



ARIZONA HOUSE OF REPRESENTATIVES

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Senate: APPROP DP 8-0-2-0 | 3rd Read 29-1-0-0

House: WM DP 9-1-0-0

SB 1124: contributions in aid of construction

Sponsor: Senator Gowan, LD 14

House Engrossed

Overview

Establishes the Affordable Housing Tax Credit (AHTC) for individual, corporate and insurer taxpayers. Allocates \$3,500,000 to an Indian tribal community in fiscal year 2021. Makes miscellaneous changes to tax law.

History

The [Low-Income Housing Tax Credit](#) (LIHTC) is a federal program established to help promote investment and development in affordable rental housing for low-income individuals and families. The tax credit is a dollar-for-dollar credit against a taxpayer's federal income tax liability, so for every dollar invested in a low-income housing development, the taxpayer is granted a dollar of federal tax credit.

To qualify for LIHTC, a rental owner's property must have at least either: 1) 20% or more of its units be rent restricted and occupied by tenants whose income is 50% or less of the area's median gross income; or 2) 40% or more of its units be rent restricted and occupied by tenants whose income is 60% or less of the area's median gross income. These rent restrictions must remain in place for at least 30 years ([26 U.S. Code § 42](#)).

LIHTC credits are disbursed by the individual states. LIHTC requires Arizona's Department of Housing (DOH) to establish a yearly [Qualified Allocation Plan](#) to direct how LIHTC credits are to be disbursed in Arizona.

The Credit for Investment in a Qualified Small Business is a tax credit overseen by the Arizona Commerce Authority; it grants the credit to qualifying investors who purchase shares of capital stock in an Arizona small business ([A.R.S. § 41-1518](#)).

Prior to the passing of the federal Tax Cuts and Jobs Act (TCJA) public service corporations were permitted to subtract from their gross taxable income the total amount of contributions in the aid of construction ([P.L. 104-118 § 1613](#)). The TCJA removed this subtraction in 2017 ([P.L. 115-97 § 13312](#)). Public service corporations are defined in the Arizona Constitution as various non-municipal corporations which provide utilities — such as gas, water, electricity, sewage, and telephone services — and are common carriers ([Ariz. Const. Art. 15, § 2](#)).

Provisions

Affordable Housing Tax Credit

1. Establishes the AHTC for individual, corporate and insurer taxpayers. (Sec. 2, 10, 13)
2. States that a taxpayer is allowed the AHTC against their premium tax. (Sec. 2)
3. States that an individual or corporate taxpayer is allowed the AHTC against their income tax. (Sec. 10, 13)

4. Establishes the AHTC at an amount equal to at least 50% of LIHTC (Sec. 2, 5, 10, 13)
5. Provides statutory guidance for allocating the AHTC among participants. (Sec. 2, 10, 13)
6. Requires corporate and individual taxpayers to submit an eligibility statement — provided by DOH — to the Department of Revenue (DOR) with the taxpayer's tax return to claim the AHTC. (Sec. 10, 13)
7. Requires a taxpayer to submit an eligibility statement — provided by DOH — to the Department of Insurance and Financial Institutions (DIFI) with the taxpayer's premium tax return to claim the AHTC. (Sec. 2)
8. Allows for a carry-forward of the AHTC for no more than five consecutive years. (Sec. 2, 10, 13)
9. Stipulates that, if all or part of LIHTC with respect to a qualified project is subject to recapture under federal law — during the first 10 taxable years after the project begins service —, the AHTC is also subject to recapture in a proportional amount from all taxpayers who claimed the credit. (Sec. 10, 13)
10. States that a taxpayer that claims the AHTC is not required to pay any additional retaliatory tax. (Sec. 2)
11. Requires DOR, with the help of the DIFI and DOH, to adopt rules to administer the AHTC for individual and corporate taxpayers. (Sec. 10, 13)
12. Requires DIFI, with the help of DOR and DOH, to adopt rules to administer the AHTC for insurance companies. (Sec. 2)
13. Contains a savings clause stipulating that the repeal of the AHTC does not affect: a) issuance of tax credits approved before the repeal of the AHTC; b) redemption of AHTC tax credits already awarded to taxpayers; and c) legal proceedings already in progress. (Sec. 19)
14. Repeals the AHTC effective January 1, 2026. (Sec. 3, 6, 11, 14)
15. Contains a purpose clause. (Sec. 16)

Rules and Administration

16. Establishes and provides statutory guidelines for DOH to administer the AHTC. (Sec. 5)
17. Allows a total of \$4,000,000 to be allocated to taxpayers for the AHTC in a calendar year. (Sec. 5)
18. Stipulates that a project approved for the purposes of the AHTC is not eligible for any abatement, exemption or other reduction in state or local ad-valorem property taxes. (Sec. 5)
19. Directs DOH, on or before July 30 each year, to hold a public hearing to solicit comments relating to the amount of AHTC to be used for qualified projects that are financed through tax-exempt bond issuance. (Sec. 5)
20. Instructs DOH to post a copy of all comments submitted during each public hearing on the DOH website before September 15 of the year in which the public hearing is held. (Sec. 5)
21. Requires DOH to submit an annual report, on or before December 31, to the Senate President and Speaker of the House that addresses whether the credits produced a significant number of additional affordable housing units. (Sec. 5)
22. Directs DOH to include AHTC in its Qualified Allocation Plan beginning in 2022 and each year thereafter. (Sec. 15)

23. Adds the AHTC to the annual Premium Tax Credit Report which DIFI must file with the Joint Legislative Budget Committee and the Governor's Office of Strategic Planning and Budgeting. (Sec. 1)
24. Establishes the AHTC Review Committee (Committee) and outlines the Committee's membership. (Sec. 7)
25. States that Committee members may not receive any compensation beyond reimbursement of expenses. (Sec. 7)
26. Directs the Committee to review the AHTC three years after the effective date of the credits and every three years thereafter. (Sec. 7)
27. Instructs the Committee to review: a) the history, rational and estimated revenue impact of the AHTC; b) if the AHTC has provided a benefit to Arizona; c) if the AHTC is unnecessarily complex; d) the number of housing units generated by the AHTC; and e) the average income of residents in AHTC units.
28. Directs the Committee to present a report of findings by December 15 to the President of the Senate, Speaker of the House, Governor and Secretary of State. (Sec. 7)
29. Repeals the Committee effective January 1, 2026. (Sec. 8)
30. Defines *internal revenue code*, *qualified project* and *taxpayer*. (Sec. 5)

Credit for Investment in a Qualified Small Business

31. Extends the authorization of the credit for investment in a qualified small business to June 30, 2031 (Sec. 4)
32. Allows the Arizona Commerce Authority to certify credits up to \$2,500,000 each fiscal year through June 30, 2031. (Sec. 4)
33. Extends the individual income tax credit for investment in a qualified small business from December 31, 2024 to December 31, 2034. (Sec. 9)

Miscellaneous

34. Requires, with respect to a public service corporation operating a water or sewage system, the amount of monies or property received as a contribution in aid of construction to be deducted from Arizona gross income. (Sec. 12)
35. Defines *contribution in aid of construction* and *public service corporation*. (Sec. 12)
36. Allocates to an Indian tribal community college — with a full-time student equivalent enrolment of at least 500 students in fiscal year 2020 — \$3,500,000 from transaction privilege tax revenues received from the Indian reservation in fiscal year 2021. (Sec. 17)
37. Contains a retroactivity clause to January 1, 2021 for the: a) monies allocated to the Indian tribal community college; and b) public service corporation deduction of Arizona gross income. (Sec. 18)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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