approved for the purposes of the
2 credit under this section is not eligible for any abatement, exemption or
3 other reduction in state or local ad valorem property taxes otherwise
4 allowed by statute.

5 G. The Arizona department of housing, with the cooperation of the
6 department of insurance and financial institutions and the department of
7 revenue, shall adopt rules and publish and prescribe forms and procedures
8 as necessary to administer this section, including criteria on which
9 eligibility statements are issued under this section.

10 H. On or before July 30 of each year, the department shall hold a
11 public hearing to solicit and accept public comments relating to the
12 amount of the credit under this section to be used for qualified projects
13 that are financed through tax-exempt bond issuance as part of the
14 qualified allocation plan process and other affordable housing tax credit
15 issues. The department shall post a copy of all comments submitted during
16 each public hearing on the department's website before September 15 of the
17 year in which the public hearing is held.

18 I. On or before December 31 of each year, the department shall
19 submit to the president of the senate and the speaker of the house of
20 representatives a report that addresses whether the credits approved under
21 this section produced a significant number of additional affordable
22 housing units in this state and that analyzes the economic impact of the
23 credits approved under this section on this state. The department shall
24 provide a copy of this report to the secretary of state.

25 J. For the purposes of this section:

26 1. "Internal revenue code" has the same meaning prescribed by
27 section 43-105.

28 2. "Qualified project" means a qualified low-income building as
29 defined in section 42(c)(2) of the internal revenue code.

30 3. "Taxpayer" means a person, firm or corporation that is subject
31 to taxation under title 20 or under title 43, chapter 10 or 11.

32 Sec. 3. Section 43-1075, Arizona Revised Statutes, is amended to
33 read:

34 43-1075. Affordable housing tax credit

35 A. A taxpayer is allowed a credit against the taxes imposed by this
36 title if the Arizona department of housing issues an eligibility statement
37 for a qualified project pursuant to section 41-3954. The amount of the
38 credit:

39 1. Is equal to ~~at least fifty percent of the amount of the federal~~
40 ~~low-income housing credit~~ THE AMOUNT DETERMINED BY THE DEPARTMENT PURSUANT
41 TO SECTION 41-3954.

42 2. On notice to the department of revenue, may be allocated among
43 the partners, members or shareholders, as they may agree among themselves
44 regardless of the size of such participant's ownership interest. The
45 total of the allocated credits among all such participants may not exceed

1 the amount of the credit approved by the Arizona department of
2 housing. This paragraph does not prohibit a partner, member or
3 shareholder from holding an investment exclusively in either the state
4 credits or federal credits allocated to the qualified project.

5 B. To claim the credit under this section, the taxpayer must submit
6 the eligibility statement provided by the Arizona department of housing
7 under section 41-3954 to the department of revenue with the taxpayer's
8 income tax return. A credit under this section is not allowed until the
9 taxpayer furnishes the required documentation.

10 C. If the amount of the credit for a taxable year exceeds the
11 amount of taxes otherwise due under this title on the claimant's income,
12 or if there are no taxes due under this title, the taxpayer may carry the
13 amount of the claim not used to offset the taxes under this title forward
14 for not more than five consecutive taxable years' income tax liability.

15 D. If all or part of the federal low-income housing tax credit with
16 respect to the qualified project is subject to recapture under section 42
17 of the internal revenue code during the first ten taxable years after the
18 project is placed in service, the credit under this section is also
19 subject to recapture in a proportional amount from all taxpayers who
20 claimed the credit. The recapture is calculated by increasing the amount
21 of taxes imposed in the following year by the amount recaptured.

22 E. The department of revenue, with the cooperation of the
23 department of insurance and financial institutions and the Arizona
24 department of housing, shall adopt rules and publish and prescribe forms
25 and procedures as necessary to administer this section.

26 Sec. 4. Section 43-1163, Arizona Revised Statutes, is amended to
27 read:

28 43-1163. Affordable housing tax credit

29 A. A taxpayer is allowed a credit against the taxes imposed by this
30 title if the Arizona department of housing issues an eligibility statement
31 for a qualified project pursuant to section 41-3954. The amount of the
32 credit:

33 1. Is equal to ~~at least fifty percent of the amount of the federal~~
34 ~~low-income housing credit~~ THE AMOUNT DETERMINED BY THE DEPARTMENT PURSUANT
35 TO SECTION 41-3954 for the qualified project.

36 2. On notice to the department of revenue, may be allocated among
37 the partners, members or shareholders, as they may agree among themselves
38 regardless of the size of such participant's ownership interest. The
39 total of the allocated credits among all such participants may not exceed
40 the amount of the credit approved by the Arizona department of
41 housing. This paragraph does not prohibit a partner, member or
42 shareholder from holding an investment exclusively in either the state
43 credits or federal credits allocated to the qualified project.

44 B. To claim the credit under this section, the taxpayer must submit
45 the eligibility statement provided by the Arizona department of housing

1 under section 41-3954 to the department of revenue with the taxpayer's
2 income tax return. A credit under this section is not allowed until the
3 taxpayer furnishes the required documentation.

4 C. If the amount of the credit for a taxable year exceeds the
5 amount of taxes otherwise due under this title on the claimant's income,
6 or if there are no taxes due under this title, the taxpayer may carry the
7 amount of the claim not used to offset the taxes under this title forward
8 for not more than five consecutive taxable years' income tax liability.

9 D. If all or part of the federal low-income housing tax credit with
10 respect to the qualified project is subject to recapture under section 42
11 of the internal revenue code during the first ten taxable years after the
12 project is placed in service, the credit under this section is also
13 subject to recapture in a proportional amount from all taxpayers that
14 claimed the credit. The recapture is calculated by increasing the amount
15 of taxes imposed in the following year by the amount recaptured.

16 E. The department of revenue, with the cooperation of the
17 department of insurance and financial institutions and the Arizona
18 department of housing, shall adopt rules and publish and prescribe forms
19 and procedures as necessary to administer this section.

20 Sec. 5. Laws 2021, chapter 430, section 3 is amended to read:

21 Sec. 3. Delayed repeal

22 Section 20-224.04, Arizona Revised Statutes, as added by ~~this act~~
23 LAWS 2021, CHAPTER 430, SECTION 2, is repealed from and after December 31,
24 ~~2025~~ 2031.

25 Sec. 6. Laws 2021, chapter 430, section 6 is amended to read:

26 Sec. 6. Delayed repeal

27 Section 41-3954, Arizona Revised Statutes, as added by ~~this act~~ LAWS
28 2021, CHAPTER 430, SECTION 5, is repealed from and after December 31,
29 ~~2025~~ 2031.

30 Sec. 7. Laws 2021, chapter 430, section 8 is amended to read:

31 Sec. 8. Delayed repeal

32 Section 43-225, Arizona Revised Statutes, as added by ~~this act~~ LAWS
33 2021, CHAPTER 430, SECTION 7, is repealed from and after December 31,
34 ~~2025~~ 2031.

35 Sec. 8. Laws 2021, chapter 430, section 11 is amended to read:

36 Sec. 11. Delayed repeal

37 Section 43-1075, Arizona Revised Statutes, as added by ~~this act~~ LAWS
38 2021, CHAPTER 430, SECTION 10, is repealed from and after December 31,
39 ~~2025~~ 2031.

40 Sec. 9. Laws 2021, chapter 430, section 14 is amended to read:

41 Sec. 14. Delayed repeal

42 Section 43-1163, Arizona Revised Statutes, as added by ~~this act~~ LAWS
43 2021, CHAPTER 430, SECTION 13, is repealed from and after December 31,
44 ~~2025~~ 2031.

1 Sec. 10. Laws 2021, chapter 430, section 19 is amended to read:

2 Sec. 19. Saving clause

3 The repeal of sections 20-224.04, 41-3954, 43-225, 43-1075 and
4 43-1163, Arizona Revised Statutes, by ~~this act~~ LAWS 2021, CHAPTER 430,
5 does not:

6 1. Limit or impair the issuance of premium tax credits or income
7 tax credits for qualified projects that receive a reservation from the
8 Arizona department of housing pursuant to section 41-3954, Arizona Revised
9 Statutes, as added by ~~this act~~ LAWS 2021, CHAPTER 430, SECTION 5, before
10 December 31, ~~2025~~ 2031 or a taxpayer's ability to redeem such tax credits
11 in accordance with sections 20-224.04, 41-3954, 43-1075 and 43-1163,
12 Arizona Revised Statutes, as added by ~~this act~~ LAWS 2021, CHAPTER 430.

13 2. Affect any act done or right accruing or accrued or any suit or
14 proceeding had or commenced in any civil cause of action before the
15 repeal. All rights and liabilities under such acts continue and may be
16 enforced in the same manner as allowed before the repeal.