

REFERENCE TITLE: tax credits; affordable housing

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2365

Introduced by
Representatives Toma: Bolding, Engel, Espinoza, Hernandez D, Rivero,
Rodriguez, Shope, Sierra, Udall, Weninger, Senator Livingston

AN ACT

AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-224.04; AMENDING TITLE 41, CHAPTER 37, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3954; AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1075; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1163; RELATING TO INSURANCE PREMIUM AND 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. Title 20, chapter 2, article 1, Arizona Revised
3 Statutes, is amended by adding section 20-224.04, to read:
4 20-224.04. Affordable housing premium tax credit
5 A. A CREDIT IS ALLOWED AGAINST THE PREMIUM TAX INCURRED BY A
6 TAXPAYER PURSUANT TO SECTION 20-224, 20-837, 20-1010, 20-1060 OR
7 20-1097.07 FOR TAXPAYERS THAT APPLY TO THE ARIZONA DEPARTMENT OF HOUSING
8 AND RECEIVE AN ELIGIBILITY STATEMENT FOR A QUALIFIED PROJECT PURSUANT TO
9 SECTION 41-3954. THE AMOUNT OF THE CREDIT:
10 1. IS EQUAL TO THE AMOUNT OF THE FEDERAL LOW-INCOME HOUSING CREDIT
11 FOR THE QUALIFIED PROJECT.
12 2. ON NOTICE TO THE DEPARTMENT OF INSURANCE, MAY BE ALLOCATED AMONG
13 THE PARTNERS, MEMBERS OR SHAREHOLDERS, AS THEY MAY AGREE AMONG THEMSELVES.
14 THE TOTAL OF THE ALLOCATED CREDITS AMONG ALL SUCH PARTICIPANTS MAY NOT
15 EXCEED THE AMOUNT OF THE CREDIT APPROVED BY THE ARIZONA DEPARTMENT OF
16 HOUSING.
17 B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST SUBMIT
18 THE ELIGIBILITY STATEMENT PROVIDED BY THE ARIZONA DEPARTMENT OF HOUSING
19 UNDER SECTION 41-3954 TO THE DEPARTMENT OF INSURANCE WITH THE TAXPAYER'S
20 PREMIUM TAX RETURN. A CREDIT UNDER THIS SECTION IS NOT ALLOWED UNTIL THE
21 TAXPAYER FURNISHES THE REQUIRED DOCUMENTATION.
22 C. IF THE AMOUNT OF THE CREDIT UNDER THIS SECTION EXCEEDS THE
23 TAXPAYER'S STATE PREMIUM TAX LIABILITY, THE AMOUNT OF THE CLAIM NOT USED
24 TO OFFSET THE PREMIUM TAX LIABILITY MAY BE CARRIED FORWARD FOR NOT MORE
25 THAN FIVE CONSECUTIVE TAXABLE YEARS' PREMIUM TAX LIABILITY.
26 D. IF ALL OR PART OF THE FEDERAL LOW-INCOME HOUSING TAX CREDIT WITH
27 RESPECT TO THE QUALIFIED PROJECT IS SUBJECT TO RECAPTURE UNDER SECTION 42
28 OF THE INTERNAL REVENUE CODE DURING THE FIRST TEN TAXABLE YEARS AFTER THE
29 PROJECT IS PLACED IN SERVICE, THE CREDIT UNDER THIS SECTION IS ALSO
30 SUBJECT TO RECAPTURE IN A PROPORTIONAL AMOUNT FROM ALL TAXPAYERS THAT
31 CLAIMED THE CREDIT. THE RECAPTURE IS CALCULATED BY INCREASING THE AMOUNT
32 OF TAXES IMPOSED IN THE FOLLOWING YEAR BY THE AMOUNT RECAPTURED.
33 E. A TAXPAYER THAT CLAIMS A TAX CREDIT AGAINST STATE PREMIUM TAX
34 LIABILITY IS NOT REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX IMPOSED
35 PURSUANT TO SECTION 20-230 AS A RESULT OF CLAIMING THAT TAX CREDIT. THE
36 CREDIT MAY FULLY OFFSET ANY RETALIATORY TAX IMPOSED BY SECTION 20-230.
37 F. THE DEPARTMENT OF INSURANCE, WITH THE COOPERATION OF THE
38 DEPARTMENT OF REVENUE AND THE ARIZONA DEPARTMENT OF HOUSING, SHALL ADOPT
39 RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO
40 ADMINISTER THIS SECTION.

1 Sec. 2. Title 41, chapter 37, article 2, Arizona Revised Statutes,
2 is amended by adding section 41-3954, to read:

3 41-3954. Affordable housing tax credit; limit; rules;
4 definitions

5 A. THE AFFORDABLE HOUSING TAX CREDIT IS ESTABLISHED. THE
6 DEPARTMENT SHALL ADMINISTER THE CREDIT AS PROVIDED BY THIS SECTION.

7 B. ON APPLICATION, THE DEPARTMENT SHALL ALLOCATE TAX CREDITS UNDER
8 THIS SECTION FOR PROJECTS IN THIS STATE THAT QUALIFY FOR THE FEDERAL
9 LOW-INCOME HOUSING TAX CREDIT UNDER SECTION 42 OF THE INTERNAL REVENUE
10 CODE AND THAT ARE PLACED IN SERVICE, FOR PURPOSES OF THE FEDERAL CREDIT,
11 FROM AND AFTER JUNE 30, 2020, IN AN AMOUNT EQUAL TO THE AMOUNT OF THE
12 FEDERAL CREDIT ALLOWED IN EACH TAXABLE YEAR DURING THE FEDERAL CREDIT
13 PERIOD. THE DEPARTMENT SHALL ALLOCATE TAX CREDITS UNDER THIS SECTION
14 ACCORDING TO ITS CURRENT QUALIFIED ALLOCATION PLAN ADOPTED PURSUANT TO
15 SECTION 42(m) OF THE INTERNAL REVENUE CODE.

16 C. THE DEPARTMENT SHALL PRESCRIBE FORMS, PROCEDURES AND CRITERIA
17 FOR APPLYING, EVALUATING AND QUALIFYING FOR THE CREDIT UNDER THIS SECTION.
18 THE DEPARTMENT SHALL ISSUE AN ELIGIBILITY STATEMENT FOR EACH QUALIFIED
19 PROJECT THAT IDENTIFIES THE QUALIFIED PROJECT, THE ALLOCATION YEAR AND THE
20 AMOUNT OF THE CREDITS ALLOCATED TO THE PROJECT.

21 D. THE DEPARTMENT MAY NOT APPROVE TAX CREDITS UNDER THIS SECTION IN
22 ANY CALENDAR YEAR THAT EXCEED A TOTAL OF \$12,000,000, ACCORDING TO THE
23 DATE OF THE ALLOCATION OF THE CREDIT. NOT MORE THAN TWENTY PERCENT OF THE
24 TOTAL AMOUNT OF TAX CREDITS APPROVED EACH CALENDAR YEAR MAY BE AWARDED TO
25 QUALIFIED PROJECTS THAT ARE FINANCED THROUGH TAX-EXEMPT BOND ISSUANCE. AN
26 APPROVED AMOUNT APPLIES AGAINST THE DOLLAR LIMIT FOR THE YEAR IN WHICH THE
27 APPLICATION IS SUBMITTED. IF, AT THE END OF ANY YEAR, AN UNUSED BALANCE
28 OCCURS UNDER THE DOLLAR LIMIT PRESCRIBED BY THIS SUBSECTION, THE BALANCE
29 SHALL BE REALLOCATED FOR THE PURPOSES OF THIS SUBSECTION IN THE FOLLOWING
30 YEAR.

31 E. ANY TAXPAYER THAT OWNS AN INTEREST IN AN INVESTMENT IN A
32 QUALIFIED PROJECT AND THAT RECEIVES AN ELIGIBILITY STATEMENT FROM THE
33 DEPARTMENT IS ALLOWED A TAX CREDIT UNDER THIS SECTION FOR TAXABLE YEARS
34 BEGINNING FROM AND AFTER DECEMBER 31, 2019. THE TAXPAYER SHALL APPLY THE
35 CREDIT AGAINST THE TAXPAYER'S INSURANCE PREMIUM OR INCOME TAX LIABILITY AS
36 PROVIDED AND SUBJECT TO THE PROCEDURES, TERMS AND CONDITIONS PRESCRIBED BY
37 SECTION 20-224.04, 43-1075 OR 43-1163, AS APPLICABLE.

38 F. A QUALIFIED PROJECT THAT IS APPROVED FOR THE PURPOSES OF THE
39 CREDIT UNDER THIS SECTION IS NOT ELIGIBLE FOR ANY ABATEMENT, EXEMPTION OR
40 OTHER REDUCTION IN STATE OR LOCAL AD VALOREM PROPERTY TAXES OTHERWISE
41 ALLOWED BY STATUTE.

42 G. THE ARIZONA DEPARTMENT OF HOUSING, WITH THE COOPERATION OF THE
43 DEPARTMENT OF INSURANCE AND THE DEPARTMENT OF REVENUE, SHALL ADOPT RULES
44 AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO ADMINISTER

1 THIS SECTION, INCLUDING CRITERIA ON WHICH ELIGIBILITY STATEMENTS ARE
2 ISSUED UNDER THIS SECTION.

3 H. FOR THE PURPOSES OF THIS SECTION:

4 1. "INTERNAL REVENUE CODE" HAS THE SAME MEANING PRESCRIBED BY
5 SECTION 43-105.

6 2. "QUALIFIED PROJECT" MEANS A QUALIFIED LOW-INCOME BUILDING AS
7 DEFINED IN SECTION 42(c)(2) OF THE INTERNAL REVENUE CODE.

8 3. "TAXPAYER" MEANS A PERSON, FIRM OR CORPORATION THAT IS SUBJECT
9 TO TAXATION UNDER TITLE 20 OR UNDER TITLE 43, CHAPTER 10 OR 11.

10 Sec. 3. Section 43-222, Arizona Revised Statutes, is amended to
11 read:

12 43-222. Income tax credit review schedule

13 The joint legislative income tax credit review committee shall
14 review the following income tax credits:

15 1. For years ending in 0 and 5, sections 43-1079.01, 43-1087,
16 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

17 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,
18 43-1083, 43-1083.02, 43-1164.03 and 43-1183.

19 3. For years ending in 2 and 7, sections 43-1073, 43-1080, 43-1085,
20 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, 43-1169 and
21 43-1181.

22 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081,
23 43-1168, 43-1170 and 43-1178.

24 5. For years ending in 4 and 9, sections 43-1075, 43-1076,
25 43-1081.01, 43-1083.04, 43-1084, 43-1162, 43-1163, 43-1164.05, 43-1170.01
26 and 43-1184 and, beginning in 2019, sections 43-1083.03 and 43-1164.04.

27 Sec. 4. Title 43, chapter 10, article 5, Arizona Revised Statutes,
28 is amended by adding section 43-1075, to read:

29 43-1075. Affordable housing tax credit

30 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR
31 TAXPAYERS WHO APPLY TO THE ARIZONA DEPARTMENT OF HOUSING AND RECEIVE AN
32 ELIGIBILITY STATEMENT FOR A QUALIFIED PROJECT PURSUANT TO SECTION 41-3954.
33 THE AMOUNT OF THE CREDIT:

34 1. IS EQUAL TO THE AMOUNT OF THE FEDERAL LOW-INCOME HOUSING CREDIT
35 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 THE TOTAL OF THE ALLOCATED CREDITS AMONG ALL SUCH PARTICIPANTS MAY NOT
39 EXCEED THE AMOUNT OF THE CREDIT APPROVED BY THE ARIZONA DEPARTMENT OF
40 HOUSING.

41 B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST SUBMIT
42 THE ELIGIBILITY STATEMENT PROVIDED BY THE ARIZONA DEPARTMENT OF HOUSING
43 UNDER SECTION 41-3954 TO THE DEPARTMENT OF REVENUE WITH THE TAXPAYER'S
44 INCOME TAX RETURN. A CREDIT UNDER THIS SECTION IS NOT ALLOWED UNTIL THE
45 TAXPAYER FURNISHES THE REQUIRED DOCUMENTATION.

1 C. IF THE AMOUNT OF THE CREDIT FOR A TAXABLE YEAR EXCEEDS THE
2 AMOUNT OF TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME,
3 OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE
4 AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD
5 FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

6 D. IF ALL OR PART OF THE FEDERAL LOW-INCOME HOUSING TAX CREDIT WITH
7 RESPECT TO THE QUALIFIED PROJECT IS SUBJECT TO RECAPTURE UNDER SECTION 42
8 OF THE INTERNAL REVENUE CODE DURING THE FIRST TEN TAXABLE YEARS AFTER THE
9 PROJECT IS PLACED IN SERVICE, THE CREDIT UNDER THIS SECTION IS ALSO
10 SUBJECT TO RECAPTURE IN A PROPORTIONAL AMOUNT FROM ALL TAXPAYERS WHO
11 CLAIMED THE CREDIT. THE RECAPTURE IS CALCULATED BY INCREASING THE AMOUNT
12 OF TAXES IMPOSED IN THE FOLLOWING YEAR BY THE AMOUNT RECAPTURED.

13 E. THE DEPARTMENT OF REVENUE, WITH THE COOPERATION OF THE
14 DEPARTMENT OF INSURANCE AND THE ARIZONA DEPARTMENT OF HOUSING, SHALL ADOPT
15 RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO
16 ADMINISTER THIS SECTION.

17 Sec. 5. Title 43, chapter 11, article 6, Arizona Revised Statutes,
18 is amended by adding section 43-1163, to read:

19 43-1163. Affordable housing tax credit

20 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR
21 TAXPAYERS THAT APPLY TO THE ARIZONA DEPARTMENT OF HOUSING AND RECEIVE AN
22 ELIGIBILITY STATEMENT FOR A QUALIFIED PROJECT PURSUANT TO SECTION 41-3954.
23 THE AMOUNT OF THE CREDIT:

24 1. IS EQUAL TO THE AMOUNT OF THE FEDERAL LOW-INCOME HOUSING CREDIT
25 FOR THE QUALIFIED PROJECT.

26 2. ON NOTICE TO THE DEPARTMENT OF REVENUE, MAY BE ALLOCATED AMONG
27 THE PARTNERS, MEMBERS OR SHAREHOLDERS, AS THEY MAY AGREE AMONG THEMSELVES.
28 THE TOTAL OF THE ALLOCATED CREDITS AMONG ALL SUCH PARTICIPANTS MAY NOT
29 EXCEED THE AMOUNT OF THE CREDIT APPROVED BY THE ARIZONA DEPARTMENT OF
30 HOUSING.

31 B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST SUBMIT
32 THE ELIGIBILITY STATEMENT PROVIDED BY THE ARIZONA DEPARTMENT OF HOUSING
33 UNDER SECTION 41-3954 TO THE DEPARTMENT OF REVENUE WITH THE TAXPAYER'S
34 INCOME TAX RETURN. A CREDIT UNDER THIS SECTION IS NOT ALLOWED UNTIL THE
35 TAXPAYER FURNISHES THE REQUIRED DOCUMENTATION.

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

41 D. IF ALL OR PART OF THE FEDERAL LOW-INCOME HOUSING TAX CREDIT WITH
42 RESPECT TO THE QUALIFIED PROJECT IS SUBJECT TO RECAPTURE UNDER SECTION 42
43 OF THE INTERNAL REVENUE CODE DURING THE FIRST TEN TAXABLE YEARS AFTER THE
44 PROJECT IS PLACED IN SERVICE, THE CREDIT UNDER THIS SECTION IS ALSO
45 SUBJECT TO RECAPTURE IN A PROPORTIONAL AMOUNT FROM ALL TAXPAYERS THAT

1 CLAIMED THE CREDIT. THE RECAPTURE IS CALCULATED BY INCREASING THE AMOUNT
2 OF TAXES IMPOSED IN THE FOLLOWING YEAR BY THE AMOUNT RECAPTURED.

3 E. THE DEPARTMENT OF REVENUE, WITH THE COOPERATION OF THE
4 DEPARTMENT OF INSURANCE AND THE ARIZONA DEPARTMENT OF HOUSING, SHALL ADOPT
5 RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO
6 ADMINISTER THIS SECTION.

7 Sec. 6. Purpose

8 Pursuant to section 43-223, Arizona Revised Statutes, the
9 legislature enacts sections 43-1075 and 43-1163, Arizona Revised Statutes,
10 as added by this act, to support the construction of new affordable
11 housing projects in this state.

12 Sec. 7. Effective date

13 This act is effective from and after December 31, 2019.