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State of Minnesota  
**HOUSE OF REPRESENTATIVES**  
NINETIETH SESSION

**H. F. No. 1249**

02/15/2017 Authored by Hoppe, Thissen and Koznick  
The bill was read for the first time and referred to the Committee on Taxes  
03/28/2017 By motion, recalled and re-referred to the Committee on Civil Law and Data Practices Policy

- 1.1 A bill for an act
- 1.2 relating to taxation; income; allowing a housing tax credit; classifying data;
- 1.3 requiring reports; amending Minnesota Statutes 2016, sections 13.4967, by adding
- 1.4 a subdivision; 297I.20, by adding a subdivision; proposing coding for new law in
- 1.5 Minnesota Statutes, chapters 290; 462A.
- 1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.7 Section 1. Minnesota Statutes 2016, section 13.4967, is amended by adding a subdivision
- 1.8 to read:
- 1.9 Subd. 9. **Minnesota housing credit.** Data related to Minnesota housing tax credit
- 1.10 certifications and allocations are classified in section 462A.39.
- 1.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 1.12 Sec. 2. **[290.0682] MINNESOTA HOUSING TAX CREDIT.**
- 1.13 Subdivision 1. **Definitions.** For purposes of this section:
- 1.14 (1) "entity" means a partnership, limited liability company taxed as a partnership, S
- 1.15 corporation, or property with multiple owners;
- 1.16 (2) "entity member" means a partner, member, shareholder, or owner;
- 1.17 (3) "taxpayer" means a taxpayer as defined in section 290.01, subdivision 6, or a taxpayer
- 1.18 as defined in section 297I.01, subdivision 16; and
- 1.19 (4) terms defined in section 462A.39 have the meanings given in that section.
- 1.20 Subd. 2. **Credit allowed.** (a) A taxpayer is allowed a credit against the taxes imposed
- 1.21 under this chapter and chapter 297I. The credit equals the amount allocated to the taxpayer

and indicated on the eligibility statement issued to the taxpayer under section 462A.39, subdivision 3. The taxpayer may claim the amount allocated in the year in which the credit is allocated and in each of the five following taxable years.

(b) A taxpayer eligible for the credit must submit to the commissioner a copy of the eligibility statement issued by the agency or suballocator with respect to the qualified Minnesota project, a copy of the project owner's tax return that must be filed as required under chapter 289A, and any other information required by the commissioner.

(c) Credits granted to an entity are passed through to the entity members based on each entity member's share of the entity's assets or as specially allocated in the organizational documents as of the last day of the taxable year in which the eligibility statement was issued. If a Minnesota housing tax credit is allowed to an entity with multiple tiers of ownership, the credit is passed through to entity members pro rata or as specially allocated in the organizational documents as of the last day of the taxable year in which the eligibility statement was issued at each ownership tier.

**Subd. 3. Limitations; carryover.** (a) A credit allowed under this section may not exceed liability for tax under this chapter and chapter 297I.

(b) If the amount of the credit under this section exceeds the limitation under paragraph (a), the excess is a credit carryover to each of the 11 succeeding taxable years. The entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried.

(c) Credits under this subdivision apply against liability after any net operating loss carryover incorporated in the calculation of federal taxable income.

**Subd. 4. Audit powers.** Notwithstanding the eligibility statement issued by the agency or a suballocator under section 462A.38, the commissioner may utilize any audit and examination powers under chapter 270C or 289A to the extent necessary to verify that the taxpayer is eligible for the credit and to assess for the amount of any improperly claimed credit and that the owner is in compliance with the compliance agreement.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2016.

Sec. 3. Minnesota Statutes 2016, section 297I.20, is amended by adding a subdivision to read:

Subd. 4. **Minnesota housing tax credit.** An insurance company may claim a credit against the premiums tax imposed under this chapter equal to the amount indicated on the eligibility statement issued to the company under section 462A.39, subdivision 3. If the amount of the credit exceeds the liability for tax under this chapter, the excess is a credit carryover to each of the 11 succeeding taxable years. The entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. This credit does not affect the calculation of police and fire aid under section 69.021.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2016.

Sec. 4. **[462A.39] MINNESOTA HOUSING TAX CREDIT.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given unless the context clearly requires otherwise.

(b) "Compliance agreement" means an agreement:

(1) between the owner of a qualified Minnesota project and the agency or suballocator;

(2) that is recorded as an affordable housing restriction on the real property on which the qualified Minnesota project is located; and

(3) that requires the project to be operated under the requirements of this section for the compliance period.

The agreement may be subordinated to the lien of a bank or other institutional lender providing financing to the qualified Minnesota project upon the request of the bank or lender.

(c) "Compliance period" means the 15-year period beginning with the first taxable year a credit is allowed under this section.

(d) "Eligibility statement" means a statement issued by the agency or suballocator to the owner certifying that a project is a qualified Minnesota project and documenting allocation of the Minnesota housing tax credit. The eligibility statement must specify the annual amount of the credit allocated to the project for the taxable year and for the five following taxable years and be in a form prescribed by the commissioner of the agency, in consultation with the commissioner of revenue.

4.1 (e) "Federal low-income housing tax credit" means the federal tax credit provided in  
4.2 section 42 of the Internal Revenue Code.

4.3 (f) "Greater Minnesota" means the area of Minnesota located outside of the metropolitan  
4.4 area as defined in section 473.121, subdivision 2.

4.5 (g) "Internal Revenue Code" has the meaning given in section 290.01, subdivision 31.

4.6 (h) "Minnesota credit period" means the six taxable years beginning in the taxable year  
4.7 in which a credit is allocated under subdivision 2.

4.8 (i) "Owner" means the owner of a qualified Minnesota project.

4.9 (j) "Qualified Minnesota project" means a low-income housing project that is:

4.10 (1) located in Minnesota;

4.11 (2) financed with tax-exempt bonds pursuant to section 42(i)(2) of the Internal Revenue  
4.12 Code;

4.13 (3) determined by the agency to be eligible for a federal low-income housing tax credit  
4.14 without regard to whether or not a federal low-income housing credit is allocated to the  
4.15 project; and

4.16 (4) a project for which the owner has entered into a compliance agreement with the  
4.17 agency or the suballocator that is enforceable by state and local agencies.

4.18 (k) "Suballocator" means an allocating agency, other than the agency, of low-income  
4.19 federal housing credits and credits under this section as provided in section 462A.222.

4.20 (l) "Taxpayer" has the meaning given in section 290.0682, subdivision 1.

4.21 (m) Terms not otherwise defined in this subdivision have the meanings given in section  
4.22 42 of the Internal Revenue Code.

4.23 Subd. 2. **Minnesota housing tax credit; allocation.** (a) The agency and all suballocators  
4.24 may annually allocate credits during a six-year period beginning January 1, 2017, and ending  
4.25 December 31, 2022. The amount of credits that may be allocated each year is the sum of:

4.26 (1) \$7,000,000;

4.27 (2) any unused tax credits, if any, for the preceding calendar years; and

4.28 (3) any tax credits recaptured and repaid to the agency or a suballocator by the owner  
4.29 of a qualified Minnesota project and available for reallocation under subdivision 5, paragraph  
4.30 (b).

(b) The agency shall allocate credits only to qualified Minnesota projects that the agency determines:

(1) are eligible for the federal low-income housing tax credit; and

(2) are not financially feasible without the credit.

(c) The agency must allocate 50 percent of the total amount allocated to qualified Minnesota projects in greater Minnesota.

(d) The agency may not allocate more than one credit to any one qualified Minnesota project.

(e) The allocation to any one qualified Minnesota project equals one-sixth of the total federal low-income housing tax credit allowable over the ten-year federal credit period.

**Subd. 3. Credit allowed.** When the agency or a suballocator allocates a credit amount to the owner of a project, the agency or suballocator must issue an eligibility statement to the owner. The owner may claim the amount allocated in each year of the Minnesota credit period.

**Subd. 4. Credit duration.** Except for unused credits carried forward under section 290.0682, the agency may allocate a credit and issue an eligibility statement to a taxpayer for a Minnesota housing tax credit for a project one time, with the credit allowed in each year of the Minnesota credit period.

**Subd. 5. Recapture; repayment.** (a) If within the Minnesota credit period the agency or suballocator finds that a qualified project issued an eligibility statement is not meeting the terms of the compliance agreement, the owner must repay the following percentage of the credit awarded to the project by the agency or the suballocator:

<u>Year of the</u>	<u>Percentage of credit required</u>
<u>Minnesota credit period:</u>	<u>to be repaid:</u>
<u>First</u>	<u>100 percent</u>
<u>Second</u>	<u>83 percent</u>
<u>Third</u>	<u>66 percent</u>
<u>Fourth</u>	<u>49 percent</u>
<u>Fifth</u>	<u>32 percent</u>
<u>Sixth and later</u>	<u>16 percent</u>

(b) No holder of the credit other than the owner is responsible for repayment of the credit.

(c) Amounts repaid under this subdivision are credited to the general fund.

6.1 Subd. 6. **Data privacy.** Data related to Minnesota housing tax credits are nonpublic  
6.2 data, or private data on individuals, as defined in section 13.02, subdivision 9 or 12, except  
6.3 that for each eligibility statement issued under subdivision 3 the location of the qualified  
6.4 Minnesota housing project is public.

6.5 Subd. 7. **Report.** (a) By January 15 of each year following a year in which the agency  
6.6 allocates a credit under this section, the agency shall submit a written report to the chairs  
6.7 and ranking minority members of the legislative committees with jurisdiction over housing  
6.8 and taxes, in compliance with sections 3.195 and 3.197, on the success and efficiency of  
6.9 the Minnesota housing tax credit program.

6.10 (b) The report must:

6.11 (1) specify the number of qualified Minnesota projects that were allocated tax credits  
6.12 in the year and the total number of housing units supported in each project;

6.13 (2) provide descriptive information about each qualified Minnesota housing project that  
6.14 was allocated credits, including:

6.15 (i) the geographic location of the project; and

6.16 (ii) demographic information about residents intended to be served by the project,  
6.17 including household type, income levels, and rents or set-asides; and

6.18 (3) provide housing market and demographic information that demonstrates how the  
6.19 qualified Minnesota projects that were allocated tax credits address the need for affordable  
6.20 housing in the communities they serve as well as information about any remaining disparities  
6.21 in affordability of housing in those communities.

6.22 **EFFECTIVE DATE.** This section is effective the day following final enactment with  
6.23 credit allocations allowed for taxable years beginning after December 31, 2016.

6.24 Sec. 5. **PURPOSE STATEMENT; TAX EXPENDITURES.**

6.25 Subdivision 1. **Authority.** This section is intended to fulfill the requirement under  
6.26 Minnesota Statutes, section 3.192, that a bill creating, renewing, or continuing a tax  
6.27 expenditure must include a statement of intent that clearly provides the purpose for the tax  
6.28 expenditure and a standard or goal against which its effectiveness may be measured.

6.29 Subd. 2. **Minnesota housing tax credit.** The provisions of sections 1 to 3 allowing a  
6.30 Minnesota housing tax credit are intended to increase development and availability of  
6.31 low-income housing in Minnesota. The standards against which the effectiveness of the  
6.32 credit is to be measured are the number of new residential units that became available to

- 7.1 low-income households in projects that are allocated Minnesota housing credits, compared  
7.2 with the number of new residential units that became available to low-income households  
7.3 in calendar year 2016, and also the increase in the number of residential units in high-shortage  
7.4 areas separately for the seven-county metropolitan area and greater Minnesota.