

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 177

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

AN ACT

RELATING TO TAXATION; CREATING A ONE-TIME SHORT-TERM REFUNDABLE  
TAX CREDIT FOR PURCHASERS OF ELIGIBLE ENERGY EFFICIENT HOMES.

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

SECTION 1. A new section of the Income Tax Act is enacted  
to read:

"[NEW MATERIAL] ENERGY EFFICIENT HOME INCOME TAX CREDIT.--

A. A taxpayer who files an individual New Mexico  
income tax return, who is not a dependent of another taxpayer  
and who is the new owner of an eligible energy efficient home  
may claim and the department may allow a credit pursuant to  
this section. The credit provided by this section may be  
referred to as the "energy efficient home income tax credit".

B. The purpose of the energy efficient home income  
tax credit is to encourage the construction of new owner-

1 occupied energy efficient residential dwellings and the  
2 purchase of foreclosed homes renovated to high energy  
3 efficiency standards.

4 C. The amount of the energy efficient home income  
5 tax credit that may be claimed shall be calculated based on the  
6 certification level achieved by the eligible energy efficient  
7 home, as indicated on the following chart:

Rating System Certification Level	Tax Credit
HERS index of 60 or less, but more than 25	\$4,000
HERS index of 25 or less, but more than 0	\$6,000
HERS index of 0 or less	\$8,000.

12 D. For purposes of determining eligibility for the  
13 energy efficient home income tax credit for a taxpayer who has  
14 purchased a renovated foreclosed home, an index other than the  
15 HERS index may be used if the index is approved by United  
16 States department of energy authorized Bestest EX software;  
17 provided that the rating determined for the renovated  
18 foreclosed home indicates that the energy efficiency increase  
19 from the renovations are the following:

Rating System Certification	Tax Credit
50% or more energy reduction, but less than 75% energy reduction	\$4,000
75% or more energy reduction, but less than 100% energy reduction	\$6,000
100% energy reduction	\$8,000.

underscored material = new  
[bracketed material] = delete

1           E. A taxpayer who is a homeowner may apply for a  
2 certificate of eligibility for the energy efficient home income  
3 tax credit from the energy, minerals and natural resources  
4 department after the construction or renovation of the eligible  
5 energy efficient home is completed. A homeowner shall submit a  
6 certificate of occupancy at the time the homeowner applies for  
7 a certificate of eligibility. Applications shall be considered  
8 in the order received. If the energy, minerals and natural  
9 resources department determines that the homeowner meets the  
10 requirements of this subsection and that the home, with respect  
11 to which the tax credit application is made, meets the  
12 requirements of this section as an eligible energy efficient  
13 home, the energy, minerals and natural resources department may  
14 issue a dated certificate of eligibility to the homeowner,  
15 subject to the limitation in Subsection F of this section. The  
16 certificate shall include the rating system certification level  
17 awarded to the eligible energy efficient home and the amount of  
18 the energy efficient home income tax credit for which the  
19 homeowner is eligible. The energy, minerals and natural  
20 resources department may issue rules governing the procedure  
21 for administering the provisions of this subsection. All  
22 certificates of eligibility issued pursuant to this subsection  
23 shall be sequentially numbered, and an account of all  
24 certificates issued or destroyed shall be maintained by the  
25 energy, minerals and natural resources department. The

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1 taxation and revenue department shall audit the records of the  
2 energy efficient home income tax credit maintained by the  
3 energy, minerals and natural resources department on a periodic  
4 basis to ensure effective administration of the energy  
5 efficient home income tax credit and to ensure compliance with  
6 the Tax Administration Act and this section.

7 F. The energy, minerals and natural resources  
8 department shall not issue a certificate of eligibility if the  
9 total amount of energy efficient home income tax credits  
10 represented by certificates of eligibility issued by the  
11 energy, minerals and natural resources department pursuant to  
12 this section exceeds in any calendar year an aggregate amount  
13 of ten million dollars (\$10,000,000).

14 G. To be eligible for the energy efficient home  
15 income tax credit, the homeowner shall provide to the taxation  
16 and revenue department a certificate of eligibility issued by  
17 the energy, minerals and natural resources department pursuant  
18 to this section and any other information the taxation and  
19 revenue department may require to determine the amount of the  
20 tax credit for which the homeowner is eligible.

21 H. A taxpayer who is the homeowner of an eligible  
22 energy efficient home may only claim the energy efficient home  
23 income tax credit provided in this section for the taxable year  
24 in which the eligible energy efficient home is purchased. A  
25 taxpayer shall apply for approval of the credit within one year

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1 following the end of the calendar year in which the eligible  
2 energy efficient home is purchased.

3 I. The tax credit provided for in this section  
4 shall first be deducted from the taxpayer's New Mexico income  
5 tax liability. If the tax credit exceeds the taxpayer's income  
6 tax liability, the excess shall be refunded to the taxpayer.  
7 The energy efficient home income tax credit shall not be  
8 transferred to another taxpayer.

9 J. A husband and wife who file separate returns for  
10 a taxable year in which they could have filed a joint return  
11 may each claim only one-half of the energy efficient home  
12 income tax credit that would have been allowed on a joint  
13 return.

14 K. The taxation and revenue department shall  
15 annually report to the interim revenue stabilization and tax  
16 policy committee the aggregate amount of energy efficient home  
17 income tax credits allowed during the preceding taxable year,  
18 the number of taxpayers claiming that credit and any other  
19 information that the department determines is necessary to  
20 evaluate if the energy efficient home income tax credit is  
21 achieving the purpose for which it was enacted.

22 L. Acceptance of the energy efficient home income  
23 tax credit is authorization for the department to reveal to the  
24 legislature information from the tax return of the taxpayer  
25 deemed necessary to evaluate the effectiveness of that credit.

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1 M. As used in this section:

2 (1) "Bestest EX software" means a software  
3 simulation tool that analyzes the energy use of an existing  
4 home, that produces energy audits and that has been approved by  
5 the United States department of energy for these purposes;

6 (2) "eligible energy efficient home" means an  
7 owner-occupied single family residential dwelling:

8 (a) for which construction or renovation  
9 begins on or after July 1, 2012 and on or before June 30, 2014;

10 (b) for which an energy efficient home  
11 income tax credit has not been previously claimed;

12 (c) that has a HERS 60 or better rating  
13 and is a purchased or custom-built home or a purchased  
14 foreclosed home that has been renovated; and

15 (d) that has been issued a certificate  
16 of occupancy;

17 (3) "HERS index" means the home energy rating  
18 system in which a "HERS" rating is a numerical rating between 0  
19 and 100, with each integer value representing a corresponding  
20 percentage of energy usage compared to a standard reference  
21 building design that complies with the 2004 International  
22 Energy Conservation Code designated as HERS 100, as documented  
23 by a certified HERS rater or registered professional engineer  
24 using the simulated alternative performance path for  
25 compliance. An index value of HERS 0 means a home has on-site

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1 renewable energy sources that provide an amount of energy equal  
 2 to or greater than the amount of energy used by that home; an  
 3 index value of HERS 25 means a home has a seventy-five percent  
 4 energy reduction below the 2004 International Conservation Code  
 5 standard reference building design; and an index value of HERS  
 6 60 means a home has a forty percent energy reduction below the  
 7 2004 International Conservation Code standard reference  
 8 building design; and

9 (4) "homeowner" means the purchaser, owner and  
 10 occupant of an eligible energy efficient home, but does not  
 11 include the subsequent purchaser of an eligible energy  
 12 efficient home with respect to which an energy efficient home  
 13 income tax credit has been previously claimed."

14 **SECTION 2. APPLICABILITY.**--The provisions of this act  
 15 apply to:

16 A. taxable years beginning on or after January 1,  
 17 2012 but not after December 31, 2014; and

18 B. single family residential houses, the  
 19 construction of which began on or after July 1, 2012 but not  
 20 after July 1, 2014.

21 **SECTION 3. EFFECTIVE DATE.**--The effective date of the  
 22 provisions of this act is July 1, 2012.