

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2125

03/26/2015 Authored by Hamilton

The bill was read for the first time and referred to the Committee on Greater Minnesota Economic and Workforce Development Policy

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; appropriating money; amending Minnesota
1.4 Statutes 2014, section 290.06, by adding a subdivision; proposing coding for new
1.5 law in Minnesota Statutes, chapter 116J.

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

1.7 Section 1. **[116J.549] OFFICE OF WORKFORCE HOUSING.**

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 a census block with a population density over 200
1.12 persons per square mile according to the most recent United States census data available
1.13 that is within a greater Minnesota city having a median number of full-time private
1.14 sector jobs of at least 500 for the last five years, or an area served by a joint county-city
1.15 economic development authority.

1.16 (d) "Family" means a family member within the meaning of the Internal Revenue
1.17 Code, section 267(c)(4).

1.18 (e) "Greater Minnesota" means the area of Minnesota located outside the
1.19 metropolitan area as defined in section 473.121, subdivision 2.

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

1.23 (g) "Market rate residential rental properties" means properties that are rented at
1.24 market value and excludes: (1) properties constructed with financial assistance requiring
1.25 the property to be occupied by residents that meet income limits under federal or state

law of initial occupancy; and (2) properties constructed with federal, state, or local flood recovery assistance, regardless of whether that assistance imposed income limits as a condition of receiving assistance.

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

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

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

(k) "Qualified local employer investor" means a corporation, partnership, or a cooperative organized under chapter 308A, or cooperative association organized under chapter 308B, that has:

(1) more than 50 employees in all locations; and

(2) an office or production facility within 30 miles of a qualified workforce housing project.

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

(m) "Qualifying workforce housing project" means a project:

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

(2) with a cost per unit of no more than \$250,000 and no less than \$75,000;

(3) located in an eligible project area with a rental vacancy rate lower than five percent for more than the last two years based on the most recently available data in a city housing analysis;

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

(5) located in a city that has a jobs-to-population ratio of greater than 40 percent as measured by the median number of jobs in a city for the last five years compared with the median population of the city for the last five years or an area served by a joint county-city economic development authority; and

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

Subd. 2. Qualified project investor tax credits. (a) A credit up to \$1,000,000 is allowed against the tax imposed under chapter 290 for qualifying investments as follows:

(1) for a taxpayer that makes a qualified investment in a qualified workforce housing project, the credit equals 40 percent of the amount of the qualified investment; and

3.1 (2) for a qualified local employer investor that makes a qualified investment in a
3.2 qualified workforce housing project and enters into an agreement with the commissioner
3.3 to employ ten additional employees per year in each of the three years after the year in
3.4 which the credit is received, the credit equals 50 percent of the amount of the qualified
3.5 investment. The agreement required under this clause must be submitted in a form and
3.6 manner prescribed by the commissioner.

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

3.10 (c) The commissioner must not allocate more than \$25,000,000 in credits to qualified
3.11 project investors for taxable years beginning after December 31, 2014, and before January
3.12 1, 2016, and must not allocate more than \$50,000,000 in credits to qualified project
3.13 investors for taxable years beginning after December 31, 2015, and before January 1,
3.14 2017. The commissioner must not allocate more than 40 percent of qualified project
3.15 investor tax credits to the same qualified workforce housing project.

3.16 (d) The commissioner shall not allocate a credit if the investor is an officer or
3.17 principal of a business or sole proprietorship, or a family member of an officer or principal
3.18 of a business or sole proprietorship, that is competing for a grant through the workforce
3.19 housing fund in the year the tax credit would be awarded.

3.20 (e) Applications for tax credits for a taxable year must be made available by the
3.21 Office of Workforce Housing by November 1 of the prior calendar year. The office must
3.22 make every effort to provide applications and relevant data to applicants in a simple,
3.23 concise manner using plain language. Tax credits must be allocated to qualified project
3.24 investors in the order that the tax credit request applications are filed with the office, except
3.25 where the commissioner determines the investment is circumventing the spirit of the law
3.26 or where little or no local economic growth would occur as a result of the investment. The
3.27 commissioner must approve or reject a tax credit request application within 15 days of
3.28 receiving the application. The investment specified in the application must be made within
3.29 60 days of the allocation of the credit. If the investment is not made within 60 days, the
3.30 credit allocation is canceled. A qualified project investor who fails to invest as specified in
3.31 the application must notify the commissioner immediately and no later than five business
3.32 days after the expiration of the 60-day investment period. The commissioner may require
3.33 an application fee for the applications submitted under this subdivision.

3.34 (f) All tax credit request applications filed with the department on the same day
3.35 must be treated as having been filed contemporaneously. If two or more qualified project
3.36 investors file tax credit request applications on the same day, and the aggregate amount of

credit allocation claims exceeds the aggregate limit of credits under this section or the lesser amount of credits that remain unallocated on that day, then the credits must be allocated among the qualified project investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one qualified project investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a qualified project investor and the denominator of which is the total of all credit allocation claims filed on behalf of all applicants on that day, by the amount of credits that remain unallocated on that day for the taxable year.

(g) The commissioner must notify the commissioner of revenue of credit certificates issued under this subdivision.

Subd. 3. Transfer and revocation of credits. (a) A tax credit under this section is not transferable to any other taxpayer.

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

Subd. 4. Reporting. Beginning in 2016, the commissioner must annually report by March 15 to the chairs and ranking minority members of the committees in the senate and house of representatives with jurisdiction over taxes and economic development, in compliance with sections 3.195 and 3.197, on tax credits issued under this section and the workforce housing projects funded by the workforce housing fund. The report must include:

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

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

(3) which projects have been funded by the workforce housing fund and whether previously funded projects have created economic growth;

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

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

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

(7) any other relevant information needed to evaluate the effect of the grants and tax credits available through the Office of Workforce Housing.

Subd. 5. Appropriations. Amounts in the workforce housing fund are appropriated from the general fund to the commissioner for costs associated with the administration of

5.1 applications and for the personnel and administrative expenses related to administering
5.2 the workforce housing investor tax credit programs.

5.3 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.4 December 31, 2014.

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

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

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

5.14 (c)(1) The credit is limited to the liability for tax. For purposes of this subdivision,
5.15 "liability for tax" means the tax imposed under this chapter for the taxable year reduced by
5.16 the sum of the nonrefundable credits allowed under this chapter.

5.17 (2) For a corporation that is a partner in a partnership, the credit allowed for the
5.18 taxable year is limited to the lesser of the amount determined under clause (1) for the
5.19 taxable year or an amount, separately computed with respect to the corporation's interest
5.20 in the trade, business, or entity, equal to the amount of tax attributable to that portion of
5.21 taxable income that is allocable or apportionable to the corporation's interest in the trade,
5.22 business, or entity.

5.23 (3) If the amount of the credit determined under this subdivision for any taxable year
5.24 exceeds the limitation under clause (1), the excess is a credit carryover to each of the ten
5.25 succeeding taxable years. The entire amount of the excess unused credit for the taxable
5.26 year is carried first to the earliest of the taxable years to which the credit may be carried
5.27 and then to each successive year to which the credit may be carried. The amount of the
5.28 unused credit that may be added under this clause is limited to the taxpayer's liability
5.29 for tax, less the credit for the taxable year.

5.30 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.31 December 31, 2014.