

REFERENCE TITLE: affordable housing tax credits; extension

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **SB 1689**

Introduced by  
Senators Gowan: Bravo

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.