

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 3363

(SENATE AUTHORS: SPARKS)

DATE	D-PG	OFFICIAL STATUS
03/30/2016	5382	Introduction and first reading Referred to Taxes

1.1 A bill for an act
 1.2 relating to taxation; income and corporate franchise; establishing a workforce
 1.3 housing tax credit; requiring reports; amending Minnesota Statutes 2014, section
 1.4 290.06, by adding a subdivision; proposing coding for new law in Minnesota
 1.5 Statutes, chapter 116J.

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

1.7 Section 1. **[116J.5491] WORKFORCE HOUSING TAX CREDIT.**

1.8 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms
 1.9 have the meanings given.

1.10 (b) "City" means a statutory or home rule charter city.

1.11 (c) "Eligible project area" means an area that meets the following criteria:

1.12 (1) a census block with a population density over 200 persons per square mile
 1.13 according to the most recent United States Census data available;

1.14 (2) located in a city with a population greater than 1,000 or located in an area served
 1.15 by a joint county-city economic development authority;

1.16 (3) the average vacancy rate for market rate residential rental properties, as defined
 1.17 in paragraph (e), located in the municipality and in any statutory or home rule charter city
 1.18 located within 15 miles or less of the boundaries of the municipality has been four percent
 1.19 or less for any two of the last five years, based on the most recently available data in a
 1.20 market housing analysis that supports demand for the proposed development;

1.21 (4) located in greater Minnesota; and

1.22 (5) fewer than four market rate residential rental units per 1,000 residents were
 1.23 constructed in the city in the last ten years without government financing, grants, or other
 1.24 subsidies, other than subsidies under this section or section 469.175, subdivision 3.

2.1 (d) "Greater Minnesota" means the area of the state that excludes the metropolitan
2.2 area as defined in section 473.121, subdivision 2.

2.3 (e) "Joint county-city economic development authority" means an economic
2.4 development authority, formed under Laws 1988, chapter 516, section 1, as a joint
2.5 partnership between a city and county and excluding those established by the county only.

2.6 (f) "Market rate residential rental properties" means properties that are rented at
2.7 market value and excludes: (1) properties constructed with financial assistance requiring
2.8 the property to be occupied by residents that meet income limits under federal or state
2.9 law of initial occupancy; and (2) properties constructed with federal, state, or local flood
2.10 recovery assistance, regardless of whether that assistance imposed income limits as a
2.11 condition of receiving assistance.

2.12 (g) "Officer" means a person elected or appointed by the board of directors to
2.13 manage the daily operations of a business.

2.14 (h) "Principal" means a person having authority to act on behalf of a business.

2.15 (i) "Qualified investment" means a cash investment or the fair market value
2.16 equivalent for common stock, land, a partnership or membership interest, preferred
2.17 stock, debt with mandatory conversion to equity, or an equivalent ownership interest as
2.18 determined by the commissioner that is made in a qualified workforce housing project.

2.19 (j) "Qualified project investor" means an investor who has been certified by the
2.20 commissioner under subdivision 2.

2.21 (k) "Qualifying workforce housing project" means a project:

2.22 (1) for market rate residential rental properties with a minimum of three dwelling
2.23 units;

2.24 (2) with an average construction cost per unit of no more than \$250,000 and no
2.25 less than \$75,000;

2.26 (3) located in an eligible project area;

2.27 (4) that has more than 50 percent nonstate funding proposed to fund the project; and

2.28 (5) that has been designated by the commissioner as a qualifying workforce housing
2.29 project.

2.30 Subd. 2. **Qualified project investor tax credits.** (a) A credit of up to \$1,000,000 is
2.31 allowed against the tax imposed under chapter 290 for a taxpayer that makes a qualified
2.32 investment in a qualified workforce housing project equal to 40 percent of the amount of
2.33 the qualified investment.

2.34 (b) The credit under this subdivision is allowed in the taxable year that the qualified
2.35 workforce housing project has housing units that are certified for occupancy by the
2.36 Department of Labor and Industry or a city inspector.

3.1 (c) The commissioner must not allocate more than \$15,000,000 in credits to qualified
3.2 project investors for taxable years beginning after December 31, 2016, and before January
3.3 1, 2018, and must not allocate more than \$30,000,000 in credits to qualified project
3.4 investors for taxable years beginning after December 31, 2017, and before January 1,
3.5 2022. The commissioner must not allocate more than 40 percent of qualified project
3.6 investor tax credits to the same qualified workforce housing project.

3.7 (d) Applications for tax credits for a taxable year must be made available by the
3.8 commissioner by November 1 of the prior calendar year. The commissioner must make
3.9 every effort to provide applications and relevant data to applicants in a simple, concise
3.10 manner using plain language. Tax credits must be allocated to qualified project investors in
3.11 the order that the tax credit request applications are filed, except where the commissioner
3.12 determines the investment is circumventing the spirit of the law or where little or no
3.13 local economic growth would occur as a result of the investment. The commissioner
3.14 must approve or reject a tax credit request application within 15 days of receiving the
3.15 application. The investment specified in the application must be made within one year
3.16 of the allocation of the credit. If the investment is not made within one year, the credit
3.17 allocation is canceled. A qualified project investor who fails to invest as specified in the
3.18 application must notify the commissioner immediately and no later than five business days
3.19 after the expiration of the one-year investment period. The commissioner may require an
3.20 application fee for the applications submitted under this subdivision.

3.21 (e) All tax credit request applications filed with the department on the same day
3.22 must be treated as having been filed contemporaneously. If two or more qualified project
3.23 investors file tax credit request applications on the same day, and the aggregate amount of
3.24 credit allocation claims exceeds the aggregate limit of credits under this section or the lesser
3.25 amount of credits that remain unallocated on that day, then the credits must be allocated
3.26 among the qualified project investors who filed on that day on a pro rata basis with respect
3.27 to the amounts claimed. The pro rata allocation for any one qualified project investor is the
3.28 product obtained by multiplying a fraction, the numerator of which is the amount of the
3.29 credit allocation claim filed on behalf of a qualified project investor and the denominator
3.30 of which is the total of all credit allocation claims filed on behalf of all applicants on that
3.31 day, by the amount of credits that remain unallocated on that day for the taxable year.

3.32 (f) If a credit allocation has been granted to the qualified project investor and the
3.33 qualified project investor has made the investment specified in the application as required
3.34 under paragraph (d), the commissioner must issue a credit certificate to the taxpayer
3.35 designated in the application. The credit certificate must state the amount of the credit.

4.1 The commissioner must notify the commissioner of revenue of credit certificates issued
4.2 under this subdivision.

4.3 (g) The commissioner of revenue shall prescribe the manner in which the credit
4.4 may be issued or claimed.

4.5 Subd. 3. **Transfer and revocation of credits.** (a) A tax credit under this section
4.6 is transferable to any other taxpayer. Credits passed through to partners, members,
4.7 shareholders, or owners are not considered transfers for purposes of this subdivision.

4.8 (b) If the commissioner discovers that a qualified project investor did not meet the
4.9 eligibility requirements for the tax credits under this section after the credits have been
4.10 allocated, the commissioner may determine that credit allocated is revoked and must be
4.11 repaid by the investor. The commissioner must notify the commissioner of revenue of
4.12 every credit revoked and subject to full or partial repayment under this section.

4.13 Subd. 4. **Reporting.** Beginning in 2018, the commissioner must annually report
4.14 by March 15 to the chairs and ranking minority members of the house of representatives
4.15 and senate committees with jurisdiction over taxes and economic development, in
4.16 compliance with sections 3.195 and 3.197, on tax credits issued under this section. The
4.17 report must include:

4.18 (1) information about the availability of workforce housing in greater Minnesota;

4.19 (2) information from employers and communities in greater Minnesota about
4.20 whether or not workforce housing needs are being met;

4.21 (3) which projects have been funded by the workforce housing tax credit and
4.22 whether previously funded projects have created economic growth;

4.23 (4) any suggested legislation to accelerate construction of workforce housing;

4.24 (5) the number and amount of tax credits issued and the identity of the recipients;

4.25 (6) the number and amount of tax credits revoked under subdivision 3;

4.26 (7) the location, total cost of, and expected rent to be received as a result of
4.27 qualifying workforce housing projects funded under this section; and

4.28 (8) any other relevant information needed to evaluate the effect of the workforce
4.29 housing tax credits.

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

4.32 Sec. 2. Minnesota Statutes 2014, section 290.06, is amended by adding a subdivision
4.33 to read:

5.1 Subd. 37. **Workforce housing tax credit.** (a) A taxpayer is allowed a credit against
5.2 the tax under this chapter equal to the amount certified by the commissioner of employment
5.3 and economic development under section 116J.549 to the taxpayer for the taxable year.

5.4 (b) Credits allowed to a partnership, limited liability company taxed as a partnership,
5.5 corporation, or multiple owners of property are passed through to the partners, members,
5.6 shareholders, or owners, respectively, pro rata to each partner, member, shareholder, or
5.7 owner based on that person's share of the entity's income for the taxable year.

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