

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 REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 9, 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," providing for Pennsylvania Housing Tax Credit.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

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

ARTICLE XIX G

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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.

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

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

5 ~~"Credit period." A 5 year period that begins with the~~
6 ~~taxable year in which the qualified low income housing project~~
7 ~~is eligible to claim the credit under section 1907 G or, at the~~
8 ~~irrevocable election of the eligible applicant, the next~~
9 ~~succeeding taxable year.~~

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

11 ~~"Eligible applicant." An applicant that meets the agency's~~
12 ~~applicant criteria for Federal housing tax credits.~~

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 ~~"Qualified allocation plan." The agency's plan for~~
17 ~~allocation of Federal housing tax credits developed under 26~~
18 ~~C.F.R. § 1.42-17 (relating to qualified allocation plan).~~

19 ~~"Qualified low income housing project." The term shall have~~
20 ~~the same meaning as provided under section 42(g)(1) of the~~
21 ~~Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §~~
22 ~~42(g)(1)).~~

23 ~~"Qualified tax liability." The tax liability imposed on a~~
24 ~~taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV,~~
25 ~~excluding any tax withheld by an employer under Article III.~~

26 ~~"Qualified taxpayer." An individual, business firm,~~
27 ~~corporation, business trust, limited liability company,~~
28 ~~partnership, limited liability partnership, association or any~~
29 ~~other form of legal business entity that:~~

30 ~~(1) is subject to a tax imposed under Article III, IV,~~

~~VI, VII, VIII, IX, XI or XV, excluding any tax withheld by an employer under Article III; and~~

~~(2) meets the criteria set forth in guidelines adopted and promulgated by the agency in accordance with section 1904 G.~~

~~"Tax credit." An amount made available to qualified taxpayers to offset against qualified tax liability as authorized and allocated under this article.~~

~~"Tax credit certificates." The document provided by the agency evidencing the allocation of tax credits under section 1906 G.~~

~~"Taxable year." The term shall have the same meaning as provided under section 441(b) of the Internal Revenue Code of 1986 (Public Law 99 514, 26 U.S.C. § 441(b)).~~

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

~~(a) Tax credit authority. The agency may allocate tax credits in an amount not to exceed the sum of:~~

~~(1) \$10 million per fiscal year;~~

~~(2) unused and unallocated tax credits for the preceding fiscal years; and~~

~~(3) tax credits returned to the agency for the preceding fiscal years.~~

~~(b) Application. An eligible applicant may apply to the agency for tax credits for a qualified low income housing project.~~

~~(c) Selection. The agency shall review applications submitted for tax credits and, in accordance with this article and the procedures established by the agency, shall select and shall conditionally award tax credits to eligible applicants.~~

~~(d) Integration with the Federal housing tax credit. The~~

~~1 agency shall, as much as practical and unless otherwise~~
~~2 indicated in this article, administer the tax credit using the~~
~~3 same guidelines, procedures and priorities that the agency uses~~
~~4 to administer the Federal housing tax credit.~~

~~5 (c) Income targeting. The agency shall allocate tax credits~~
~~6 in a manner that the agency, at the time of allocation,~~
~~7 reasonably believes will result in at least 10% of the tax~~
~~8 credits being used to provide housing units targeting households~~
~~9 with incomes at or below 30% of area median income.~~

~~10 Section 1904 G. Guidelines and procedures.~~

~~11 The agency shall adopt guidelines and procedures for the tax~~
~~12 credit in conjunction with the qualified allocation plan and~~
~~13 administrative guidelines.~~

~~14 Section 1905 G. Reporting.~~

~~15 The agency shall annually publish a report on the tax credit~~
~~16 allocations on the agency's publicly accessible Internet~~
~~17 website. The report shall include:~~

~~18 (1) Tax credits awarded.~~

~~19 (2) Eligible applicants receiving tax credits.~~

~~20 (3) The amount of tax credits issued to each recipient.~~

~~21 Section 1906 G. Tax credit certificate.~~

~~22 The agency shall issue tax credit certificates in a form~~
~~23 determined by the agency in consultation with the department.~~

~~24 Section 1907 G. Claiming the credit.~~

~~25 (a) General rule. On presentation to the department, a~~
~~26 qualified taxpayer may claim a dollar for dollar tax credit~~
~~27 against the qualified tax liability of the qualified taxpayer if~~
~~28 a tax credit certificate, issued by the agency after a~~
~~29 determination by the agency that the qualified low income~~
~~30 housing project for which the tax credit was allocated, has~~

1 ~~fully certified its costs and is in compliance with agency~~
2 ~~requirements.~~

3 ~~(b) Exception. The agency shall only issue the~~
4 ~~certification under subsection (a) for the first year that the~~
5 ~~qualified taxpayer claims the tax credit.~~

6 ~~(c) Time period. Presentation under subsection (a) shall be~~
7 ~~made within the time specified by the guidelines issued by the~~
8 ~~agency in consultation with the department.~~

9 ~~Section 1908 G. Carryover, sale and assignment.~~

10 ~~(a) General rule. The department, in consultation with the~~
11 ~~agency, shall establish guidelines that include procedures for~~
12 ~~the carryover, sale and assignment of credits.~~

13 ~~(b) Application. A tax credit certification presented to~~
14 ~~the department in accordance with section 1907 G shall first be~~
15 ~~applied against the qualified taxpayer's qualified tax liability~~
16 ~~for the current taxable year as of the date on which the tax~~
17 ~~credit certification was presented and before any carryover is~~
18 ~~applied against the qualified tax liability.~~

19 ~~(c) Carryover. If a qualified taxpayer cannot use the~~
20 ~~entire amount of the tax credit for the taxable year in which it~~
21 ~~is first claimed, the excess may be carried over to subsequent~~
22 ~~taxable years. Each time a tax credit is carried over to a~~
23 ~~succeeding taxable year, the tax credit shall be reduced by the~~
24 ~~amount that was used as a credit during the immediately~~
25 ~~preceding taxable year. In no event shall tax credits provided~~
26 ~~by this article be carried over and applied to succeeding~~
27 ~~taxable years more than five taxable years following the first~~
28 ~~taxable year for which the qualified taxpayer claimed the~~
29 ~~credit.~~

30 ~~(d) No carryback or refund. A qualified taxpayer may not~~

~~1 carry back or obtain a refund of all or any portion of an unused
2 tax credit granted to the qualified taxpayer under this article.~~

~~3 (e) Sale or assignment. A qualified taxpayer, on
4 application and approval by the department, in consultation with
5 the agency and in conformance with department and agency
6 guidelines, may sell or assign, in whole or in part, a tax
7 credit granted to the qualified taxpayer under this article. No
8 relation to the eligible applicant is required of a purchaser or
9 assignee of tax credits under this article.~~

~~10 (f) Purchasers and assignees. The purchaser or assignee of
11 all or a portion of a tax credit obtained under subsection (e)
12 must be a qualified taxpayer and must, unless determined to be a
13 pass through entity distribution under subsection (g),
14 immediately claim the credit in the taxable year in which the
15 purchase or assignment is made. The purchaser or assignee may
16 not carryover, carryback or obtain a refund for the tax credit.
17 The purchaser or assignee shall notify the department and the
18 agency of the purchase or assignment of the tax credit in
19 compliance with procedures specified by the department.~~

~~20 (g) Pass through entity distributions. The department shall
21 establish guidelines that include procedures and limitations for
22 pass through entity distributions of tax credits. Subject to the
23 provisions of section 1909 G, the guidelines shall include, but
24 not be limited to, provisions allowing the allocation of the tax
25 credit to the following in order to assign the tax credit to a
26 qualified taxpayer who wishes to claim the tax credit:~~

~~27 (1) A partner or member.~~

~~28 (2) The parent organizations of any partner or member.~~

~~29 (3) Any successive parent organization.~~

~~30 (h) Tax credit allocation. The distribution under~~

1 ~~subsection (g) may be allocated in any manner provided by the~~
2 ~~partnership agreement or other agreement governing the~~
3 ~~operations of an eligible applicant. Tax credits allocated under~~
4 ~~this subsection may, in accordance with subsection (e) and~~
5 ~~agency guidelines, be sold or assigned.~~

6 ~~Section 1909 G. Recapture.~~

7 ~~(a) Guidelines. The department, in consultation with the~~
8 ~~agency, shall establish guidelines that include procedures for~~
9 ~~recapture of tax credits during the credit period that are~~
10 ~~similar in structure and effect to events of noncompliance under~~
11 ~~section 42 of the Internal Revenue Code of 1986 (Public Law 99-~~
12 ~~514, 26 U.S.C. § 42). The guidelines shall provide for:~~

13 ~~(1) An affirmative duty to notify the agency and the~~
14 ~~department of any recapture of Federal housing tax credits~~
15 ~~within sixty days of the Federal recapture during the five~~
16 ~~year credit period.~~

17 ~~(2) The mechanism and formula that the tax credit may be~~
18 ~~recaptured over the remaining credit period.~~

19 ~~(b) Failure to notify agency and department of Federal~~
20 ~~recapture. A qualified taxpayer receiving tax credits under~~
21 ~~this section that fails to give timely notice to the agency and~~
22 ~~the department of Federal housing tax credit recapture shall be~~
23 ~~subject to debarment of future tax credits and Federal housing~~
24 ~~tax credits.~~

25 ~~Section 1910 G. Eligible uses.~~

26 ~~The use of any money generated in connection with the sale,~~
27 ~~assignment or pass through of tax credits under this article~~
28 ~~shall be limited to the uses allowed under the Federal housing~~
29 ~~tax credit set forth in guidelines issued by the agency.~~

30 ~~Section 1911 G. Fraud and misrepresentation.~~

1 ~~If an eligible applicant or a qualified 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) Debar the applicant or qualified taxpayer from~~
7 ~~future tax credits and Federal housing tax credit~~
8 ~~opportunities.~~

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

11 Section 2. This act shall take effect in 60 days.

12 ARTICLE XIX-G

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13 PENNSYLVANIA HOUSING TAX CREDIT

14 SECTION 1901-G. SCOPE OF ARTICLE.

15 THIS ARTICLE ESTABLISHES THE PENNSYLVANIA HOUSING TAX CREDIT.

16 SECTION 1902-G. DEFINITIONS.

17 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
18 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
19 CONTEXT CLEARLY INDICATES OTHERWISE:

20 "AGENCY." THE PENNSYLVANIA HOUSING FINANCE AGENCY.

21 "CREDIT PERIOD." A 5-YEAR PERIOD THAT BEGINS WITH THE
22 TAXABLE YEAR IN WHICH A TAXPAYER IS AWARDED A TAX CREDIT
23 CERTIFICATE IN ACCORDANCE WITH SECTION 1904-G OR, AT THE
24 IRREVOCABLE ELECTION OF A TAXPAYER, THE NEXT SUCCEEDING TAXABLE
25 YEAR FOLLOWING THE COMPLETION OF A QUALIFIED LOW-INCOME HOUSING
26 PROJECT.

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 (PUBLIC
9 LAW 99-514, 26 U.S.C. § 42(M)(1)).

10 "QUALIFIED LOW-INCOME HOUSING PROJECT." THE TERM SHALL HAVE
11 THE SAME MEANING AS PROVIDED UNDER SECTION 42(G)(1) OF THE
12 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §
13 42(G)(1)).

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

17 "TAX CREDIT." THE PENNSYLVANIA HOUSING TAX CREDIT
18 ESTABLISHED UNDER THIS ARTICLE.

19 "TAXABLE YEAR." THE TERM SHALL HAVE THE SAME MEANING AS
20 PROVIDED UNDER SECTION 441(B) OF THE INTERNAL REVENUE CODE OF
21 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 441(B)).

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

26 SECTION 1903-G. PENNSYLVANIA HOUSING TAX CREDIT.

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

1 (B) AVAILABILITY.--

2 (1) BEGINNING IN FISCAL YEAR 2020-2021 AND EACH FISCAL
3 YEAR THEREAFTER, THE AGENCY MAY AWARD A TOTAL OF \$10,000,000
4 IN TAX CREDITS PER FISCAL YEAR IN ACCORDANCE WITH THIS
5 ARTICLE.

6 (2) IN ADDITION TO THE AMOUNT AVAILABLE UNDER PARAGRAPH
7 (1), THE AGENCY MAY AWARD THE FOLLOWING, AS AVAILABLE, DURING
8 A FISCAL YEAR:

9 (I) UNUSED AND UNALLOCATED TAX CREDITS FOR THE
10 PRECEDING FISCAL YEAR; AND

11 (II) TAX CREDITS RETURNED TO THE AGENCY.

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

15 (D) APPLICATION.--

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

19 (2) THE AGENCY MAY REQUIRE SUCH INFORMATION ON THE
20 APPLICATION AS NECESSARY TO VERIFY THE COSTS INCURRED IN
21 CONSTRUCTING THE QUALIFIED LOW-INCOME HOUSING PROJECT.

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, ISSUE A CERTIFICATE
26 STATING THE AMOUNT OF THE TAX CREDIT FOR A QUALIFIED LOW-
27 INCOME HOUSING PROJECT.

28 (2) THE AGENCY SHALL CONDITIONALLY AWARD A TAX CREDIT IN
29 A MANNER THAT THE AGENCY, AT THE TIME OF ALLOCATION,
30 REASONABLY BELIEVES WILL RESULT IN AT LEAST 10% OF THE TAX

1 CREDITS BEING USED TO PROVIDE HOUSING UNITS TARGETING
2 HOUSEHOLDS WITH INCOMES AT OR BELOW 30% OF AREA MEDIAN
3 INCOME.

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

7 SECTION 1904-G. USE OF TAX CREDITS.

8 (A) INITIAL USE.--

9 (1) UNLESS OTHERWISE PERMITTED UNDER PARAGRAPH (2),
10 PRIOR TO THE SALE OR ASSIGNMENT OF A TAX CREDIT UNDER SECTION
11 1905-G, A TAXPAYER MUST FIRST USE A TAX CREDIT AGAINST THE
12 QUALIFIED TAX LIABILITY INCURRED IN THE TAXABLE YEAR IN WHICH
13 THE TAX CREDIT WAS APPROVED.

14 (2) A TAXPAYER MAY ELECT TO USE A TAX CREDIT THE NEXT
15 SUCCEEDING TAXABLE YEAR FOLLOWING THE COMPLETION OF A
16 QUALIFIED LOW-INCOME HOUSING PROJECT.

17 (B) APPLICATION.--THE TAX CREDIT SHALL BE APPLIED AGAINST A
18 TAXPAYER'S QUALIFIED TAX LIABILITY ONLY AFTER ALL OTHER TAX
19 CREDITS AND DEDUCTIONS AVAILABLE TO THE TAXPAYER UNDER ACT OF
20 THE GENERAL ASSEMBLY HAVE BEEN USED.

21 (C) AMOUNT.--THE TAX CREDIT MAY BE CLAIMED FOR AN AMOUNT NOT
22 TO EXCEED 50% OF THE TAXPAYER'S QUALIFIED TAX LIABILITY OR 20%
23 OF THE AMOUNT CERTIFIED PER TAXABLE YEAR DURING THE CREDIT
24 PERIOD, WHICHEVER IS LESS.

25 SECTION 1905-G. CARRYOVER, SALE AND ASSIGNMENT.

26 (A) GENERAL RULE.--A TAXPAYER SHALL BE ENTITLED TO CARRY
27 FORWARD A TAX CREDIT FOR A PERIOD NOT TO EXCEED FIVE TAXABLE
28 YEARS FROM THE TAXABLE YEAR IN WHICH THE TAX CREDIT WAS AWARDED.
29 EACH TIME THE TAX CREDIT IS CARRIED OVER TO A SUCCEEDING TAXABLE
30 YEAR, THE TAX CREDIT SHALL BE REDUCED BY THE AMOUNT THAT WAS

1 USED AS A CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR.

2 (B) APPLICATION.--A TAX CREDIT CERTIFICATE RECEIVED BY THE
3 DEPARTMENT IN A TAXABLE YEAR SHALL FIRST BE APPLIED AGAINST THE
4 TAXPAYER'S QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE YEAR
5 AS OF THE DATE ON WHICH THE CREDIT WAS ISSUED BEFORE THE TAX
6 CREDIT CAN BE APPLIED AGAINST A QUALIFIED TAX LIABILITY UNDER
7 SUBSECTION (A) .

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

11 SECTION 1906-G. PASS-THROUGH ENTITY.

12 (A) GENERAL RULE.--IF A PASS-THROUGH ENTITY HAS ANY UNUSED
13 TAX CREDIT UNDER SECTION 1906-G, THE TAXPAYER MAY ELECT IN
14 WRITING, ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT,
15 TO TRANSFER ALL OR A PORTION OF THE TAX CREDIT TO SHAREHOLDERS,
16 MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE OF THE ENTITY'S
17 DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER, MEMBER OR PARTNER
18 IS ENTITLED.

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

22 (C) APPLICATION.--A SHAREHOLDER, MEMBER OR PARTNER OF A
23 PASS-THROUGH ENTITY TO WHOM A CREDIT IS TRANSFERRED UNDER
24 SUBSECTION (A) SHALL IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE
25 YEAR IN WHICH THE TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR
26 PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR
27 SELL OR ASSIGN THE TAX CREDIT.

28 (D) TAX CREDIT ALLOCATION.--THE DISTRIBUTION UNDER SECTION
29 1908-G MAY BE ALLOCATED IN ANY MANNER PROVIDED BY THE
30 PARTNERSHIP AGREEMENT OR OTHER AGREEMENT GOVERNING THE

1 OPERATIONS OF THE TAXPAYER.

2 SECTION 1907-G. SALE OR ASSIGNMENT.

3 (A) AUTHORIZATION.--UPON APPROVAL BY THE DEPARTMENT, A
4 QUALIFIED TAXPAYER MAY SELL OR ASSIGN, IN WHOLE OR IN PART, A
5 TAX CREDIT GRANTED TO THE TAXPAYER UNDER THIS ARTICLE.

6 (B) APPLICATION.--THE FOLLOWING PROVISIONS SHALL APPLY TO
7 THE SALE AND ASSIGNMENT OF A TAX CREDIT:

8 (1) TO SELL OR ASSIGN A TAX CREDIT, A QUALIFIED TAXPAYER
9 MUST FILE AN APPLICATION FOR THE SALE OR ASSIGNMENT OF THE
10 TAX CREDIT WITH THE DEPARTMENT. THE APPLICATION MUST BE ON A
11 FORM REQUIRED BY THE DEPARTMENT.

12 (2) THE DEPARTMENT SHALL APPROVE A SALE OR ASSIGNMENT IF
13 THE PURCHASER OR ASSIGNEE HAS:

14 (I) FILED ALL REQUIRED STATE TAX REPORTS AND RETURNS
15 FOR ALL APPLICABLE TAXABLE YEARS; AND

16 (II) PAID ANY BALANCE OF STATE TAX DUE AS DETERMINED
17 BY ASSESSMENT OR DETERMINATION BY THE DEPARTMENT AND NOT
18 UNDER TIMELY APPEAL.

19 SECTION 1908-G. PURCHASERS AND ASSIGNEES.

20 (A) CLAIM.--THE PURCHASER OR ASSIGNEE OF ALL OR A PORTION OF
21 A TAX CREDIT UNDER SECTION 1710-J SHALL IMMEDIATELY CLAIM THE
22 TAX CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR
23 ASSIGNMENT IS MADE.

24 (B) AMOUNT.--THE AMOUNT OF THE TAX CREDIT THAT A PURCHASER
25 OR ASSIGNEE MAY USE AGAINST ANY ONE QUALIFIED TAX LIABILITY MAY
26 NOT EXCEED 75% OF SUCH QUALIFIED TAX LIABILITY FOR THE TAXABLE
27 YEAR.

28 (C) USE.--THE PURCHASER OR ASSIGNEE MAY NOT CARRY FORWARD,
29 CARRY BACK OR OBTAIN A REFUND OF OR SELL OR ASSIGN THE TAX
30 CREDIT.

1 SECTION 1909-G. ADMINISTRATION.

2 (A) AGENCY GUIDELINES AND PROCEDURES.--THE AGENCY SHALL
3 ISSUE GUIDELINES AND PROCEDURES FOR THE ADMINISTRATION OF THE
4 TAX CREDIT IN CONJUNCTION WITH THE QUALIFIED ALLOCATION PLAN AND
5 WHEN POSSIBLE, ADMINISTER THE TAX CREDIT USING THE SAME
6 GUIDELINES, PROCEDURES AND PRIORITIES THAT THE AGENCY USES TO
7 ADMINISTER THE FEDERAL HOUSING TAX CREDIT.

8 (B) RECAPTURE.--THE DEPARTMENT, IN CONSULTATION WITH THE
9 AGENCY, SHALL ESTABLISH GUIDELINES THAT INCLUDE PROCEDURES FOR
10 RECAPTURE OF TAX CREDITS DURING THE CREDIT PERIOD THAT ARE
11 SIMILAR IN STRUCTURE AND EFFECT TO EVENTS OF NONCOMPLIANCE UNDER
12 SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-
13 514, 26 U.S.C. § 42). THE GUIDELINES SHALL PROVIDE FOR THE
14 MECHANISM AND FORMULA THAT THE TAX CREDIT MAY BE RECAPTURED OVER
15 THE REMAINING CREDIT PERIOD.

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

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

21 (2) DEEM INELIGIBLE THE APPLICANT OR TAXPAYER FROM
22 FUTURE TAX CREDITS.

23 (3) IMPOSE OTHER PENALTIES AS SPECIFIED IN THE AGENCY'S
24 GUIDELINES.

25 (D) FEE.--THE AGENCY MAY CHARGE A TAXPAYER APPLYING FOR A
26 TAX CREDIT A REASONABLE FEE NOT TO EXCEED 5% OF THE TAX CREDIT
27 ALLOCATED FOR THE ADMINISTRATIVE EXPENSES OF THE AGENCY FOR
28 PROCESSING APPLICATIONS UNDER THIS ARTICLE.

29 SECTION 1910-G. ANNUAL REPORT.

30 (A) DUTY OF AGENCY.--BY JUNE 30, 2021, AND EACH JUNE 30

1 THEREAFTER, THE AGENCY SHALL SUBMIT A REPORT ON THE TAX CREDIT
2 TO THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE
3 APPROPRIATIONS COMMITTEE OF THE SENATE, THE CHAIRPERSON AND
4 MINORITY CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF THE
5 HOUSE OF REPRESENTATIVES, THE CHAIRPERSON AND MINORITY
6 CHAIRPERSON OF THE URBAN AFFAIRS AND HOUSING COMMITTEE OF THE
7 SENATE AND THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE URBAN
8 AFFAIRS COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT
9 SHALL INCLUDE:

- 10 (1) THE NUMBER AND AMOUNT OF TAX CREDITS AWARDED.
11 (2) THE TAXPAYERS THAT WERE AWARDED TAX CREDITS.
12 (3) THE AMOUNT OF TAX CREDITS ISSUED TO EACH TAXPAYER.
13 (B) PUBLIC POSTING.--THE AGENCY SHALL MAKE THE REPORT
14 IDENTIFIED IN SUBSECTION (A) AVAILABLE ON THE AGENCY'S PUBLICLY
15 ACCESSIBLE INTERNET WEBSITE.

16 SECTION 2. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.