

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 470

Representative Hillyer

Cosponsors: Representatives Schmidt, Galonski, Carfagna

A BILL

To amend sections 107.036 and 5747.98 and to enact 1
section 122.091 of the Revised Code to authorize 2
the Ohio community investor credit for 3
qualifying developers of multi-family 4
residential housing projects. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 107.036 and 5747.98 be amended 6
and section 122.091 of the Revised Code be enacted to read as 7
follows: 8

Sec. 107.036. (A) For each business incentive tax credit, 9
the main operating appropriations act shall contain a detailed 10
estimate of the total amount of credits that may be authorized 11
in each year, an estimate of the amount of credits expected to 12
be claimed in each year, and an estimate of the amount of 13
credits expected to remain outstanding at the end of the 14
biennium. The governor shall include such estimates in the state 15
budget submitted to the general assembly pursuant to section 16
107.03 of the Revised Code. 17

(B) As used in this section, "business incentive tax 18

credit" means all of the following:	19
(1) The job creation tax credit under section 122.17 of the Revised Code;	20 21
(2) The job retention tax credit under section 122.171 of the Revised Code;	22 23
(3) The historic preservation tax credit under section 149.311 of the Revised Code;	24 25
(4) The motion picture and Broadway theatrical production tax credit under section 122.85 of the Revised Code;	26 27
(5) The new markets tax credit under section 5725.33 of the Revised Code;	28 29
(6) The research and development credit under section 166.21 of the Revised Code;	30 31
(7) The small business investment credit under section 122.86 of the Revised Code;	32 33
(8) The rural growth investment credit under section 122.152 of the Revised Code;	34 35
(9) The opportunity zone investment credit under section 122.84 of the Revised Code;	36 37
(10) The transformational mixed use development credit under section 122.09 of the Revised Code;	38 39
<u>(11) The Ohio community investor credit under section 122.091 of the Revised Code.</u>	40 41
<u>Sec. 122.091. (A) As used in this section:</u>	42
<u>(1) "Non-accredited Ohio investor" means an individual who is a resident, as defined under section 5747.01 of the Revised</u>	43 44

<u>Code, who does not meet both the net worth and income</u>	45
<u>qualifications prescribed under 17 C.F.R. 230.501(a) (5) and (6).</u>	46
<u>(2) "Qualifying developer" means a taxpayer or pass-</u>	47
<u>through entity undertaking a qualifying project.</u>	48
<u>(3) "Multi-family residence" means a dwelling for four or</u>	49
<u>more families located in this state.</u>	50
<u>(4) "Qualifying project" means any of the following, for</u>	51
<u>which at least one per cent of the costs thereof are</u>	52
<u>attributable to an investment by a non-accredited Ohio investor:</u>	53
<u>(a) New construction of a multi-family residence;</u>	54
<u>(b) Purchase of a multi-family residence;</u>	55
<u>(c) Financial restructuring or recapitalization of a</u>	56
<u>multi-family residence.</u>	57
<u>(5) "Taxpayer" and "taxable year" have the same meanings</u>	58
<u>as in section 5747.01 of the Revised Code.</u>	59
<u>(6) "Qualifying taxable year" means the applicable of the</u>	60
<u>following:</u>	61
<u>(a) For a qualifying developer that is a taxpayer, the</u>	62
<u>taxpayer's last taxable year ending before the start of the</u>	63
<u>application period described in division (B) of this section.</u>	64
<u>(b) For a qualifying developer that is a pass-through</u>	65
<u>entity, the pass-through entity's last federal taxable year</u>	66
<u>ending before the start of the application period described in</u>	67
<u>division (B) of this section.</u>	68
<u>(B) A qualifying developer may apply to the director of</u>	69
<u>development for a nonrefundable credit against the tax levied</u>	70
<u>under section 5747.02 of the Revised Code equal to ten per cent</u>	71

of the costs incurred by the developer during the qualifying 72
taxable year for a qualifying project. The application shall be 73
made on forms prescribed by the director and shall be submitted 74
on or after the first day of January and on or before the first 75
day of February. 76

The qualifying developer shall include the following 77
information with the developer's application: 78

(1) The costs of the qualifying project incurred by the 79
developer during the qualifying taxable year, separated by 80
project if the developer undertook more than one such project; 81

(2) Supporting evidence that at least one per cent of the 82
costs of each identified qualifying project are attributable to 83
an investment by a non-accredited Ohio investor; 84

(3) Any other information the director requires to 85
evaluate eligibility for the tax credit. 86

The director shall review applications and award 87
certificates in the order in which complete applications are 88
received. 89

(C) (1) Subject to division (C) (2) of this section, if the 90
director of development determines that the applicant qualifies 91
for a credit under this section, the director shall issue, 92
within sixty days after the receipt of a complete application 93
under division (B) of this section, a certificate to the 94
qualifying developer identified with a unique number and listing 95
the amount of credit the director determines may be claimed. 96

(2) The director of development shall not issue 97
certificates in a total amount that would cause the tax credits 98
allocated in any fiscal biennium to exceed fifty million 99
dollars. The director shall not issue more than two million 100

dollars in certificates to a single applicant in the same fiscal 101
biennium. 102

(3) The credit shall be claimed for the taxpayer's taxable 103
year ending in the qualifying developer's qualifying taxable 104
year. If the certificate is issued to a pass-through entity for 105
costs incurred by the entity for a qualifying project, any 106
taxpayer that is a direct or indirect investor in the entity on 107
the last day of the entity's qualifying taxable year may claim 108
the taxpayer's proportionate or distributive share of the credit 109
against the taxpayer's aggregate tax liability under that 110
section. The credit shall be claimed in the order prescribed by 111
section 5747.98 of the Revised Code. Any unused amount may be 112
carried forward for the following five taxable years. 113

(D) A taxpayer claiming a credit under this section shall 114
submit a copy of the certificate with the taxpayer's return or 115
report required under Chapter 5747. of the Revised Code. 116

(E) A person that holds an unclaimed certificate under 117
division (C) of this section may notify the tax commissioner, in 118
writing, that the person is transferring the right to claim the 119
credit stated on the transferred certificate. The person shall 120
identify in that notification the certificate's number and the 121
name and the tax identification number of the transferee. 122
Pursuant to division (D) of this section, the transferee may 123
claim the credit amount stated on the certificate for the same 124
taxable year for which the transferor could have claimed the 125
credit, subject to the limitations of this section. A transferee 126
may not transfer the right to claim the credit to any other 127
person. 128

Sec. 5747.98. (A) To provide a uniform procedure for 129
calculating a taxpayer's aggregate tax liability under section 130

5747.02 of the Revised Code, a taxpayer shall claim any credits	131
to which the taxpayer is entitled in the following order:	132
Either the retirement income credit under division (B) of	133
section 5747.055 of the Revised Code or the lump sum retirement	134
income credits under divisions (C), (D), and (E) of that	135
section;	136
Either the senior citizen credit under division (F) of	137
section 5747.055 of the Revised Code or the lump sum	138
distribution credit under division (G) of that section;	139
The dependent care credit under section 5747.054 of the	140
Revised Code;	141
The credit for displaced workers who pay for job training	142
under section 5747.27 of the Revised Code;	143
The campaign contribution credit under section 5747.29 of	144
the Revised Code;	145
The twenty-dollar personal exemption credit under section	146
5747.022 of the Revised Code;	147
The joint filing credit under division (G) of section	148
5747.05 of the Revised Code;	149
The earned income credit under section 5747.71 of the	150
Revised Code;	151
The nonrefundable credit for education expenses under	152
section 5747.72 of the Revised Code;	153
The nonrefundable credit for donations to scholarship	154
granting organizations under section 5747.73 of the Revised	155
Code;	156
The nonrefundable credit for tuition paid to a	157

nonchartered nonpublic school under section 5747.75 of the Revised Code;	158 159
The credit for adoption of a minor child under section 5747.37 of the Revised Code;	160 161
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	162 163
The enterprise zone credit under section 5709.66 of the Revised Code;	164 165
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	166 167
The small business investment credit under section 5747.81 of the Revised Code;	168 169
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	170 171
The opportunity zone investment credit under section 122.84 of the Revised Code;	172 173
<u>The Ohio community investor credit under section 122.091 of the Revised Code;</u>	174 175
The enterprise zone credits under section 5709.65 of the Revised Code;	176 177
The research and development credit under section 5747.331 of the Revised Code;	178 179
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	180 181
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	182 183

The credit for a resident's out-of-state income under	184
division (B) of section 5747.05 of the Revised Code;	185
The refundable motion picture and Broadway theatrical	186
production credit under section 5747.66 of the Revised Code;	187
The refundable jobs creation credit or job retention	188
credit under division (A) of section 5747.058 of the Revised	189
Code;	190
The refundable credit for taxes paid by a qualifying	191
entity granted under section 5747.059 of the Revised Code;	192
The refundable credits for taxes paid by a qualifying	193
pass-through entity granted under division (I) of section	194
5747.08 of the Revised Code;	195
The refundable credit under section 5747.80 of the Revised	196
Code for losses on loans made to the Ohio venture capital	197
program under sections 150.01 to 150.10 of the Revised Code;	198
The refundable credit for rehabilitating a historic	199
building under section 5747.76 of the Revised Code.	200
(B) For any credit, except the refundable credits	201
enumerated in this section and the credit granted under division	202
(H) of section 5747.08 of the Revised Code, the amount of the	203
credit for a taxable year shall not exceed the taxpayer's	204
aggregate amount of tax due under section 5747.02 of the Revised	205
Code, after allowing for any other credit that precedes it in	206
the order required under this section. Any excess amount of a	207
particular credit may be carried forward if authorized under the	208
section creating that credit. Nothing in this chapter shall be	209
construed to allow a taxpayer to claim, directly or indirectly,	210
a credit more than once for a taxable year.	211

Section 2. That existing sections 107.036 and 5747.98 of	212
the Revised Code are hereby repealed.	213
Section 3. The enactment by this act of section 122.091 of	214
the Revised Code applies to qualifying taxable years, as that	215
term is defined in that section, beginning on or after the	216
effective date of this section.	217
Section 4. The tax credit authorized by section 122.091 of	218
the Revised Code shall be known as the "Ohio Community Investor	219
Credit."	220