

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 30 Session of 2019

INTRODUCED BY KILLION, VOGEL, HUGHES, HAYWOOD, ARGALL, BLAKE, BROWNE, COSTA, FONTANA, LEACH, MUTH, SANTARSIERO, TARTAGLIONE, J. WARD, YUDICHAK, STREET, DINNIMAN, FARNESE AND L. WILLIAMS, MARCH 21, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 23, 2020

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," IN CITY REVITALIZATION AND IMPROVEMENT ZONES, <--
11 FURTHER PROVIDING FOR REPORTS AND FOR RESTRICTIONS; AND
12 providing for Pennsylvania Housing Tax Credit.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 ~~Section 1. The act of March 4, 1971 (P.L.6, No.2), known as <--~~
16 ~~the Tax Reform Code of 1971, is amended by adding an article to~~
17 ~~read:~~

ARTICLE XIX G

PENNSYLVANIA HOUSING TAX CREDIT

20 Section 1901 G. Scope of article.

21 This article establishes the Pennsylvania Housing Tax Credit.

1 ~~Section 1902 G. Definitions.~~

2 ~~The following words and phrases when used in this article~~
3 ~~shall have the meanings given to them in this section unless the~~
4 ~~context clearly indicates otherwise:~~

5 ~~"Agency." The Pennsylvania Housing Finance Agency.~~

6 ~~"Credit period." A 5 year period that begins with the~~
7 ~~taxable year in which a taxpayer is awarded a tax credit~~
8 ~~certificate in accordance with section 1904 G or, at the~~
9 ~~irrevocable election of a taxpayer, the next succeeding taxable~~
10 ~~year following the completion of a qualified low income housing~~
11 ~~project.~~

12 ~~"Department." The Department of Revenue of the Commonwealth.~~

13 ~~"Federal housing tax credit." The Federal tax credit created~~
14 ~~under section 42 of the Internal Revenue Code of 1986 (Public~~
15 ~~Law 99 514, 26 U.S.C. § 42).~~

16 ~~"Pass through entity." Any of the following:~~

17 ~~(1) A partnership as defined in section 301(n.1).~~

18 ~~(2) A Pennsylvania S Corporation as defined in section~~
19 ~~301(n.1).~~

20 ~~(3) An unincorporated entity subject to section 307.21.~~

21 ~~"Qualified allocation plan." The agency's plan for~~
22 ~~allocation of Federal housing tax credits developed under~~
23 ~~section 42(m)(1) of the Internal Revenue Code of 1986 (Public~~
24 ~~Law 99 514, 26 U.S.C. § 42(m)(1)).~~

25 ~~"Qualified low income housing project." The term shall have~~
26 ~~the same meaning as provided under section 42(g)(1) of the~~
27 ~~Internal Revenue Code of 1986 (Public Law 99 514, 26 U.S.C. §~~
28 ~~42(g)(1)).~~

29 ~~"Qualified tax liability." The tax liability imposed on a~~
30 ~~taxpayer under Article III, IV, VII, VIII, IX, XI or XV,~~

1 ~~excluding any tax withheld by an employer under Article III.~~

2 ~~"Tax credit." The Pennsylvania Housing Tax Credit~~

3 ~~established under this article.~~

4 ~~"Taxable year." The term shall have the same meaning as~~

5 ~~provided under section 441(b) of the Internal Revenue Code of~~

6 ~~1986 (Public Law 99 514, 26 U.S.C. § 441(b)).~~

7 ~~"Taxpayer." An individual, business firm, corporation,~~

8 ~~business trust, limited liability company, partnership, limited~~

9 ~~liability partnership, association or any other form of legal~~

10 ~~business entity.~~

11 ~~Section 1903-G. Pennsylvania Housing Tax Credit.~~

12 ~~(a) Establishment. The Pennsylvania Housing Tax Credit is~~

13 ~~established to encourage the development of qualified low income~~

14 ~~housing projects in this Commonwealth. The agency and department~~

15 ~~shall administer the tax credit as provided in this article.~~

16 ~~(b) Availability.~~

17 ~~(1) Beginning in fiscal year 2020-2021 and each fiscal~~

18 ~~year thereafter, the agency may award a total of \$10,000,000~~

19 ~~in tax credits per fiscal year in accordance with this~~

20 ~~article.~~

21 ~~(2) In addition to the amount available under paragraph~~

22 ~~(1), the agency may award the following, as available, during~~

23 ~~a fiscal year:~~

24 ~~(i) unused and unallocated tax credits for the~~

25 ~~preceding fiscal year; and~~

26 ~~(ii) tax credits returned to the agency.~~

27 ~~(c) Maximum amount. No taxpayer may be awarded a tax credit~~

28 ~~in an amount that exceeds \$1,500,000 for a qualified low income~~

29 ~~housing project.~~

30 ~~(d) Application.~~

1 ~~(1) A taxpayer may apply to the agency for a tax credit~~
2 ~~under this section by submitting an application on a form~~
3 ~~required by the agency.~~

4 ~~(2) The agency may require such information on the~~
5 ~~application as necessary to verify the costs incurred in~~
6 ~~constructing the qualified low income housing project.~~

7 ~~(c) Review of application by agency.~~

8 ~~(1) The agency shall review applications submitted for a~~
9 ~~tax credit and, in accordance with the procedures established~~
10 ~~by the agency under section 1909 G, issue a certificate~~
11 ~~stating the amount of the tax credit for a qualified low~~
12 ~~income housing project.~~

13 ~~(2) The agency shall conditionally award a tax credit in~~
14 ~~a manner that the agency, at the time of allocation,~~
15 ~~reasonably believes will result in at least 10% of the tax~~
16 ~~credits being used to provide housing units targeting~~
17 ~~households with incomes at or below 30% of area median~~
18 ~~income.~~

19 ~~(3) The agency shall determine the amount of a tax~~
20 ~~credit conditionally awarded to a taxpayer based on the~~
21 ~~merits of the qualified low income housing project.~~

22 Section 1904 G. Use of tax credits.

23 ~~(a) Initial use.~~

24 ~~(1) Unless otherwise permitted under paragraph (2),~~
25 ~~prior to the sale or assignment of a tax credit under section~~
26 ~~1905 G, a taxpayer must first use a tax credit against the~~
27 ~~qualified tax liability incurred in the taxable year in which~~
28 ~~the tax credit was approved.~~

29 ~~(2) A taxpayer may elect to use a tax credit the next~~
30 ~~succeeding taxable year following the completion of a~~

1 ~~qualified low income housing project.~~

2 ~~(b) Application. The tax credit shall be applied against a~~
3 ~~taxpayer's qualified tax liability only after all other tax~~
4 ~~credits and deductions available to the taxpayer under act of~~
5 ~~the General Assembly have been used.~~

6 ~~(c) Amount. The tax credit may be claimed for an amount not~~
7 ~~to exceed 50% of the taxpayer's qualified tax liability or 20%~~
8 ~~of the amount certified per taxable year during the credit~~
9 ~~period, whichever is less.~~

10 ~~Section 1905 G. Carryover, sale and assignment.~~

11 ~~(a) General rule. A taxpayer shall be entitled to carry~~
12 ~~forward a tax credit for a period not to exceed five taxable~~
13 ~~years from the taxable year in which the tax credit was awarded.~~
14 ~~Each time the tax credit is carried over to a succeeding taxable~~
15 ~~year, the tax credit shall be reduced by the amount that was~~
16 ~~used as a credit during the immediately preceding taxable year.~~

17 ~~(b) Application. A tax credit certificate received by the~~
18 ~~department in a taxable year shall first be applied against the~~
19 ~~taxpayer's qualified tax liability for the current taxable year~~
20 ~~as of the date on which the credit was issued before the tax~~
21 ~~credit can be applied against a qualified tax liability under~~
22 ~~subsection (a).~~

23 ~~(c) No carryback or refund. A taxpayer may not carry back~~
24 ~~or obtain a refund of all or any portion of an unused tax credit~~
25 ~~granted to the taxpayer under this article.~~

26 ~~Section 1906 G. Pass through entity.~~

27 ~~(a) General rule. If a pass through entity has any unused~~
28 ~~tax credit under section 1906 G, the taxpayer may elect in~~
29 ~~writing, according to procedures established by the department,~~
30 ~~to transfer all or a portion of the tax credit to shareholders,~~

1 ~~members or partners in proportion to the share of the entity's~~
2 ~~distributive income to which the shareholder, member or partner~~
3 ~~is entitled.~~

4 ~~(b) Limitation. A pass through entity and a shareholder,~~
5 ~~member or partner of a pass through entity may not claim the~~
6 ~~credit under subsection (a) for the same qualified project.~~

7 ~~(c) Application. A shareholder, member or partner of a~~
8 ~~pass through entity to whom a credit is transferred under~~
9 ~~subsection (a) shall immediately claim the credit in the taxable~~
10 ~~year in which the transfer is made. The shareholder, member or~~
11 ~~partner may not carry forward, carry back, obtain a refund of or~~
12 ~~sell or assign the tax credit.~~

13 ~~(d) Tax credit allocation. The distribution under section~~
14 ~~1908 G may be allocated in any manner provided by the~~
15 ~~partnership agreement or other agreement governing the~~
16 ~~operations of the taxpayer.~~

17 ~~Section 1907 G. Sale or assignment.~~

18 ~~(a) Authorization. Upon approval by the department, a~~
19 ~~qualified taxpayer may sell or assign, in whole or in part, a~~
20 ~~tax credit granted to the taxpayer under this article.~~

21 ~~(b) Application. The following provisions shall apply to~~
22 ~~the sale and assignment of a tax credit:~~

23 ~~(1) To sell or assign a tax credit, a qualified taxpayer~~
24 ~~must file an application for the sale or assignment of the~~
25 ~~tax credit with the department. The application must be on a~~
26 ~~form required by the department.~~

27 ~~(2) The department shall approve a sale or assignment if~~
28 ~~the purchaser or assignee has:~~

29 ~~(i) filed all required State tax reports and returns~~
30 ~~for all applicable taxable years; and~~

~~(ii) paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal.~~

~~Section 1908 G. Purchasers and assignees.~~

~~(a) Claim. The purchaser or assignee of all or a portion of a tax credit under section 1710 J shall immediately claim the tax credit in the taxable year in which the purchase or assignment is made.~~

~~(b) Amount. The amount of the tax credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 75% of such qualified tax liability for the taxable year.~~

~~(c) Use. The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the tax credit.~~

~~Section 1909 G. Administration.~~

~~(a) Agency guidelines and procedures. The agency shall issue guidelines and procedures for the administration of the tax credit in conjunction with the qualified allocation plan and when possible, administer the tax credit using the same guidelines, procedures and priorities that the agency uses to administer the Federal housing tax credit.~~

~~(b) Recapture. The department, in consultation with the agency, shall establish guidelines that include procedures for recapture of tax credits during the credit period that are similar in structure and effect to events of noncompliance under section 42 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 42). The guidelines shall provide for the mechanism and formula that the tax credit may be recaptured over the remaining credit period.~~

1 ~~(c) Fraud or misrepresentation. If a taxpayer engages in~~
2 ~~fraud or intentional misrepresentation of information required~~
3 ~~to be provided to the agency or the department under this~~
4 ~~article or the agency's guidelines, the department may:~~

5 ~~(1) Recapture all or a portion of the tax credit.~~

6 ~~(2) Deem ineligible the applicant or taxpayer from~~
7 ~~future tax credits.~~

8 ~~(3) Impose other penalties as specified in the agency's~~
9 ~~guidelines.~~

10 ~~(d) Fee. The agency may charge a taxpayer applying for a~~
11 ~~tax credit a reasonable fee not to exceed 5% of the tax credit~~
12 ~~allocated for the administrative expenses of the agency for~~
13 ~~processing applications under this article.~~

14 ~~Section 1910 G. Annual report.~~

15 ~~(a) Duty of agency. By June 30, 2021, and each June 30~~
16 ~~thereafter, the agency shall submit a report on the tax credit~~
17 ~~to the chairperson and minority chairperson of the~~
18 ~~Appropriations Committee of the Senate, the chairperson and~~
19 ~~minority chairperson of the Appropriations Committee of the~~
20 ~~House of Representatives, the chairperson and minority~~
21 ~~chairperson of the Urban Affairs and Housing Committee of the~~
22 ~~Senate and the chairperson and minority chairperson of the Urban~~
23 ~~Affairs Committee of the House of Representatives. The report~~
24 ~~shall include:~~

25 ~~(1) The number and amount of tax credits awarded.~~

26 ~~(2) The taxpayers that were awarded tax credits.~~

27 ~~(3) The amount of tax credits issued to each taxpayer.~~

28 ~~(b) Public posting. The agency shall make the report~~
29 ~~identified in subsection (a) available on the agency's publicly~~
30 ~~accessible Internet website.~~

1 ~~Section 2. This act shall take effect immediately.~~

2 SECTION 1. SECTION 1809-C(A) AND (B) OF THE ACT OF MARCH 4, <--
3 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, ARE
4 AMENDED AND SUBSECTION (C) IS AMENDED BY ADDING A PARAGRAPH TO
5 READ:

6 SECTION 1809-C. REPORTS.

7 (A) STATE ZONE REPORT.--NO LATER THAN JUNE 15 FOLLOWING THE
8 BASELINE YEAR AND EACH YEAR THEREAFTER, OR BY AUGUST 31 FOR
9 REPORTS DUE IN 2020, EACH QUALIFIED BUSINESS SHALL FILE A REPORT
10 WITH THE DEPARTMENT IN A FORM OR MANNER REQUIRED BY THE
11 DEPARTMENT WHICH INCLUDES ALL OF THE FOLLOWING:

12 (1) AMOUNT OF EACH ELIGIBLE TAX WHICH WAS PAID TO THE
13 COMMONWEALTH BY THE QUALIFIED BUSINESS IN THE PRIOR CALENDAR
14 YEAR.

15 (2) AMOUNT OF EACH ELIGIBLE TAX REFUND RECEIVED FROM THE
16 COMMONWEALTH IN THE PRIOR CALENDAR YEAR BY THE QUALIFIED
17 BUSINESS.

18 (B) LOCAL ZONE REPORT.--NO LATER THAN JUNE 15 FOLLOWING THE
19 BASELINE YEAR AND FOR EACH YEAR THEREAFTER, OR BY AUGUST 31 FOR
20 REPORTS DUE IN 2020, EACH QUALIFIED BUSINESS SHALL FILE A REPORT
21 WITH THE LOCAL TAXING AUTHORITY WHICH INCLUDES ALL OF THE
22 FOLLOWING:

23 (1) AMOUNT OF EACH ELIGIBLE TAX WHICH WAS PAID TO THE
24 LOCAL TAXING AUTHORITY BY THE QUALIFIED BUSINESS IN THE PRIOR
25 CALENDAR YEAR.

26 (2) AMOUNT OF EACH ELIGIBLE TAX REFUND RECEIVED FROM THE
27 LOCAL TAXING AUTHORITY IN THE PRIOR CALENDAR YEAR BY THE
28 QUALIFIED BUSINESS.

29 (C) PENALTIES.--

30 * * *

1 (5) NO PENALTY SHALL BE IMPOSED BY THE DEPARTMENT OR THE
2 LOCAL TAXING AUTHORITY FOR FAILURE TO FILE A TIMELY AND
3 COMPLETE REPORT UNDER SUBSECTION (A) OR (B) IN 2019 OR 2020.

4 SECTION 2. SECTION 1813-C(B) AND (C)(1) OF THE ACT ARE
5 AMENDED AND SUBSECTION (A) IS AMENDED BY ADDING A PARAGRAPH TO
6 READ:

7 SECTION 1813-C. RESTRICTIONS.

8 (A) UTILIZATION.--MONEY TRANSFERRED UNDER SECTION 1812-C MAY
9 ONLY BE UTILIZED FOR THE FOLLOWING:

10 * * *

11 (1.2) PAYMENT OF GRANTS AND LOANS TO QUALIFYING
12 BUSINESSES, POLITICAL SUBDIVISIONS AND MUNICIPAL AUTHORITIES
13 OPERATING WITHIN THE ZONE FOR BUSINESS OPERATING EXPENSES,
14 WORKING CAPITAL, BUSINESS LOAN PAYMENTS TO FINANCIAL
15 INSTITUTIONS, PAYROLL TO CURRENT EMPLOYEES AS A MEANS OF
16 RETAINING EMPLOYEES, ESTABLISHMENT OF LOAN GUARANTEE ACCOUNTS
17 WITH FINANCIAL INSTITUTIONS TO GUARANTEE SHORT-TERM LOAN
18 PROVIDED BY THE FINANCIAL INSTITUTIONS TO QUALIFYING
19 BUSINESSES NEGATIVELY IMPACTED BY THE PROCLAMATION OF
20 DISASTER EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020,
21 PUBLISHED AT 50 PA.B. 1644 (MARCH 21, 2020), AND ANY RENEWAL
22 OF THE STATE OF DISASTER EMERGENCY. THIS PARAGRAPH SHALL ONLY
23 APPLY TO A ZONE LOCATED IN A COUNTY OF THE THIRD CLASS THAT
24 HAS NOT ADOPTED A HOME RULE CHARTER. THIS PARAGRAPH SHALL
25 EXPIRE JUNE 30, 2021.

26 * * *

27 (B) PROHIBITION.--

28 (1) MONEY TRANSFERRED UNDER SECTION 1812-C MAY NOT BE
29 UTILIZED FOR MAINTENANCE OR REPAIR OF A FACILITY.

30 (2) PARAGRAPH (1) SHALL NOT APPLY FOR THE PERIOD OF

1 APRIL 1, 2020, THROUGH JUNE 30, 2021.

2 (C) EXCESS MONEY.--

3 (1) EXCEPT AS SET FORTH IN PARAGRAPH (4), IF THE AMOUNT
4 OF MONEY TRANSFERRED TO THE FUND UNDER SECTIONS 1811-C(C) AND
5 1812-C IN ANY ONE CALENDAR YEAR EXCEEDS THE MONEY UTILIZED,
6 BUDGETED OR APPROPRIATED BY OFFICIAL RESOLUTION OF THE
7 CONTRACTING AUTHORITY UNDER THIS SECTION IN THAT CALENDAR
8 YEAR, THE CONTRACTING AUTHORITY SHALL SUBMIT BY APRIL 15
9 FOLLOWING THE END OF THE CALENDAR YEAR [THE EXCESS MONEY],
10 ANY MONEY NOT UTILIZED, BUDGETED OR APPROPRIATED BY OFFICIAL
11 RESOLUTION OF THE CONTRACTING AUTHORITY TO THE STATE
12 TREASURER FOR DEPOSIT INTO THE GENERAL FUND.

13 * * *

14 SECTION 3. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ:

15 ARTICLE XIX-G

16 PENNSYLVANIA HOUSING TAX CREDIT

17 SECTION 1901-G. SCOPE OF ARTICLE.

18 THIS ARTICLE ESTABLISHES THE PENNSYLVANIA HOUSING TAX CREDIT.

19 SECTION 1902-G. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
21 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
22 CONTEXT CLEARLY INDICATES OTHERWISE:

23 "AGENCY." THE PENNSYLVANIA HOUSING FINANCE AGENCY.

24 "CREDIT PERIOD." A FIVE-YEAR PERIOD THAT BEGINS WITH THE
25 TAXABLE YEAR IN WHICH A TAXPAYER IS AWARDED A TAX CREDIT
26 CERTIFICATE IN ACCORDANCE WITH SECTION 1903-G.

27 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

28 "FEDERAL HOUSING TAX CREDIT." THE FEDERAL TAX CREDIT CREATED
29 UNDER SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC
30 LAW 99-514, 26 U.S.C. § 42).

1 "PASS-THROUGH ENTITY." ANY OF THE FOLLOWING:

2 (1) A PARTNERSHIP AS DEFINED IN SECTION 301(N.1).

3 (2) A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION
4 301(N.1).

5 (3) AN UNINCORPORATED ENTITY SUBJECT TO SECTION 307.21.

6 "QUALIFIED ALLOCATION PLAN." THE AGENCY'S PLAN FOR
7 ALLOCATION OF FEDERAL HOUSING TAX CREDITS DEVELOPED UNDER
8 SECTION 42(M) (1) OF THE INTERNAL REVENUE CODE OF 1986.

9 "QUALIFIED LOW-INCOME HOUSING PROJECT." THE TERM SHALL HAVE
10 THE SAME MEANING AS PROVIDED UNDER SECTION 42(G) (1) OF THE
11 INTERNAL REVENUE CODE OF 1986.

12 "QUALIFIED TAX LIABILITY." THE TAX LIABILITY IMPOSED ON A
13 TAXPAYER UNDER ARTICLE III, IV, VII, VIII, IX, XI OR XV,
14 EXCLUDING ANY TAX WITHHELD BY AN EMPLOYER UNDER ARTICLE III.

15 "TAX CREDIT." THE PENNSYLVANIA HOUSING TAX CREDIT
16 ESTABLISHED UNDER THIS ARTICLE.

17 "TAXABLE YEAR." THE TERM SHALL HAVE THE SAME MEANING AS
18 PROVIDED UNDER SECTION 441(B) OF THE INTERNAL REVENUE CODE OF
19 1986.

20 "TAXPAYER." AN INDIVIDUAL, BUSINESS FIRM, CORPORATION,
21 BUSINESS TRUST, LIMITED LIABILITY COMPANY, PARTNERSHIP, LIMITED
22 LIABILITY PARTNERSHIP, ASSOCIATION OR ANY OTHER FORM OF LEGAL
23 BUSINESS ENTITY.

24 SECTION 1903-G. PENNSYLVANIA HOUSING TAX CREDIT.

25 (A) ESTABLISHMENT.--THE PENNSYLVANIA HOUSING TAX CREDIT IS
26 ESTABLISHED TO ENCOURAGE THE DEVELOPMENT OF QUALIFIED LOW-INCOME
27 HOUSING PROJECTS IN THIS COMMONWEALTH. THE AGENCY AND DEPARTMENT
28 SHALL ADMINISTER THE TAX CREDIT AS PROVIDED IN THIS ARTICLE.

29 (B) AVAILABILITY.--

30 (1) BEGINNING IN FISCAL YEAR 2021-2022 AND EACH FISCAL

1 YEAR THEREAFTER, THE AGENCY MAY AWARD A TOTAL OF \$10,000,000
2 IN TAX CREDITS PER FISCAL YEAR IN ACCORDANCE WITH THIS
3 ARTICLE.

4 (2) IN ADDITION TO THE AMOUNT AVAILABLE UNDER PARAGRAPH
5 (1), THE AGENCY MAY AWARD UNALLOCATED TAX CREDITS FROM THE
6 PRECEDING FISCAL YEAR.

7 (C) MAXIMUM AMOUNT.--NO TAXPAYER MAY BE AWARDED A TAX CREDIT
8 IN AN AMOUNT THAT EXCEEDS \$1,500,000 FOR A QUALIFIED LOW-INCOME
9 HOUSING PROJECT.

10 (D) APPLICATION.--

11 (1) A TAXPAYER MAY APPLY TO THE AGENCY FOR A TAX CREDIT
12 UNDER THIS SECTION BY SUBMITTING AN APPLICATION ON A FORM
13 REQUIRED BY THE AGENCY.

14 (2) THE AGENCY MAY REQUIRE SUCH INFORMATION ON THE
15 APPLICATION AS NECESSARY TO VERIFY COMPLIANCE WITH THIS ACT.

16 (3) EXCEPT AS OTHERWISE PROVIDED BY LAW, BEFORE THE TAX
17 CREDIT MAY BE AWARDED, THE DEPARTMENT MUST FIND THAT THE
18 TAXPAYER HAS FILED ALL REQUIRED STATE TAX REPORTS AND RETURNS
19 FOR ALL APPLICABLE TAX YEARS AND PAID ANY BALANCE OF STATE
20 TAX DUE AS DETERMINED AT SETTLEMENT OR ASSESSMENT BY THE
21 DEPARTMENT, UNLESS THE TAX DUE IS CURRENTLY UNDER APPEAL.

22 (E) REVIEW OF APPLICATION BY AGENCY.--

23 (1) THE AGENCY SHALL REVIEW APPLICATIONS SUBMITTED FOR A
24 TAX CREDIT AND, IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED
25 BY THE AGENCY UNDER SECTION 1909-G, CONDITIONALLY RESERVE TAX
26 CREDITS FOR A QUALIFIED LOW-INCOME HOUSING PROJECT.

27 (2) THE AGENCY SHALL CONDITIONALLY RESERVE TAX CREDITS
28 IN A MANNER THAT THE AGENCY, AT THE TIME OF CONDITIONAL
29 RESERVATION, REASONABLY BELIEVES WILL RESULT IN AT LEAST 10%
30 OF THE TAX CREDITS BEING USED TO PROVIDE HOUSING UNITS

1 TARGETING HOUSEHOLDS WITH INCOMES AT OR BELOW 30% OF THE AREA
2 MEDIAN INCOME.

3 (3) THE AGENCY SHALL DETERMINE THE AMOUNT OF TAX CREDITS
4 CONDITIONALLY RESERVED TO A TAXPAYER BASED ON THE MERITS OF
5 THE QUALIFIED LOW-INCOME HOUSING PROJECT.

6 (F) TAX CREDIT CERTIFICATES.--UPON NOTIFICATION THAT A
7 QUALIFIED LOW-INCOME HOUSING PROJECT RECEIVING A CONDITIONAL
8 RESERVATION OF TAX CREDITS HAS BEEN COMPLETED, THE AGENCY SHALL
9 DETERMINE COMPLIANCE WITH THIS ACT. FOLLOWING VERIFICATION OF
10 COMPLIANCE, THE AGENCY SHALL ISSUE THE TAX CREDIT CERTIFICATES
11 IN AN AMOUNT NOT TO EXCEED 20% OF THE CONDITIONAL RESERVATION
12 FOR EACH TAXABLE YEAR IN THE TAX CREDIT PERIOD.

13 SECTION 1904-G. USE OF TAX CREDITS.

14 (A) CLAIMING THE CREDIT.--UPON PRESENTATION OF A TAX CREDIT
15 CERTIFICATE TO THE DEPARTMENT, THE TAXPAYER MAY CLAIM A TAX
16 CREDIT AGAINST THE QUALIFIED TAX LIABILITY.

17 (B) AMOUNT.--THE TAX CREDIT MAY BE CLAIMED AT AN AMOUNT NOT
18 TO EXCEED 50% OF THE TAXPAYER'S QUALIFIED TAX LIABILITY FOR A
19 SINGLE TAXABLE YEAR.

20 SECTION 1905-G. CARRYOVER, CARRYBACK AND REFUND.

21 (A) GENERAL RULE.--A TAXPAYER SHALL BE ENTITLED TO CARRY
22 FORWARD A TAX CREDIT FOR A PERIOD NOT TO EXCEED FIVE TAXABLE
23 YEARS FROM THE TAXABLE YEAR IN WHICH THE TAX CREDIT WAS AWARDED.
24 EACH TIME THE TAX CREDIT IS CARRIED OVER TO A SUCCEEDING TAXABLE
25 YEAR, THE TAX CREDIT SHALL BE REDUCED BY THE AMOUNT THAT WAS
26 USED AS A CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR.

27 (B) APPLICATION.--A TAX CREDIT CERTIFICATE RECEIVED BY THE
28 DEPARTMENT IN A TAXABLE YEAR SHALL FIRST BE APPLIED AGAINST THE
29 TAXPAYER'S QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE YEAR
30 AS OF THE DATE ON WHICH THE CREDIT WAS ISSUED BEFORE THE TAX

1 CREDIT CAN BE APPLIED AGAINST A QUALIFIED TAX LIABILITY UNDER
2 SUBSECTION (A).

3 (C) NO CARRYBACK OR REFUND.--A TAXPAYER MAY NOT CARRY BACK
4 OR OBTAIN A REFUND OF ALL OR ANY PORTION OF AN UNUSED TAX CREDIT
5 GRANTED TO THE TAXPAYER UNDER THIS ARTICLE.

6 SECTION 1906-G. SALE OR ASSIGNMENT.

7 (A) APPLICATION.--A TAXPAYER, UPON APPLICATION TO AND
8 APPROVAL BY THE DEPARTMENT, MAY SELL OR ASSIGN, IN WHOLE OR IN
9 PART, A TAX CREDIT GRANTED TO THE TAXPAYER UNDER THIS ARTICLE.

10 (B) COMPLIANCE.--BEFORE AN APPLICATION UNDER SUBSECTION (A)
11 IS APPROVED, THE DEPARTMENT MUST FIND THAT THE APPLICANT HAS
12 FILED ALL REQUIRED STATE TAX REPORTS AND RETURNS FOR ALL
13 APPLICABLE TAXABLE YEARS AND PAID ANY BALANCE OF STATE TAX DUE
14 AS DETERMINED AT SETTLEMENT, ASSESSMENT OR DETERMINATION BY THE
15 DEPARTMENT.

16 SECTION 1907-G. PASS-THROUGH ENTITY.

17 (A) GENERAL RULE.--IF A PASS-THROUGH ENTITY HAS ANY UNUSED
18 TAX CREDIT UNDER SECTION 1904-G, THE TAXPAYER MAY ELECT IN
19 WRITING, ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT,
20 TO TRANSFER ALL OR A PORTION OF THE TAX CREDIT TO SHAREHOLDERS,
21 MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE OF THE ENTITY'S
22 DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER, MEMBER OR PARTNER
23 IS ENTITLED.

24 (B) LIMITATION.--A PASS-THROUGH ENTITY AND A SHAREHOLDER,
25 MEMBER OR PARTNER OF A PASS-THROUGH ENTITY MAY NOT CLAIM THE
26 CREDIT UNDER SUBSECTION (A) FOR THE SAME QUALIFIED PROJECT.

27 (C) APPLICATION.--A SHAREHOLDER, MEMBER OR PARTNER OF A
28 PASS-THROUGH ENTITY TO WHOM A CREDIT IS TRANSFERRED UNDER
29 SUBSECTION (A) SHALL IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE
30 YEAR IN WHICH THE TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR

1 PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR
2 SELL OR ASSIGN THE TAX CREDIT.

3 SECTION 1908-G. PURCHASERS AND ASSIGNEES.

4 THE PURCHASER OR ASSIGNEE OF ALL OR A PORTION OF THE TAX
5 CREDIT UNDER SECTION 1906-G SHALL IMMEDIATELY CLAIM THE TAX
6 CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR ASSIGNMENT
7 IS MADE, SUBJECT TO THE FOLLOWING:

8 (1) IF A PURCHASER OR ASSIGNEE OF ALL OR A PORTION OF
9 THE TAX CREDIT OBTAINED UNDER SECTION 1906-G CANNOT USE THE
10 ENTIRE AMOUNT OF THE TAX CREDIT FOR THE TAXABLE YEAR IN WHICH
11 THE TAX CREDIT WAS PURCHASED OR ASSIGNED, THE EXCESS MAY BE
12 CARRIED OVER TO SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT
13 AGAINST THE QUALIFIED TAX LIABILITY OF THE PURCHASER OR
14 ASSIGNEE FOR THOSE TAXABLE YEARS.

15 (2) EACH TIME A TAX CREDIT IS CARRIED OVER TO A
16 SUCCEEDING TAXABLE YEAR, THE TAX CREDIT SHALL BE REDUCED BY
17 THE AMOUNT THAT WAS USED AS A CREDIT DURING THE IMMEDIATELY
18 PRECEDING TAXABLE YEAR.

19 (3) THE TAX CREDIT MAY BE CARRIED OVER AND APPLIED TO
20 SUCCEEDING TAXABLE YEARS FOR THE REMAINDER OF THE
21 CARRYFORWARD PERIOD FROM THE ORIGINAL TAX CREDIT CERTIFICATE.

22 (4) THE PURCHASER OR ASSIGNEE MAY NOT CARRY BACK THE
23 CREDIT OR OBTAIN A REFUND.

24 SECTION 1909-G. ADMINISTRATION.

25 (A) AGENCY GUIDELINES AND PROCEDURES.--THE AGENCY SHALL
26 ISSUE GUIDELINES AND PROCEDURES FOR THE ADMINISTRATION OF THE
27 TAX CREDIT IN CONJUNCTION WITH THE QUALIFIED ALLOCATION PLAN AND
28 WHEN POSSIBLE, ADMINISTER THE TAX CREDIT USING THE SAME
29 GUIDELINES, PROCEDURES AND PRIORITIES THAT THE AGENCY USES TO
30 ADMINISTER THE FEDERAL HOUSING TAX CREDIT.

1 (B) RECAPTURE.--THE DEPARTMENT, IN CONSULTATION WITH THE
2 AGENCY, SHALL ESTABLISH GUIDELINES THAT INCLUDE PROCEDURES FOR
3 RECAPTURE OF TAX CREDITS DURING THE CREDIT PERIOD THAT ARE
4 SIMILAR IN STRUCTURE AND EFFECT TO EVENTS OF NONCOMPLIANCE UNDER
5 SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-
6 514, 26 U.S.C. § 42). THE GUIDELINES SHALL PROVIDE FOR THE
7 MECHANISM AND FORMULA THAT THE TAX CREDIT MAY BE RECAPTURED OVER
8 THE REMAINING CREDIT PERIOD.

9 (C) FRAUD OR MISREPRESENTATION.--IF A TAXPAYER ENGAGES IN
10 FRAUD OR INTENTIONAL MISREPRESENTATION OF INFORMATION REQUIRED
11 TO BE PROVIDED TO THE AGENCY OR THE DEPARTMENT UNDER THIS
12 ARTICLE OR THE AGENCY'S GUIDELINES, THE DEPARTMENT MAY:

13 (1) RECAPTURE ALL OR A PORTION OF THE TAX CREDIT.

14 (2) DEEM INELIGIBLE THE APPLICANT OR TAXPAYER FROM
15 FUTURE TAX CREDITS.

16 (3) IMPOSE OTHER PENALTIES AS SPECIFIED IN THE AGENCY'S
17 GUIDELINES.

18 (D) FEE.--THE AGENCY MAY CHARGE A TAXPAYER APPLYING FOR A
19 TAX CREDIT A REASONABLE FEE NOT TO EXCEED 5% OF THE TAX CREDIT
20 AWARDED FOR THE ADMINISTRATIVE EXPENSES OF THE AGENCY FOR
21 PROCESSING APPLICATIONS UNDER THIS ARTICLE.

22 SECTION 1910-G. ANNUAL REPORT.

23 (A) DUTY OF AGENCY.--BY JUNE 30, 2022, AND EACH JUNE 30
24 THEREAFTER, THE AGENCY SHALL SUBMIT A REPORT ON THE TAX CREDIT
25 TO THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
26 APPROPRIATIONS COMMITTEE OF THE SENATE, THE CHAIRPERSON AND
27 MINORITY CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF THE
28 HOUSE OF REPRESENTATIVES, THE CHAIRPERSON AND MINORITY
29 CHAIRPERSON OF THE URBAN AFFAIRS AND HOUSING COMMITTEE OF THE
30 SENATE AND THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE URBAN

1 AFFAIRS COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT
2 SHALL INCLUDE:

3 (1) THE NUMBER AND AMOUNT OF TAX CREDITS AWARDED.

4 (2) THE TAXPAYERS THAT WERE AWARDED TAX CREDITS.

5 (3) THE AMOUNT OF TAX CREDITS ISSUED TO EACH TAXPAYER.

6 (B) PUBLIC POSTING.--THE AGENCY SHALL MAKE THE REPORT
7 IDENTIFIED IN SUBSECTION (A) AVAILABLE ON THE AGENCY'S PUBLICLY
8 ACCESSIBLE INTERNET WEBSITE.

9 SECTION 4. THE AMENDMENT OF SECTION 1813-C(B) AND (C)(1) OF
10 THE ACT SHALL APPLY RETROACTIVELY TO JANUARY 1, 2019.

11 SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.