

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1866

(SENATE AUTHORS: NELSON and Draheim)

DATE
03/08/2021

D-PG
726

Introduction and first reading
 Referred to Taxes
 See First Special Session 2021, HF9

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to taxation; establishing a Minnesota housing tax credit contribution fund;

1.3 providing a credit against the individual income tax, corporate franchise tax, and

1.4 insurance premiums for certain contributions; requiring a report; appropriating

1.5 money; amending Minnesota Statutes 2020, section 297I.20, by adding a

1.6 subdivision; proposing coding for new law in Minnesota Statutes, chapters 290;

1.7 462A.

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

1.9 Section 1. **[290.0683] MINNESOTA HOUSING TAX CREDIT.**

1.10 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have

1.11 the meanings given.

1.12 (b) "Agency" means the Minnesota Housing Finance Agency.

1.13 (c) "Minnesota housing tax credit contribution fund" or "fund" means the fund established

1.14 in section 462A.40.

1.15 (d) "Qualified project" means a project that qualifies for a grant or loan under section

1.16 462A.40.

1.17 (e) "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.

1.19 Subd. 2. **Credit allowed.** (a) A taxpayer is allowed a credit against the tax imposed

1.20 under this chapter and the premiums tax under chapter 297I for contributions of no less than

1.21 \$100 and no more than \$5,000,000 to the Minnesota housing tax credit contribution fund.

1.22 The credit equals 90 percent of the amount the taxpayer contributed to the fund during the

1.23 taxable year.

2.1 (b) The credit may be claimed only after certification by the agency as provided in
2.2 subdivision 3.

2.3 (c) To receive the credit, a taxpayer must claim the credit in the manner prescribed by
2.4 the commissioner and file with the return a copy of the credit certificate issued by the agency
2.5 under subdivision 3, paragraph (c).

2.6 (d) The taxpayer must claim the credit for the taxable year in which the contribution is
2.7 made.

2.8 (e) If the amount of the credit under this section exceeds the taxpayer's liability for tax
2.9 under this chapter, the excess is a credit carryover to each of the ten succeeding taxable
2.10 years. The entire amount of the excess unused credit for the taxable year must be carried
2.11 first to the earliest of the taxable years to which the credit may be carried and then to each
2.12 successive year to which the credit may be carried. The amount of the unused credit that
2.13 may be added under this paragraph may not exceed the taxpayer's liability for tax, less any
2.14 credit for the current taxable year.

2.15 (f) The contribution amount used to calculate the credit under this section may not be
2.16 used to calculate any other state income tax deduction or credit allowed by law.

2.17 (g) For nonresidents and part-year residents, the credit must be allocated based on the
2.18 percentage calculated under section 290.06, subdivision 2c, paragraph (e).

2.19 Subd. 3. **Allocation.** (a) To qualify for the credit, a taxpayer must contribute to the
2.20 Minnesota housing tax credit contribution fund. A taxpayer may indicate that a contribution
2.21 is intended for a specific qualified project. A taxpayer is prohibited from contributing to
2.22 certain projects as provided in section 462A.40, subdivision 3.

2.23 (b) The aggregate amount of tax credits allowed to all eligible contributors is limited to
2.24 \$25,000,000 annually.

2.25 (c) Within 30 days after a taxpayer contributes to the fund, the agency must file with
2.26 the contributing taxpayer a credit certificate statement or return any amounts to the taxpayer
2.27 as provided in this paragraph. The agency must send a copy of the credit certificate to the
2.28 commissioner of revenue. If there are insufficient credits to match the contribution, the
2.29 agency must not issue a credit certificate for the amount of the contribution for which there
2.30 are insufficient credits, and must return that amount to the taxpayer before issuing any credit
2.31 certificate.

(d) The credit certificate must state the dollar amount of the contribution made by the taxpayer, the date the payment was received by the fund, and indicate if the contribution was intended for a specific qualified project.

Subd. 4. **Partnerships; multiple owners.** Credits granted to a partnership, a limited liability company taxed as a partnership, S corporation, or multiple owners of property are passed through to the partners, members, shareholders, or owners, respectively, pro rata to each partner, member, shareholder, or owner based on their share of the entity's assets or as specially allocated in their organizational documents or any other executed document, as of the last day of the taxable year.

Subd. 5. **Recapture.** (a) Credits claimed under this section are not subject to recapture.

(b) If a grant or loan made under section 462A.40 is canceled or recaptured, the grant or loan is returned to the housing tax credit contribution fund. The agency is not required to return contributions to taxpayers who indicated that a contribution was intended for a project for which the loan or grant is recaptured or canceled.

Subd. 6. **Audit powers.** Notwithstanding the credit certificate issued by the commissioner of the Minnesota Housing Finance Agency under subdivision 3, the commissioner of revenue may use 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.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2021.

Sec. 2. Minnesota Statutes 2020, section 297I.20, is amended by adding a subdivision to read:

Subd. 4. **Minnesota housing tax credit.** A taxpayer may claim a credit against the premiums tax imposed under this chapter equal to the amount indicated on the credit certificate statement issued to the company under section 290.0683. If the amount of the credit exceeds the liability for tax under this chapter, the excess is a credit carryover to each of the ten 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 fire state aid under section 477B.03 and police state aid under section 477C.03.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2021.

Sec. 3. **[462A.40] MINNESOTA HOUSING TAX CREDIT CONTRIBUTION FUND.**

Subdivision 1. Fund created. The Minnesota housing tax credit contribution fund is created as a revolving fund in the state treasury. The fund is administered by the commissioner of the Minnesota Housing Finance Agency. Amounts contributed to the fund are appropriated to the commissioner. The commissioner may use the amounts appropriated to direct disbursements from the fund as loans or grants to eligible recipients as provided in this section.

Subd. 2. Use of funds; grant and loan program. (a) The commissioner may award grants and loans to be used for multifamily and single family developments for persons and families of low and moderate income. Allowable use of the funds include: gap financing, as defined in section 462A.33, subdivision 1; new construction; acquisition; rehabilitation; demolition or removal of existing structures; construction financing; permanent financing; interest rate reduction; and refinancing.

(b) The commissioner may give preference for grants and loans to comparable proposals that include regulatory changes or waivers that result in identifiable cost avoidance or cost reductions, including but not limited to increased density, flexibility in site development standards, or zoning code requirements.

(c) To the extent practicable, grants and loans shall be made so that an approximately equal number of housing units are financed in the metropolitan area as defined in section 473.121, subdivision 2, and in greater Minnesota.

(d) The commissioner shall set aside:

(1) 35 percent of the financing under this section for housing for persons and families whose income is 50 percent or less of the area median income for the applicable county or metropolitan area as published by the Department of Housing and Urban Development, as adjusted for household size; and

(2) 15 percent of the financing under this section for housing for persons and families whose income is 30 percent or less of the area median income for the applicable county or metropolitan area as published by the Department of Housing and Urban Development, as adjusted for household size.

(e) If by June 1 of each year, the commissioner does not receive requests to use all of the financing set aside under paragraph (d), the commissioner may use any remaining financing for other projects eligible under this section.

Subd. 3. Eligible recipients; definitions; restrictions; use of funds. (a) The commissioner may award a loan to any recipient that qualifies under subdivision 2. The commissioner must not award a grant to a disqualified individual or disqualified business.

(b) For the purposes of this subdivision disqualified individual means an individual who:

(1) made a contribution to the fund in the current or prior taxable year and received a credit certificate;

(2) owns the housing for which the grant or loan will be used and is using that housing as their domicile;

(3) meets the following criteria:

(i) the individual is an officer or principal of a business entity; and

(ii) that business entity made a contribution to the fund in the current or previous taxable year and received a credit certificate; or

(4) meets the following criteria:

(i) the individual owns, controls, or holds the power to vote 20 percent or more of the outstanding securities of a business entity; and

(ii) that business entity made a contribution to the fund in the current or previous taxable year and received a credit certificate.

(c) For the purposes of this subdivision disqualified business means a business entity that:

(1) made a contribution to the fund in the current or prior taxable year and received a credit certificate;

(2) has an officer or principal who is an individual who made a contribution to the fund in the current or previous taxable year and received a credit certificate; or

(3) meets the following criteria:

(i) the business entity is owned, controlled, or is subject to the power to vote 20 percent or more of the outstanding securities by an individual or business entity; and

(ii) that controlling individual or business entity made a contribution to the fund in the current or previous taxable year and received a credit certificate.

(d) The disqualifications in paragraphs (b) and (c) apply if the taxpayer would be disqualified either individually or in combination with one or more members of the taxpayer's family, as defined in the Internal Revenue Code, section 267(c)(4). For a married couple filing a joint return, the limitations in this paragraph apply collectively to the taxpayer and spouse. For purposes of determining the ownership interest of a taxpayer under paragraph (a), clause (4), the rules under section 267(c) and 267(e) of the Internal Revenue Code apply.

(e) Before applying for a grant or loan, all recipients must sign a disclosure that the disqualifications under this subdivision do not apply. The commissioner of the Minnesota Housing Finance Agency must prescribe the form of the disclosure.

(f) The commissioner may award grants or loans to a city as defined in section 462A.03, subdivision 21; a federally recognized American Indian tribe or subdivision located in Minnesota; a tribal housing corporation; a private developer; a nonprofit organization; a housing and redevelopment authority under sections 469.001 to 469.047; a public housing authority or agency authorized by law to exercise any of the powers granted by sections 469.001 to 469.047; or the owner of the housing.

(g) Except for the set-aside provided in subdivision 2, paragraph (d), eligible recipients must use the funds to serve households that meet the income limits as provided in section 462A.33, subdivision 5.

Subd. 4. **Recapture.** A loan or grant awarded under this section is subject to repayment or recapture under rules adopted by the commissioner. Any amount of a loan or grant that is repaid or recaptured must be redeposited in the fund and is not returned to the taxpayer who made the contribution.

Subd. 5. **Appropriation.** \$..... each year is appropriated to the commissioner from the general fund to administer the program in this section.

Subd. 6. **Report.** The commissioner shall report by January 15 each year to the chairs and ranking minority members of the legislative policy and finance committees with jurisdiction over housing on the tax credits and financing provided in the previous fiscal year. The report shall provide a breakdown of the tax credits, grants, and loans by region of the state. The report shall also include information on planned financing in the current fiscal year.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2021.

7.1 Sec. 4. **PURPOSE STATEMENT; TAX EXPENDITURES.**

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

7.6 Subd. 2. **Minnesota housing tax credit.** The provisions of sections 1 to 3 allowing a
7.7 Minnesota housing tax credit are intended to increase development and availability of
7.8 affordable housing to persons and families of low and moderate incomes in Minnesota.