

1.1 A bill for an act

1.2 relating to housing; providing a Minnesota low-income housing tax credit;
1.3 proposing coding for new law in Minnesota Statutes, chapter 290.

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

1.5 Section 1. [290.0682] LOW-INCOME HOUSING CREDIT.

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

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

1.9 (c) "Compliance period" means the period of 15 taxable years beginning with the
1.10 first taxable year a credit is claimed under this section.

1.11 (d) "Eligibility statement" means a statement authorized and issued by the agency
1.12 certifying that a project is a qualified Minnesota project. The eligibility statement must
1.13 specify the maximum annual amount of the credit authorized for the project.

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

1.16 (f) "Qualified Minnesota project" means a low-income rental housing project whose
1.17 owner is either a taxpayer or a nonprofit that meets the conditions of section 501(c)(3)
1.18 of the Internal Revenue Code, and is located in Minnesota and meets the following
1.19 requirements:

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

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

2.1 (2) whose owner enters into a regulatory agreement with the agency or the
2.2 suballocator enforceable by state and local agencies.

2.3 (g) "Regulatory agreement" means an agreement between the owner of a qualified
2.4 Minnesota project and the agency or suballocator and recorded as an affordable housing
2.5 restriction on the real property on which the qualified Minnesota project is located, that
2.6 requires the project to be operated in accordance with the requirements of this section
2.7 from the date the project is placed in service until the date which is not fewer than 15 years
2.8 from the expiration date of the compliance period. The agreement may be subordinated
2.9 to the lien of a bank or other institutional lender providing financing to the qualified
2.10 Minnesota project upon the request of the bank or lender.

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

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

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

2.18 Subd. 2. **Minnesota low-income housing tax credit; allocation.** (a) The agency
2.19 and all suballocators may allocate credits annually for a five-year period beginning
2.20 January 1, 2011. The total amount of credits that may be allocated each year is the sum of:

2.21 (1) the federal per capita tax credits awarded to the state under section 42 of the
2.22 Internal Revenue Code;

2.23 (2) unused Minnesota low-income housing tax credits, if any, for the preceding
2.24 calendar years; and

2.25 (3) any Minnesota low-income housing tax credits returned to the agency or a
2.26 suballocator by a qualified Minnesota project.

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

2.32 (c) The agency must allocate credits under this section to suballocators in the manner
2.33 and in the respective amounts provided in section 462A.222. The combined allocated
2.34 federal and Minnesota low-income housing tax credit must be the least amount necessary
2.35 to ensure financial feasibility of qualified Minnesota projects to which credits are allocated,
2.36 based on any income restrictions set forth in the regulatory agreements for the projects.

3.1 (d) The agency and suballocators must allocate the total available Minnesota
3.2 low-income housing tax credit among as many qualified Minnesota projects as fiscally
3.3 feasible.

3.4 (e) The agency may only authorize tax credits to qualified Minnesota projects that
3.5 are placed in service on or after January 1, 2011. The agency must issue an eligibility
3.6 statement for any suballocator within ten days of a request for a qualified Minnesota
3.7 project.

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

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

3.15 (c) If the amount of the credit under this section exceeds the limitation under
3.16 paragraph (b), the excess shall be a Minnesota low-income housing credit carryover to
3.17 each of the five succeeding taxable years. The entire amount of the excess unused credit
3.18 for the taxable year must be carried first to the earliest of the taxable years to which the
3.19 credit may be carried and then to each successive year to which the credit may be carried.

3.20 (d) All or any portion of tax credits issued under this section may be transferred,
3.21 sold, or assigned to one or more taxpayers without regard to ownership in the qualified
3.22 Minnesota project or the taxpayer that owns the project and without regard to any other
3.23 allocation of credits, depreciation, profits, or losses under the entities' organizational
3.24 documents. All or any portions of the tax credits issued under this section may be
3.25 subsequently further transferred, sold, or assigned to a taxpayer without transferring
3.26 any ownership interest in the qualified Minnesota project or any interest in the entity
3.27 owning the project. The transfer must include all credits attributable to periods after
3.28 the transfer date, but may not include carryforward of prior year credits. A partial year
3.29 shall be allocated on a daily basis.

3.30 (e) An owner of a qualified Minnesota project must certify to the commissioner the
3.31 amount of credit allocated to each taxpayer and provide the commissioner with other
3.32 information required by the commissioner to determine the allocation of the credit. The
3.33 owner of a qualified Minnesota project eligible for the credit shall submit, together
3.34 with the project owner's tax return under this chapter, a copy of the eligibility statement
3.35 issued by the agency with respect to the qualified Minnesota project. If the owner fails
3.36 to attach the eligibility statement, a credit is not allowed for that project for that taxable

4.1 year until the copy is provided to the commissioner. An owner or transferee who makes
4.2 a transfer, sale, or assignment of a credit as provided in paragraph (d) must submit to
4.3 the commissioner a statement that shows the amount of the credit that was transferred,
4.4 sold, or assigned. The owner must provide necessary information in a form and manner
4.5 requested by the commissioner so that the low-income housing tax credit can be properly
4.6 allocated and claimed.

4.7 (f) The proceeds of any sale or assignment of low-income housing credit under this
4.8 section is exempt from taxation under this chapter.

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

4.12 Subd. 5. **Education, promotion, enhancement.** (a) The agency, in cooperation
4.13 with the suballocators, shall conduct periodic educational seminars and promotional
4.14 events to inform potentially interested purchasers of the state credit and shall facilitate
4.15 and encourage creation of state credit buyer pools to acquire federal and state credits
4.16 in Minnesota.

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

4.24 (c) Not later than January 15, 2015, the agency shall submit a written report to the
4.25 committees of the legislature with jurisdiction over taxes, in compliance with Minnesota
4.26 Statutes, sections 3.195 and 3.197, on the success and efficiency of the Minnesota
4.27 low-income housing tax credit program. The report must include recommendations for
4.28 enhancement or modifications of the program.

4.29 **EFFECTIVE DATE.** This section is effective the day following final enactment,
4.30 with credit authorizations allowed for taxable years beginning after December 31, 2010.