

REFERENCE TITLE: tax credit; qualified equity investments

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2525**

Introduced by  
Representative Crandall

AN ACT

AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1086; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1184; RELATING TO INDIVIDUAL AND CORPORATE INCOME 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 43-222, Arizona Revised Statutes, is amended to  
3 read:

4 43-222. Income tax credit review schedule

5 Each year the joint legislative income tax credit review committee  
6 shall review the following income tax credits:

7 1. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,  
8 43-1090, 43-1176 and 43-1181.

9 2. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,  
10 43-1166, 43-1167 and 43-1169.

11 3. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and  
12 43-1178.

13 4. In 2009, sections 43-1076, 43-1081.01, 43-1084, 43-1162 and  
14 43-1170.01.

15 5. In 2010, sections 43-1075, 43-1079.01, 43-1087, 43-1088,  
16 43-1090.01, 43-1163, 43-1167.01, 43-1175 and 43-1182.

17 6. In 2011, sections 43-1074.02, 43-1083, 43-1085, ~~and~~ 43-1164 and  
18 43-1183.

19 7. IN 2012, SECTIONS 43-1086 AND 43-1184.

20 Sec. 2. Title 43, chapter 10, article 5, Arizona Revised Statutes, is  
21 amended by adding section 43-1086, to read:

22 43-1086. Credit for equity investments; definitions

23 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2007  
24 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY  
25 THIS TITLE FOR A TAXPAYER WHO HOLDS A QUALIFIED EQUITY INVESTMENT ON A CREDIT  
26 ALLOWANCE DATE FOR THAT INVESTMENT DURING THE TAXABLE YEAR. THE AMOUNT OF  
27 THE CREDIT IS EQUAL TO THE APPLICABLE PERCENTAGE OF THE ADJUSTED PURCHASE  
28 PRICE THAT IS PAID BY THE TAXPAYER TO THE ISSUER OF THE QUALIFIED EQUITY  
29 INVESTMENT.

30 B. THE ISSUER OF THE QUALIFIED EQUITY INVESTMENT SHALL CERTIFY TO THE  
31 DEPARTMENT AN ESTIMATED DOLLAR AMOUNT OF THE INVESTMENTS TO BE MADE IN THIS  
32 STATE DURING THE FIRST YEAR FOLLOWING THE INITIAL CREDIT ALLOWANCE DATE. IF  
33 ON THE SECOND CREDIT ALLOWANCE DATE, THE ACTUAL DOLLAR AMOUNT OF THE  
34 INVESTMENTS IS DIFFERENT THAN THE ESTIMATED AMOUNT, THE DEPARTMENT SHALL  
35 ADJUST THE CREDITS FOR THE SECOND ALLOWANCE DATE TO ACCOUNT FOR THE  
36 DIFFERENCE.

37 C. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND  
38 SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL  
39 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED  
40 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS  
41 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN  
42 ALLOWED A SOLE OWNER.

43 D. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER  
44 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS  
45 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE

1 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE  
2 YEARS' INCOME TAX LIABILITY.

3 E. IF A TAXPAYER HAS CLAIMED A FEDERAL TAX CREDIT FOR THE SAME  
4 QUALIFIED EQUITY INVESTMENT FOR WHICH A CREDIT IS ALSO CLAIMED UNDER THIS  
5 SECTION AND A PORTION OF THAT FEDERAL TAX CREDIT IS RECAPTURED PURSUANT TO  
6 SECTION 45D OF THE INTERNAL REVENUE CODE OR THE ISSUER REDEEMS OR MAKES ANY  
7 PRINCIPAL REPAYMENT FOR A QUALIFIED EQUITY INVESTMENT BEFORE THE SEVENTH  
8 ANNIVERSARY ISSUANCE DATE FOR THE QUALIFIED EQUITY INVESTMENT, THE DEPARTMENT  
9 SHALL RECAPTURE A PORTION OF THE CREDIT THAT IS AUTHORIZED UNDER THIS  
10 SECTION.

11 F. THE DEPARTMENT SHALL ADOPT RULES FOR THE PURPOSES OF IMPLEMENTING  
12 THIS SECTION.

13 G. FOR THE PURPOSES OF THIS SECTION:

14 1. "ADJUSTED PURCHASE PRICE" MEANS THE PRODUCT OF SUBDIVISION (a) OF  
15 THIS PARAGRAPH MULTIPLIED BY SUBDIVISION (b) OF THIS PARAGRAPH:

16 (a) THE AMOUNT THAT IS PAID BY THE TAXPAYER TO THE ISSUER OF A  
17 QUALIFIED EQUITY INVESTMENT FOR THE QUALIFIED EQUITY INVESTMENT.

18 (b) A FRACTION, THE NUMERATOR OF WHICH IS THE DOLLAR AMOUNT OF  
19 QUALIFIED LOW INCOME COMMUNITY INVESTMENTS THAT ARE HELD BY THE ISSUER OF THE  
20 QUALIFIED EQUITY INVESTMENTS IN THIS STATE, AS DETERMINED BY THE IMMEDIATELY  
21 PRECEDING CREDIT ALLOWANCE DATE, AND THE DENOMINATOR OF WHICH IS THE TOTAL  
22 DOLLAR AMOUNT OF QUALIFIED LOW INCOME COMMUNITY INVESTMENTS THAT ARE MADE BY  
23 THE ISSUER, AS DETERMINED BY THE IMMEDIATELY PRECEDING CREDIT ALLOWANCE DATE.

24 2. "APPLICABLE PERCENTAGE" MEANS TEN PER CENT FOR EACH CREDIT  
25 ALLOWANCE DATE.

26 3. "CREDIT ALLOWANCE DATE" MEANS EITHER:

27 (a) THE DATE THAT IS TWO YEARS AFTER A QUALIFIED EQUITY INVESTMENT IS  
28 MADE.

29 (b) ANY OF THE FOUR SUBSEQUENT ANNIVERSARY DATES FOLLOWING THE DATE IN  
30 SUBDIVISION (a) OF THIS PARAGRAPH.

31 4. "LONG-TERM DEBT SECURITY" MEANS ANY DEBT INSTRUMENT THAT IS ISSUED  
32 BY A QUALIFIED COMMUNITY DEVELOPMENT ENTITY, AT PAR VALUE OR A PREMIUM, WITH  
33 AN ORIGINAL MATURITY DATE OF AT LEAST SEVEN YEARS FROM THE DATE OF ISSUANCE,  
34 THAT HAS NO ACCELERATION OF REPAYMENT, AMORTIZATION OR PREPAYMENT FEATURES  
35 PRIOR TO THE ORIGINAL MATURITY DATE AND THAT HAS NO DISTRIBUTION, PAYMENT OR  
36 INTEREST FEATURES THAT ARE RELATED TO THE PROFITABILITY OF THE QUALIFIED  
37 COMMUNITY DEVELOPMENT ENTITY OR THE PERFORMANCE OF THE QUALIFIED COMMUNITY  
38 DEVELOPMENT ENTITY'S INVESTMENT PORTFOLIO.

39 5. "QUALIFIED ACTIVE LOW INCOME BUSINESS" HAS THE SAME MEANING  
40 PRESCRIBED BY SECTION 45D OF THE INTERNAL REVENUE CODE. QUALIFIED ACTIVE LOW  
41 INCOME BUSINESS DOES NOT MEAN A BUSINESS THAT DERIVES OR PROJECTS TO DERIVE  
42 AT LEAST FIFTEEN PER CENT OF ITS ANNUAL REVENUE FROM THE RENTAL OR SALE OF  
43 REAL ESTATE.

44 6. "QUALIFIED COMMUNITY DEVELOPMENT ENTITY" HAS THE SAME MEANING  
45 PRESCRIBED BY SECTION 45D OF THE INTERNAL REVENUE CODE IF THE ENTITY HAS

1 ENTERED INTO AN ALLOCATION AGREEMENT WITH THE COMMUNITY DEVELOPMENT FINANCIAL  
2 INSTITUTIONS FUND OF THE UNITED STATES TREASURY.

3 7. "QUALIFIED EQUITY INVESTMENT" MEANS ANY EQUITY INVESTMENT IN, OR  
4 LONG-TERM DEBT SECURITY THAT IS ISSUED BY, A QUALIFIED COMMUNITY DEVELOPMENT  
5 ENTITY THAT IS ALL OF THE FOLLOWING:

6 (a) IS ACQUIRED AFTER THE EFFECTIVE DATE OF THIS SECTION AT THE  
7 ORIGINAL ISSUANCE SOLELY IN EXCHANGE FOR CASH.

8 (b) AT LEAST EIGHTY-FIVE PER CENT OF ITS CASH PURCHASE PRICE IS USED  
9 BY THE ISSUER TO MAKE QUALIFIED LOW INCOME COMMUNITY INVESTMENTS.

10 (c) IS DESIGNATED BY THE ISSUER AS A QUALIFIED EQUITY INVESTMENT.

11 8. "QUALIFIED LOW INCOME COMMUNITY INVESTMENT" MEANS ANY CAPITAL OR  
12 EQUITY INVESTMENT IN, OR LOAN TO, ANY QUALIFIED ACTIVE LOW INCOME COMMUNITY  
13 BUSINESS.

14 Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes, is  
15 amended by adding section 43-1184, to read:

16 43-1184. Credit for equity investments; definitions

17 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2007  
18 THROUGH DECEMBER 31, 2014, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY  
19 THIS TITLE FOR A TAXPAYER WHO HOLDS A QUALIFIED EQUITY INVESTMENT ON A CREDIT  
20 ALLOWANCE DATE FOR THAT INVESTMENT DURING THE TAXABLE YEAR. THE AMOUNT OF  
21 THE CREDIT IS EQUAL TO THE APPLICABLE PERCENTAGE OF THE ADJUSTED PURCHASE  
22 PRICE THAT IS PAID BY THE TAXPAYER TO THE ISSUER OF THE QUALIFIED EQUITY  
23 INVESTMENT.

24 B. THE ISSUER OF THE QUALIFIED EQUITY INVESTMENT SHALL CERTIFY TO THE  
25 DEPARTMENT AN ESTIMATED DOLLAR AMOUNT OF THE INVESTMENTS TO BE MADE IN THIS  
26 STATE DURING THE FIRST YEAR FOLLOWING THE INITIAL CREDIT ALLOWANCE DATE. IF  
27 ON THE SECOND CREDIT ALLOWANCE DATE, THE ACTUAL DOLLAR AMOUNT OF THE  
28 INVESTMENTS IS DIFFERENT THAN THE ESTIMATED AMOUNT, THE DEPARTMENT SHALL  
29 ADJUST THE CREDITS FOR THE SECOND ALLOWANCE DATE TO ACCOUNT FOR THE  
30 DIFFERENCE.

31 C. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A  
32 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED  
33 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS  
34 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN  
35 ALLOWED A SOLE OWNER.

36 D. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER  
37 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS  
38 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE  
39 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE  
40 YEARS' INCOME TAX LIABILITY.

41 E. IF A TAXPAYER HAS CLAIMED A FEDERAL TAX CREDIT FOR THE SAME  
42 QUALIFIED EQUITY INVESTMENT FOR WHICH A CREDIT IS ALSO CLAIMED UNDER THIS  
43 SECTION AND A PORTION OF THAT FEDERAL TAX CREDIT IS RECAPTURED PURSUANT TO  
44 SECTION 45D OF THE INTERNAL REVENUE CODE OR THE ISSUER REDEEMS OR MAKES ANY  
45 PRINCIPAL REPAYMENT FOR A QUALIFIED EQUITY INVESTMENT BEFORE THE SEVENTH

1 ANNIVERSARY ISSUANCE DATE FOR THE QUALIFIED EQUITY INVESTMENT, THE DEPARTMENT  
2 SHALL RECAPTURE A PORTION OF THE CREDIT THAT IS AUTHORIZED UNDER THIS  
3 SECTION.

4 F. THE DEPARTMENT SHALL ADOPT RULES FOR THE PURPOSES OF IMPLEMENTING  
5 THIS SECTION.

6 G. FOR THE PURPOSES OF THIS SECTION:

7 1. "ADJUSTED PURCHASE PRICE" MEANS THE PRODUCT OF SUBDIVISION (a) OF  
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9 (a) THE AMOUNT THAT IS PAID BY THE TAXPAYER TO THE ISSUER OF A  
10 QUALIFIED EQUITY INVESTMENT FOR THE QUALIFIED EQUITY INVESTMENT.

11 (b) A FRACTION, THE NUMERATOR OF WHICH IS THE DOLLAR AMOUNT OF  
12 QUALIFIED LOW INCOME COMMUNITY INVESTMENTS THAT ARE HELD BY THE ISSUER OF THE  
13 QUALIFIED EQUITY INVESTMENTS IN THIS STATE, AS DETERMINED BY THE IMMEDIATELY  
14 PRECEDING CREDIT ALLOWANCE DATE, AND THE DENOMINATOR OF WHICH IS THE TOTAL  
15 DOLLAR AMOUNT OF QUALIFIED LOW INCOME COMMUNITY INVESTMENTS THAT ARE MADE BY  
16 THE ISSUER, AS DETERMINED BY THE IMMEDIATELY PRECEDING CREDIT ALLOWANCE DATE.

17 2. "APPLICABLE PERCENTAGE" MEANS TEN PER CENT FOR EACH CREDIT  
18 ALLOWANCE DATE.

19 3. "CREDIT ALLOWANCE DATE" MEANS EITHER:

20 (a) THE DATE THAT IS TWO YEARS AFTER A QUALIFIED EQUITY INVESTMENT IS  
21 MADE.

22 (b) ANY OF THE FOUR SUBSEQUENT ANNIVERSARY DATES FOLLOWING THE DATE IN  
23 SUBDIVISION (a) OF THIS PARAGRAPH.

24 4. "LONG-TERM DEBT SECURITY" MEANS ANY DEBT INSTRUMENT THAT IS ISSUED  
25 BY A QUALIFIED COMMUNITY DEVELOPMENT ENTITY, AT PAR VALUE OR A PREMIUM, WITH  
26 AN ORIGINAL MATURITY DATE OF AT LEAST SEVEN YEARS FROM THE DATE OF ISSUANCE,  
27 THAT HAS NO ACCELERATION OF REPAYMENT, AMORTIZATION OR PREPAYMENT FEATURES  
28 PRIOR TO THE ORIGINAL MATURITY DATE AND THAT HAS NO DISTRIBUTION, PAYMENT OR  
29 INTEREST FEATURES THAT ARE RELATED TO THE PROFITABILITY OF THE QUALIFIED  
30 COMMUNITY DEVELOPMENT ENTITY OR THE PERFORMANCE OF THE QUALIFIED COMMUNITY  
31 DEVELOPMENT ENTITY'S INVESTMENT PORTFOLIO.

32 5. "QUALIFIED ACTIVE LOW INCOME BUSINESS" HAS THE SAME MEANING  
33 PRESCRIBED BY SECTION 45D OF THE INTERNAL REVENUE CODE. QUALIFIED ACTIVE LOW  
34 INCOME BUSINESS DOES NOT MEAN A BUSINESS THAT DERIVES OR PROJECTS TO DERIVE  
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37 6. "QUALIFIED COMMUNITY DEVELOPMENT ENTITY" HAS THE SAME MEANING  
38 PRESCRIBED BY SECTION 45D OF THE INTERNAL REVENUE CODE IF THE ENTITY HAS  
39 ENTERED INTO AN ALLOCATION AGREEMENT WITH THE COMMUNITY DEVELOPMENT FINANCIAL  
40 INSTITUTIONS FUND OF THE UNITED STATES TREASURY.

41 7. "QUALIFIED EQUITY INVESTMENT" MEANS ANY EQUITY INVESTMENT IN, OR  
42 LONG-TERM DEBT SECURITY THAT IS ISSUED BY, A QUALIFIED COMMUNITY DEVELOPMENT  
43 ENTITY THAT IS ALL OF THE FOLLOWING:

44 (a) IS ACQUIRED AFTER THE EFFECTIVE DATE OF THIS SECTION AT THE  
45 ORIGINAL ISSUANCE SOLELY IN EXCHANGE FOR CASH.

1 (b) AT LEAST EIGHTY-FIVE PER CENT OF ITS CASH PURCHASE PRICE IS USED  
2 BY THE ISSUER TO MAKE QUALIFIED LOW INCOME COMMUNITY INVESTMENTS.

3 (c) IS DESIGNATED BY THE ISSUER AS A QUALIFIED EQUITY INVESTMENT.

4 8. "QUALIFIED LOW INCOME COMMUNITY INVESTMENT" MEANS ANY CAPITAL OR  
5 EQUITY INVESTMENT IN, OR LOAN TO, ANY QUALIFIED ACTIVE LOW INCOME COMMUNITY  
6 BUSINESS.

7 Sec. 4. Purpose

8 Pursuant to section 43-223, Arizona Revised Statutes, the legislature  
9 enacts sections 43-1086 and 43-1184, Arizona Revised Statutes, as added by  
10 this act, to encourage taxpayers to make quality equity investments in this  
11 state.