

HOUSE BILL

58TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2027

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; CREATING THE AFFORDABLE HOUSING
REVITALIZATION INCOME TAX CREDIT UNDER THE AFFORDABLE HOUSING
TAX CREDIT ACT; ALLOWING THE NEW MEXICO MORTGAGE FINANCE
AUTHORITY TO PROVIDE INVESTMENT VOUCHERS FOR REHABILITATION
EXPENSES INCURRED IN THE PERFORMANCE OF A REVITALIZATION
PROJECT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Affordable Housing Tax
Credit Act is enacted to read:

"[NEW MATERIAL] AFFORDABLE HOUSING REVITALIZATION INCOME
TAX CREDIT.--

A. Beginning on the effective date of this section
and prior to January 1, 2038, a holder of an investment voucher
pursuant to Paragraph (2) of Subsection A of Section 7-9I-3

.234612.3

underscored material = new
[bracketed material] = delete

1 NMSA 1978 that submits the investment voucher to the department
2 may apply for, and the department may allow, a credit to be
3 used against the person's tax liability. The tax credit
4 provided by this section may be referred to as the "affordable
5 housing revitalization income tax credit".

6 B. A holder of an investment voucher issued
7 pursuant to Paragraph (2) of Subsection A of Section 7-9I-3
8 NMSA 1978 may apply all or a portion of the affordable housing
9 tax credit against the holder's modified combined tax
10 liability, personal income tax liability or corporate income
11 tax liability. The amount of tax credit shall not exceed the
12 value of a voucher issued pursuant to Paragraph (2) of
13 Subsection A of Section 7-9I-3 NMSA 1978 during the tax year in
14 which the authority certifies to the department the completion
15 of a revitalization project.

16 C. A tax credit provided by this section may be
17 sold, exchanged or otherwise transferred to another person for
18 the full value of the credit. The parties to such a
19 transaction shall notify the department of the sale, exchange
20 or transfer within ten days of the sale, exchange or transfer.

21 D. That portion of approved credit claimed by a
22 person that exceeds the person's income tax liability in the
23 taxable year in which the credit is claimed shall not be
24 refunded but may be carried forward for a maximum of five
25 consecutive taxable years.

1 E. To receive a tax credit provided by this
2 section, a person shall claim the credit on forms and in the
3 manner prescribed by the department within twelve months
4 following the calendar year in which the voucher was issued.

5 F. The credit provided by this section shall be
6 included in the tax expenditure budget pursuant to Section
7 7-1-84 NMSA 1978, including the annual aggregate cost of the
8 credit."

9 SECTION 2. Section 7-9I-2 NMSA 1978 (being Laws 2005,
10 Chapter 104, Section 18, as amended) is amended to read:

11 "7-9I-2. DEFINITIONS.--As used in the Affordable Housing
12 Tax Credit Act:

13 A. "abandoned building" means a structure or part
14 of a structure in New Mexico that had once been occupied and
15 has since been unoccupied and non-operational for income-
16 producing purposes for at least two years prior to the filing
17 of a notice of intent to rehabilitate;

18 ~~[A-]~~ B. "affordable housing project" means land
19 acquisition, construction, building acquisition, remodeling,
20 improvement, rehabilitation, conversion or weatherization for
21 residential housing that is approved by the authority and that
22 includes single-family housing or multifamily housing;

23 ~~[B-]~~ C. "authority" means the New Mexico mortgage
24 finance authority;

25 ~~[C-]~~ D. "department" means the taxation and revenue

department;

~~[D-]~~ E. "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the affordable housing tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes and governmental gross receipts taxes; ~~[and]~~

~~[E-]~~ F. "person" means an individual, a tribal government, a housing authority, a corporation, a limited liability company, a partnership, a joint venture, a syndicate, an association, ~~[or]~~ a nonprofit organization or a qualifying grantee as defined pursuant to the Affordable Housing Act;

G. "rehabilitation expenses" means capital expenditures for a revitalization project, including structural repairs, environmental remediation, site improvements, new construction related to the project, acquisition, design, engineering and permitting, but excluding costs related to personal property;

1 H. "revitalization project" means the renovation,
2 development or redevelopment of an abandoned building or a
3 vacant lot into single-family or multifamily residential
4 housing, including a revitalization project that is part of a
5 voluntary remediation program administered by the department of
6 environment;

7 I. "rural area" means, according to the most recent
8 federal decennial census, a county with a population of less
9 than fifty thousand or a municipality with a population of less
10 than twenty-five thousand; and

11 J. "vacant lot" means a parcel of land in New
12 Mexico without a structure or part of a structure that had once
13 been occupied and has since been unoccupied and non-operational
14 for income-producing purposes for at least two years prior to
15 the filing of a notice of intent to rehabilitate."

16 SECTION 3. Section 7-9I-3 NMSA 1978 (being Laws 2005,
17 Chapter 104, Section 19, as amended) is amended to read:

18 "7-9I-3. INVESTMENT VOUCHERS--ISSUANCE--TRANSFER.--

19 A. The authority may issue an investment voucher to
20 a person ~~[who]~~ that:

21 (1) has made an investment of land, buildings,
22 materials, cash or services for an affordable housing project
23 approved by the authority or for a trust fund administered by
24 the authority; or

25 (2) incurs rehabilitation expenses for a

1 revitalization project pursuant to Section 1 of this 2027 act.

2 B. The value of the voucher:

3 (1) pursuant to Paragraph (1) of Subsection A
4 of this section shall equal fifty percent of the amount of cash
5 invested or the fair market value of the land, buildings,
6 materials or services invested by that person; and

7 (2) pursuant to Paragraph (2) of Subsection A
8 of this section shall equal thirty percent of the
9 rehabilitation expenses incurred for a building or lot that has
10 been vacant for more than two years but less than five years,
11 up to a maximum of one million dollars (\$1,000,000) per person,
12 or forty percent of the rehabilitation expenses incurred for a
13 building or lot that has been vacant for five years or longer,
14 up to a maximum of two million dollars (\$2,000,000) per person;
15 provided that:

16 (a) at least eighty percent of the
17 residential housing units developed are single-family or
18 multifamily residential housing primarily for persons or
19 households in which the current annual income is at or below
20 eighty-five percent of the area median income for the
21 geographic area in which the household is located, adjusted for
22 family size, as determined by the United States department of
23 housing and urban development; and

24 (b) the rehabilitation expenses are at
25 least eighty percent but not more than one hundred twenty-five

1 percent of the rehabilitation expenses.

2 C. The authority may approve an investment voucher
3 ~~[for any affordable housing project]~~ in accordance with
4 Subsection ~~[B]~~ D of this section and in accordance with rules
5 adopted by the authority. ~~[An investment voucher that is~~
6 ~~approved for an affordable housing project shall equal fifty~~
7 ~~percent of the amount of cash invested or the fair market value~~
8 ~~of land, buildings, materials or services invested in that~~
9 ~~affordable housing project by a person upon issuance of that~~
10 ~~investment voucher.~~

11 ~~B.]~~ D. For a voucher issued pursuant to Paragraph
12 (1) of Subsection A of this section, during the calendar year:

13 (1) beginning on January 1, 2006, the
14 authority may issue or approve investment vouchers in an amount
15 that shall not exceed two hundred thousand dollars (\$200,000)
16 in aggregate value;

17 (2) beginning on January 1, 2007, the
18 authority may issue or approve investment vouchers in an amount
19 that shall not exceed five hundred thousand dollars (\$500,000)
20 in aggregate value; and

21 (3) beginning on January 1, 2008 and during
22 each subsequent calendar year, the authority may issue or
23 approve investment vouchers for each calendar year in an amount
24 that shall not exceed an aggregate value of a base rate of one
25 dollar eighty-five cents (\$1.85) adjusted annually to account

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1 for inflation, multiplied by the state population during the
2 calendar year as determined by the United States census bureau.

3 E. For a voucher issued pursuant to Paragraph (2)
4 of Subsection A of this section, the aggregate amount of
5 investment vouchers that may be issued or approved by the
6 authority in a calendar year is ten million dollars
7 (\$10,000,000); provided that no more than five million dollars
8 (\$5,000,000) in credits shall be allowed for projects developed
9 in areas that are not rural areas.

10 [~~E.~~] F. Any limitation on the issuance or approval
11 of investment vouchers for a calendar year pursuant to
12 Subsection [~~B~~] D or E of this section shall not apply to an
13 investment voucher issued by the authority during that calendar
14 year that was approved by the authority during a previous
15 calendar year.

16 [~~D.~~] G. At the beginning of each calendar year that
17 begins on or after January 1, 2009, the department shall make
18 an adjustment for inflation pursuant to Paragraph (3) of
19 Subsection [~~B~~] D of this section by multiplying the base rate
20 by a fraction, the numerator of which is the consumer price
21 index for the previous calendar year and the denominator of
22 which is the same index for the 2007 calendar year prior to the
23 calendar year for which a maximum aggregate value is determined
24 for the issuance of investment vouchers pursuant to Paragraph
25 (3) of Subsection [~~B~~] D of this section.

1 ~~[F-]~~ H. An investment voucher issued by the
2 authority shall be numbered for identification and may be sold,
3 exchanged or otherwise transferred once in whole or in part to
4 one or more persons. The parties to such a transaction shall
5 notify the department and the authority of the sale, exchange
6 or transfer within ten days of the sale, exchange or transfer.

7 ~~[F-]~~ I. The authority shall adopt rules for the
8 approval, issuance and administration of investment vouchers
9 pursuant to this section."

10 SECTION 4. Section 7-9I-4 NMSA 1978 (being Laws 2005,
11 Chapter 104, Section 20) is amended to read:

12 "7-9I-4. AFFORDABLE HOUSING PROJECT COMPLETION NOTICE.--
13 The authority shall certify to the department approval of an
14 affordable housing project or a revitalization project for
15 which an investment voucher is issued pursuant to the
16 Affordable Housing Tax Credit Act within twenty days of
17 issuance of that voucher."

18 SECTION 5. Section 7-9I-5 NMSA 1978 (being Laws 2005,
19 Chapter 104, Section 21) is amended to read:

20 "7-9I-5. AFFORDABLE HOUSING TAX CREDIT.--

21 A. The tax credit provided in this section may be
22 referred to as the "affordable housing tax credit". Except as
23 otherwise provided by the Affordable Housing Tax Credit Act, a
24 holder of an investment voucher pursuant to Paragraph (1) of
25 Subsection A of Section 7-9I-3 NMSA 1978 that submits the

1 investment voucher to the department may apply for, and the
2 department may allow, a tax credit in an amount not to exceed
3 the value of the investment voucher during the tax year in
4 which the authority certifies to the department:

5 (1) completion of a service for which an
6 investment voucher has been issued pursuant to the Affordable
7 Housing Tax Credit Act; or

8 (2) approval by the authority or completion of
9 an affordable housing project for which a land, building or
10 cash donation has been made and for which an investment voucher
11 has been issued pursuant to the Affordable Housing Tax Credit
12 Act.

13 B. A holder of an investment voucher pursuant to
14 Paragraph (1) of Subsection A of Section 7-9I-3 NMSA 1978 may
15 apply all or a portion of the affordable housing tax credit
16 against the holder's modified combined tax liability, personal
17 income tax liability or corporate income tax liability. Any
18 balance of the affordable housing tax credit claimed may be
19 carried forward for up to five years from the calendar year
20 during which the authority certifies to the department approval
21 of the affordable housing project for which the investment
22 voucher used to claim the affordable housing tax credit is
23 issued. No amount of the affordable housing tax credit may be
24 applied against a local option gross receipts tax imposed by a
25 municipality or county or against the [government] governmental

1 gross receipts tax.

2 C. Notwithstanding the provisions of Section 7-1-8
3 NMSA 1978, the department may disclose to a person the balance
4 of the affordable housing tax credit remaining with respect to
5 any investment voucher held by a person pursuant to Paragraph
6 (1) of Subsection A of Section 7-9I-3 NMSA 1978 and submitted
7 by that person."

8 SECTION 6. APPLICABILITY.--The provisions of this act
9 apply to taxable years beginning on or after January 1, 2027.

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