
ASSEMBLY BILL NO. 62—COMMITTEE ON REVENUE

(ON BEHALF OF THE ADVISORY COMMITTEE ON HOUSING)

PREFILED NOVEMBER 20, 2024

Referred to Committee on Revenue

SUMMARY—Revises provisions relating to transferable tax credits for affordable housing. (BDR 32-437)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; revising the procedure for applying for transferable tax credits for affordable housing; revising provisions governing the transfer of transferable tax credits for affordable housing; revising provisions relating to the amount of transferable tax credits for affordable housing that may be approved; revising provisions relating to the expiration of transferable tax credits for affordable housing; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes the Housing Division of the Department of Business
2 and Industry to issue transferable tax credits, which are authorized to be taken
3 against certain state taxes, to the sponsor of a project for the acquisition,
4 development, construction, improvement, expansion, reconstruction or
5 rehabilitation of low income housing, as defined by existing federal law. (NRS
6 360.860-360.870; 26 U.S.C. § 42) Under existing law, to be issued transferable tax
7 credits, the project sponsor is required to: (1) apply to, and obtain from, the
8 Division a reservation of an amount of transferable tax credits; (2) close the project
9 within a certain period after obtaining a reservation of transferable tax credits by
10 acquiring title to the project site, entering into an agreement with a licensed
11 contractor to construct the project and obtaining certain financing for the project;
12 and (3) submit to the Division a final application for the issuance of transferable tax
13 credits not less than 45 days before the project closes. A project sponsor that is
14 issued transferable tax credits is authorized to transfer those credits to another
15 entity, and that entity is authorized to transfer the credits to one or more of its
16 subsidiaries or affiliates. (NRS 360.867)



17 **Section 1** of this bill: (1) requires, with certain exceptions, a final application
18 for the issuance of transferable tax credits to be submitted not less than 15 days
19 before the closing of the project rather than not less than 45 days before the closing
20 of the project; (2) authorizes a project sponsor to demonstrate the acquisition of the
21 land to close the project by entering into a long-term ground lease for the project
22 site; and (3) authorizes a project sponsor to transfer transferable tax credits to a
23 member or partner of the project sponsor to any other entity, who may then transfer
24 the transferable tax credits to another entity.

25 Existing law limits to \$10,000,000 the amount of transferable tax credits which
26 the Division is authorized to approve in each fiscal year, with certain exceptions. If
27 the Division determines that approval of more than \$10,000,000 of transferable tax
28 credits in a fiscal year is necessary to ensure the maximum development of
29 affordable housing through the issuance of transferable tax credits, the Division is
30 authorized to approve not more than \$13,000,000 of transferable tax credits in that
31 fiscal year and must reduce the amount of transferable tax credits authorized to be
32 approved in the next fiscal year by the amount of credits that are approved in excess
33 of \$10,000,000. (NRS 360.868) **Section 2** of this bill provides that any such
34 reduction to the amount of transferable tax credits authorized to be approved in a
35 fiscal year must first reduce the amount of unused transferable tax credits from
36 prior fiscal years that are available for approval before the amount of transferable
37 tax credits available for approval in a fiscal year is reduced below \$10,000,000.
38 Additionally, **section 2** increases from \$40,000,000 to \$100,000,000 the total
39 amount of transferable tax credits for affordable housing that the Division is
40 authorized to approve for all fiscal years. Finally, **section 2** provides that the 4-year
41 period during which transferable tax credits may be used begins on the date on
42 which the Division notifies the project sponsor that transferable tax credits will be
43 issued rather than on the date on which the Division issues the transferable tax
44 credits.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 360.867 is hereby amended to read as follows:
2 360.867 1. On behalf of a project, the project sponsor may
3 apply to the Division for a certificate of eligibility for transferable
4 tax credits which may be applied to:

- 5 (a) Any tax imposed by chapter 363A or 363B of NRS;
- 6 (b) The gaming license fees imposed by the provisions of
7 NRS 463.370;
- 8 (c) Any tax imposed by chapter 680B of NRS; or
- 9 (d) Any combination of the fees and taxes described in
10 paragraphs (a), (b) and (c).

11 2. To apply for a certificate of eligibility for transferable tax
12 credits, the project sponsor must:

- 13 (a) Submit an application on a form prescribed by the Division;
14 and

- 15 (b) Comply with the requirements to obtain an allocation of
16 federal low-income housing tax credits which are set forth in the
17 qualified allocation plan.



1 3. The Division shall:

2 (a) Review each application for a certificate of eligibility for
3 transferable tax credits submitted pursuant to subsection 2 and any
4 supporting documents to determine whether the requirements for
5 eligibility for a reservation of transferable tax credits are met and the
6 amount of transferable tax credit threshold points awarded to the
7 project;

8 (b) Determine the amount of transferable tax credits for which
9 the project may be eligible, which amount must equal the amount
10 determined by the Division to be necessary to make the project
11 financially feasible after considering all other sources of financing
12 for the project; and

13 (c) Reserve the amount of transferable tax credits for which each
14 project is determined to be eligible pursuant to paragraph (b) in the
15 order of the amount of transferable tax credit threshold points
16 awarded to each such project pursuant to paragraph (a) until a
17 reservation is made for each project or the amount of transferable
18 credits reserved for the fiscal year is equal to the amount of
19 transferable tax credits which the Division is authorized to approve
20 for the fiscal year pursuant to NRS 360.868, whichever occurs first.
21 If the amount of transferable tax credits reserved for the fiscal year
22 reaches the amount of transferable tax credits which the Division is
23 authorized to approve for the fiscal year pursuant to NRS 360.868
24 before each eligible project is reserved the full amount of
25 transferable tax credits for which it is determined to be eligible
26 pursuant to paragraph (b), the Division may take any action that the
27 Division determines will ensure the maximum development of
28 affordable housing in this State, including, without limitation,
29 proportionally reducing the reservation of each project for which
30 transferable tax credits are reserved or reserving for the last project
31 to receive a reservation of transferable tax credits an amount of
32 transferable tax credits that is less than the full amount of
33 transferable tax credits for which the project was determined to be
34 eligible pursuant to paragraph (b).

35 4. If the Division reserves transferable tax credits for a project
36 pursuant to subsection 3, the Division shall provide written notice of
37 the reservation which identifies the amount of the tax credits
38 reserved for the project to:

- 39 (a) The project sponsor;
40 (b) The Department;
41 (c) The Nevada Gaming Control Board;
42 (d) The Office of Finance; and
43 (e) The Fiscal Analysis Division of the Legislative Counsel
44 Bureau.

45 5. The Division:



1 (a) Shall terminate a reservation of transferable tax credits if the
2 project for which the reservation is awarded is not closed within
3 the period specified in paragraph (a) of subsection 6 unless, before
4 the expiration of that period, the Division receives from the project
5 sponsor a written request for an extension of not more than 45 days.
6 The Division may grant only one extension pursuant to this
7 paragraph and, if the project is not closed before the expiration of
8 the extension period, the Division must terminate the reservation of
9 transferable tax credits. A request for an extension submitted
10 pursuant to this paragraph must be accompanied by proof
11 satisfactory to the Division that:

12 (1) The requirements for financing the project have been
13 substantially completed;

14 (2) The delay in closing was the result of circumstances that
15 could not have been anticipated by and were outside the control of
16 the project sponsor at the time the application was submitted by the
17 project sponsor; and

18 (3) The project will be closed not later than 45 days after the
19 Division receives the request.

20 (b) May terminate a reservation of transferable tax credits if the
21 Division determines that any event, circumstance or condition
22 occurs for which a reservation of federal low-income housing tax
23 credits may be terminated. If transferable tax credits are terminated
24 pursuant to this paragraph, the Division may issue a reservation for
25 the amount of transferable tax credits terminated to other projects
26 eligible for transferable tax credits in the order of the amount of
27 transferable tax credit threshold points awarded to each such project
28 pursuant to paragraph (a) of subsection 3.

29 6. Except as otherwise provided in this section, to be issued
30 transferable tax credits:

31 (a) Not later than 270 days after the Division provides written
32 notice of the reservation of transferable tax credits pursuant to
33 subsection 4, the project sponsor must demonstrate to the Division
34 that the project has been closed by providing proof satisfactory to
35 the Division that the project sponsor has:

36 (1) Purchased and holds title in fee simple to , *or has entered*
37 *into a long-term ground lease for*, the project site in the name of
38 the project sponsor.

39 (2) Entered into a written agreement with a contractor who is
40 licensed in this State to begin construction.

41 (3) Obtained adequate financing for the construction of the
42 project. The applicant must provide written commitments or
43 contracts from third parties.

44 (4) Executed a written commitment for a loan for permanent
45 financing for the construction of the project in an amount that



1 ensures the financial feasibility of the project. The commitment may
2 be subject to the condition that the construction is completed and the
3 project is appraised for an amount sufficient to justify the loan in
4 accordance with the requirements of the lender for credit. If the
5 project is a rural development project that receives loans or grants
6 from the United States Department of Agriculture, the applicant
7 must provide a form approved by the Division that indicates that
8 money has been obligated for the construction of the project before
9 the expiration of the period. An advance of that money is not
10 required before the expiration of the period.

11 (b) Not less than ~~45~~ 15 days before the project is closed, the
12 project sponsor must submit to the Division a final application for
13 transferable tax credits on a form provided by the Division and such
14 other information as the Division deems necessary to determine
15 whether the project qualifies for the issuance of transferable tax
16 credits. Upon receipt of a final application pursuant to this
17 paragraph, the Division shall complete a review of the project and
18 the project sponsor. If, after such review, the Division determines
19 that the project complies with the requirements upon which
20 transferable tax credits were reserved pursuant to this section and a
21 declaration of restrictive covenants and conditions will be recorded
22 in the office of the county recorder for the county in which the
23 project is located:

24 (1) The Division shall:

25 (I) Determine the appropriate amount of transferable tax
26 credits for the project, which must be the amount the Division
27 determines is necessary to make the project financially feasible after
28 all other sources of funding are allocated and paid toward the final
29 cost of the project and may not exceed the amount of transferable
30 tax credits reserved for the project pursuant to this section; and

31 (II) Notify the project sponsor that the transferable tax
32 credits will be issued;

33 (2) Within 30 days after the receipt of the notice, the project
34 sponsor shall make an irrevocable declaration of the amount of
35 transferable tax credits that will be applied to each fee or tax set
36 forth in subsection 1, thereby accounting for all of the credits which
37 will be issued; and

38 (3) Upon receipt of the declaration described in subparagraph
39 (2), the Division shall issue transferable tax credits to the project
40 sponsor in the amount approved by the Division. *The project*
41 *sponsor may transfer the transferable tax credits to a member or*
42 *partner of the project sponsor or to any other entity.* The project
43 sponsor shall notify the Division upon transferring any transferable
44 tax credits. An entity to which a project sponsor transfers any
45 transferable tax credits may transfer those transferable tax credits to



1 one or more of its subsidiaries or affiliates and shall notify the
2 Division upon making any such transfer. The Division shall notify
3 the Department of Taxation, the Office of Finance, the Fiscal
4 Analysis Division of the Legislative Counsel Bureau and the
5 Nevada Gaming Control Board of all transferable tax credits issued,
6 segregated by each fee or tax set forth in subsection 1, and of all
7 transferable tax credits transferred, segregated by each fee or tax set
8 forth in subsection 1.

9 7. Upon completion of the project, the project sponsor shall
10 submit to the Division a certification of costs on a form provided by
11 the Division and such other information as the Division deems
12 necessary to determine the final cost of the project. If, based upon
13 the final cost of the project indicated in the certification of costs, the
14 Division determines that the amount of transferable tax credits
15 issued by the Division to the project sponsor is greater than the
16 amount of transferable tax credits to which the project sponsor is
17 entitled:

18 (a) The Division shall notify the project sponsor, the Department
19 of Taxation, the Office of Finance, the Fiscal Analysis Division of
20 the Legislative Counsel Bureau and the Nevada Gaming Control
21 Board that the project sponsor is required to repay the portion of the
22 transferable tax credits to which the project sponsor is not entitled.
23 The notice must specify the amount of transferable tax credits that
24 the project sponsor is required to repay.

25 (b) The project sponsor shall repay to the Department of
26 Taxation or the Nevada Gaming Control Board, as applicable, the
27 portion of the transferable tax credits to which the project sponsor is
28 not entitled.

29 8. The project sponsor may submit a request to the
30 Administrator of the Division to protect from disclosure any
31 information in the application which, under generally accepted
32 business practices, would be considered a trade secret or other
33 confidential proprietary information of the business. After
34 consulting with the business, the Administrator of the Division shall
35 determine whether to protect the information from disclosure. The
36 decision of the Administrator of the Division is final and is not
37 subject to judicial review. If the Administrator of the Division
38 determines to protect the information from disclosure, the protected
39 information:

- 40 (a) Is confidential proprietary information of the business;
- 41 (b) Is not a public record;
- 42 (c) Must be redacted by the Administrator of the Division from
- 43 any copy of the application that is disclosed to the public; and



1 (d) Must not be disclosed to any person who is not an officer or
2 employee of the Division unless the lead participant consents to the
3 disclosure.

4 9. The Division may adopt any regulations necessary to carry
5 out the provisions of NRS 360.860 to 360.870, inclusive.

6 10. The Nevada Tax Commission and the Nevada Gaming
7 Commission:

8 (a) Shall adopt regulations prescribing the manner in which
9 transferable tax credits described in this section will be
10 administered.

11 (b) May adopt any other regulations that are necessary to carry
12 out the provisions of NRS 360.860 to 360.870, inclusive.

13 11. As used in this section:

14 (a) "Affiliate" means a person who, directly or indirectly
15 through one or more intermediaries, controls, is controlled by or is
16 under common control with a specified person.

17 (b) "Certification of costs" means a report from an independent
18 certified public accountant attesting:

19 (1) To the amount of the actual costs of construction of the
20 project; and

21 (2) That those costs may be included in the eligible basis of
22 the project pursuant to the provisions of 26 U.S.C. § 42.

23 (c) "Subsidiary" means an entity in which a person owns
24 beneficially or of record 50 percent or more of the outstanding
25 equity interests.

26 (d) "Transferable tax credit threshold points" means points
27 awarded based on specific objectives determined by the Division
28 through the dissemination of a strategic plan for the development of
29 affordable housing created by the Division, the review of housing
30 data and the receipt of input from persons interested in the
31 development of affordable housing.

32 **Sec. 2.** NRS 360.868 is hereby amended to read as follows:

33 360.868 1. Except as otherwise provided in this subsection,
34 the Division shall not approve any application for transferable tax
35 credits submitted pursuant to NRS 360.867 if:

36 (a) Approval of the application would cause the total amount of
37 transferable tax credits approved pursuant to NRS 360.867 for each
38 fiscal year to exceed \$10,000,000. Any portion of the \$10,000,000
39 per fiscal year for which transferable tax credits have not previously
40 been approved may be carried forward and made available for
41 approval during the next or any future fiscal year. If the Division
42 determines that approval of an application that would cause the total
43 amount of transferable tax credits approved pursuant to NRS
44 360.867 in a fiscal year to exceed \$10,000,000 is necessary to
45 ensure the maximum development of affordable housing in this



1 State through the approval of transferable tax credits pursuant to
2 NRS 360.867, the Division may approve the application unless the
3 approval of the application would cause the total amount of
4 transferable tax credits approved pursuant to NRS 360.867 in the
5 fiscal year to exceed \$13,000,000. If the Division approves an
6 application for transferable tax credits that causes the total amount
7 of transferable tax credits approved pursuant to NRS 360.867 in a
8 fiscal year to exceed \$10,000,000, the Division must reduce the
9 amount of transferable tax credits which may be approved pursuant
10 to NRS 360.867 in the next fiscal year by the amount of transferable
11 tax credits approved in excess of \$10,000,000 in the previous fiscal
12 year. *Any reduction made pursuant to this paragraph to the*
13 *amount of transferable tax credits which may be approved*
14 *pursuant to NRS 360.867 in a fiscal year must be made to the*
15 *amount of carried forward transferable tax credits available for*
16 *approval in a fiscal year before the amount of transferable tax*
17 *credits which may be approved in a fiscal year is reduced below*
18 *\$10,000,000.*

19 (b) Approval of the application would cause the total amount of
20 transferable tax credits approved for all fiscal years pursuant to NRS
21 360.867 to exceed ~~[\$40,000,000.]~~ *\$100,000,000.*

22 2. The transferable tax credits issued to a project sponsor
23 pursuant to NRS 360.867 expire 4 years after the date on which *the*
24 *Division notifies the project sponsor that* the transferable tax
25 credits ~~[are]~~ *will be* issued ~~[to the project sponsor.]~~ *as required by*
26 *subsection 6 of NRS 360.867.*

27 **Sec. 3.** This act becomes effective on July 1, 2025.

