A bill for an act

relating to taxation; providing a Minnesota housing tax credit; proposing coding for new law in Minnesota Statutes, chapter 290.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[290.0682] 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) "Agency" means the Minnesota Housing Finance Agency.

(c) "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 in accordance with 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.

(d) "Compliance period" means the period of time as determined by the agency for which a project is subject to a compliance agreement between the owner of a qualified Minnesota project and the agency or suballocator beginning with the first taxable year a credit is claimed under this section.

(e) "Eligibility statement" means a statement authorized and issued by the agency or suballocator certifying that a project is a qualified Minnesota project. The eligibility

statement must specify the maximum annual amount of the credit authorized for the project.

(f) "Federal Low-Income Housing Tax Credit" means the federal tax credit provided in section 42 of the Internal Revenue Code.

(g) "Qualified Minnesota project" means a rental housing project that is located in Minnesota and meets the following requirements:

(1)(i) has been allocated federal low-income housing tax credits by the agency or a suballocator; or

(ii) is a housing project that has received a funding commitment from the agency under the economic development and housing challenge program under section 462A.33; and

(2) the owner of the rental housing project enters into a compliance agreement with the agency or the suballocator that is enforceable by state and local agencies.

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

(i) "Taxpayer" means a person, firm, partnership, or other entity subject to the individual income tax or corporate franchise tax under this chapter or to the insurance gross premiums tax under chapter 297I.

(j) Terms not otherwise defined in this subdivision have the meanings provided in section 42 of the Internal Revenue Code.

Subd. 2. **Minnesota housing tax credit; allocation.** (a) The agency and all suballocators may allocate credits annually for a five-year period beginning January 1, 2012. The total amount of credits that may be allocated each year is the sum of:

(1) $.....;

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

(3) any Minnesota housing tax credits returned to the agency or a suballocator by a qualified Minnesota project.

(b) Unless otherwise provided in this section, the agency shall authorize, administer, and determine eligibility for the credit under this section, in accordance with criteria used in awarding federal low-income housing credits and in making funding commitments under the economic development and housing challenge program in section 462A.33.

(c) The agency must allocate credits to suballocators under this section in the manner and in the respective amounts provided in section 462A.222.

(d) The agency and suballocators may only allocate tax credits to owners of qualified Minnesota projects that are placed in service on or after January 1, 2012.

Subd. 3. **Credit allowed; limitations; transfer.** (a) A taxpayer who holds a credit under subdivision 2 may claim the Minnesota housing tax credit against the taxes imposed under this chapter and chapter 297I. The taxpayer may claim the amount allocated in the year in which the credit is allocated and in each of the four following taxable years.

(b) A credit allowed under this section may not exceed liability for tax under this chapter and chapter 297I.

(c) If the amount of the credit under this section exceeds the limitation under paragraph (b), the excess shall be a Minnesota housing tax credit carryover to each of the five 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.

(d) All or any portion of tax credits issued under this section may be transferred, sold, or assigned to one or more entities without regard to ownership in the qualified Minnesota project and without regard to any other allocation of credits, depreciation, profits, or losses under the entities' organizational documents. All or any portion of the tax credits issued under this section may be further transferred, sold, or assigned to one or more entities without transferring any ownership interest in the qualified Minnesota project or any interest in the entity owning the project. The transferor and transferee of tax credits must notify the Department of Revenue of the transfer in a form and manner as specified by the commissioner. The transfer is for credits attributable to periods after the transfer date, and may not include carryforward of prior year credits. A partial year shall be allocated on a daily basis.

(e) An owner of a qualified Minnesota project must certify to the commissioner the amount of credit allocated to each entity and provide the commissioner with other information required by the commissioner to determine the allocation of the credit. The owner of a qualified Minnesota project eligible for the credit must submit to the Department of Revenue a copy of the eligibility statement issued by the agency or suballocator with respect to the qualified Minnesota project and a copy of the project owner's tax return that must be filed as required under chapter 289A. If the owner fails to attach the eligibility statement, a credit is not allowed for that project for that taxable year until the copy is provided to the commissioner.

Subd. 4. **Credit duration.** Except for unused credits carried forward under this section, a taxpayer is eligible for the Minnesota housing tax credit for a project for no more than five taxable years.

Subd. 5. **Education; promotion; enhancement.** (a) The agency, in cooperation with the suballocators, shall conduct periodic educational seminars and promotional

events to inform potentially interested purchasers of the state credit and shall facilitate and encourage creation of state credit buyer pools to acquire federal and state credits in Minnesota.

(b) The agency, in collaboration with the suballocators, may pursue methods of enhancing the efficiency of the Minnesota housing tax credit program, including pursuing opinions from the Internal Revenue Service in the form of general counsel memoranda, private letter rulings and other notices, rulings, or guidelines to enhance the value of the credits; by reviewing other state housing tax programs that utilize an option for taxpayers to receive the tax credits in the form of a loan generated by transferring the credit to a designated state entity; and any other methods.

(c) Not later than January 15, 2016, the agency shall submit a written report to the chairs and ranking minority members of the committees of the legislature with jurisdiction over taxes, in compliance with sections 3.195 and 3.197, on the success and efficiency of the Minnesota housing tax credit program. The report must include recommendations for the enhancement or modification of the program.

EFFECTIVE DATE. This section is effective the day following final enactment, with credit authorizations allowed for taxable years beginning after December 31, 2011.