

2024 -- S 3028

LC005920

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO TAXATION -- LOW-INCOME HOUSING IMPROVEMENT TAX CREDIT

Introduced By: Senator Meghan E. Kallman

Date Introduced: May 02, 2024

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by  
2 adding thereto the following chapter:

3 CHAPTER 72

4 LOW-INCOME HOUSING IMPROVEMENT TAX CREDIT

5 **44-72-1. Short title.**

6 This chapter shall be known and may be cited as the "Low-Income Improvement Housing  
7 Tax Credit Act."

8 **44-72-2. Findings and declarations.**

9 It is hereby found and declared that the state is facing significant housing challenges, which  
10 must be addressed for the welfare of the state's residents. The purpose of the Rhode Island low-  
11 income housing improvement tax credit established pursuant to this chapter is to encourage and  
12 incentivize improvements to affordable housing in the state.

13 **44-72-3. Definitions.**

14 As used in this chapter:

15 (1) "Applicant" means a property owner applying for a Rhode Island low-income housing  
16 improvement tax credit.

17 (2) "Compliance period" means the period of fifteen (15) taxable years beginning with the  
18 taxable year in which the improvements to low-income housing are completed.

19 (3) "Department" means the department of housing established pursuant to § 42-64.34-1.

1           (4) "Eligibility statement" means a statement authorized and issued by the department  
2 certifying that a given project is a qualified Rhode Island project and setting forth the annual amount  
3 of the Rhode Island low-income housing improvement tax credit allocated to the project. The  
4 eligibility statement shall be on a form promulgated by the department in consultation with the  
5 division of taxation.

6           (5) "Federal low-income housing tax credit" means the federal tax credit as provided in  
7 section 42 of the 1986 Internal Revenue Code, as amended and in effect for the taxable year.

8           (6) "Low-income project" means a qualified low-income housing project, as defined in  
9 section 42 of the 1986 Internal Revenue Code, as amended and in effect for the taxable year, which  
10 has restricted rents.

11           (7) "Property owner" means a person, firm, business, partnership, association, political  
12 subdivision, or other entity that owns twelve (12) or fewer rental units within the state that proposes  
13 to improve or make improvements to a qualified Rhode Island project.

14           (8) "Qualified Rhode Island project" means a project where improvements are made to a  
15 qualified low-income housing project, as defined in section 42 of the 1986 Internal Revenue Code,  
16 as amended and in effect for the taxable year, which is located in the State of Rhode Island, which  
17 meets the requirements of this chapter, and whose property owner enters into a tax credit agreement  
18 with the department.

19           (9) "Rhode Island low-income improvement housing tax credit" means the tax credit  
20 established pursuant to this chapter.

21           (10) "Tax credit agreement" means an agreement between the property owner and the  
22 department and filed as an affordable housing restriction in the land records of the city or town  
23 where the real estate lies that requires the project to be operated in accordance with the requirements  
24 of this chapter for not less than thirty (30) years from the expiration date of the compliance period.

25           (11) "Taxpayer" means a person, firm, partnership, trust, estate, limited liability company,  
26 corporation (whether for profit or nonprofit) or other entity having an ownership interest in a  
27 qualified Rhode Island project, either directly or through one or more pass-through entities, that is  
28 subject to the taxes imposed on such person or entity pursuant to chapters 11, 13, 14, 17 or 30 of  
29 this title.

30           **44-72-4. Establishment of Rhode Island low-income housing tax credit program.**

31           The Rhode Island low-income housing improvement tax credit program is hereby  
32 established as a program under the jurisdiction and administration of the department. The program  
33 may provide tax credits for a period of five (5) years to applicants that are competitively selected  
34 and that meet the requirements of this chapter. The department shall not obligate Rhode Island low-

1 income housing tax credits that cumulatively total in excess of ten million dollars (\$10,000,000) in  
2 any fiscal year.

3 **44-72-5. Rhode Island low-income housing tax credit.**

4 (a) A taxpayer owning an interest in a qualified Rhode Island project may be allowed a  
5 Rhode Island low-income housing tax credit against the taxes imposed pursuant to chapters 11, 13,  
6 14, 17 or 30 of this title with respect to that qualified Rhode Island project in an amount authorized,  
7 determined, and allocated by the department based on the qualified Rhode Island project's need for  
8 the credit for economic feasibility; provided that, the department issues an eligibility statement for  
9 that qualified Rhode Island project.

10 (b) At the time of application to the department for an eligibility statement, an applicant  
11 shall, through its chief executive officer or equivalent authorized officer, demonstrate to the  
12 department:

13 (1) That the project is a qualified Rhode Island project;

14 (2) A detailed description of proposed improvements to be made;

15 (3) The owner of the qualified Rhode Island project has entered into a tax credit agreement  
16 with the department; and

17 (4) The applicant satisfies other additional criteria determined by the department from time  
18 to time.

19 (c) The Rhode Island low-income housing improvement tax credit allocated to a taxpayer  
20 with respect to a qualified Rhode Island project shall be taken against the taxpayer's taxes imposed  
21 pursuant to chapters 11, 13, 14, 17 or 30 of this title. The amount of a tax credit allowed under this  
22 chapter shall be allowable to the taxpayer in five (5) equal annual increments. If the portion of the  
23 tax credit allowed under this chapter exceeds the taxpayer's total tax liability for the year in which  
24 the relevant portion of the credit is taken, the amount that exceeds the taxpayer's tax liability may  
25 be carried forward for credit against the taxes imposed for the succeeding four (4) years, or until  
26 the full credit is used, whichever occurs first.

27 (d) A qualified Rhode Island project that receives other incentives or tax credits available  
28 under the general laws of this state is also eligible to receive an allocation of Rhode Island low-  
29 income housing tax credits pursuant to this chapter.

30 (e) Upon request of a taxpayer and subject to annual appropriation, the state shall redeem  
31 this credit, in whole or in part, for ninety percent (90%) of the value of the tax credit. The division  
32 of taxation, in consultation with the department, shall establish by regulation a redemption process  
33 for tax credits.

34 **44-72-6. Administration.**

1           (a) Upon issuance of the eligibility statement the department shall, on behalf of the State  
2 of Rhode Island, award tax credits and issue tax credit certificates in the amount authorized and  
3 allocated in accordance with the eligibility statement and the tax credit agreement. The department  
4 shall provide copies of eligibility statements and tax credit certificates to the division of taxation  
5 within thirty (30) days of issuance, including copies of all eligibility statements and tax credit  
6 certificates that are reissued, transferred, sold, or assigned.

7           (b) The owner of a qualified Rhode Island project eligible for the Rhode Island low-income  
8 housing improvement tax credit shall submit, at the time of filing the property owner's state tax  
9 return, the original tax credit certificate issued by the department with respect to such qualified  
10 Rhode Island project. In the case of failure to attach the tax credit certificate, a credit under this  
11 chapter shall not be allowed with respect to such qualified Rhode Island project for that year until  
12 the original tax credit certificate is provided to the division of taxation.

13           **44-72-7. Recapture.**

14           (a) If under Section 42 of the 1986 Internal Revenue Code, as amended, a portion of any  
15 federal low-income housing tax credits taken on improvements to a low-income project is required  
16 to be recaptured, the Rhode Island low-income housing improvement tax credit authorized with  
17 respect to such qualified Rhode Island project shall also be recaptured. The state recapture amount  
18 shall be equal to the amount of the Rhode Island low-income housing improvement tax credits  
19 previously claimed times a fraction, the numerator of which shall be the amount of recaptured  
20 federal low-income housing tax credits and the denominator of which shall be the amount of federal  
21 low-income housing tax credits previously claimed.

22           (b) The department shall provide notification of recapture determinations to the division of  
23 taxation within thirty (30) days. Such notifications shall include the proportion of the Rhode Island  
24 low-income housing improvement tax credit to be recaptured, the identity of each taxpayer subject  
25 to the recapture and the amount of credit previously allocated to such taxpayer.

26           **44-72-8. Transferability.**

27           All or any portion of unused tax credits issued in accordance with the provisions of this  
28 chapter may be transferred, sold, or assigned to taxpayers eligible under the provisions of this  
29 chapter.

30           **44-72-9. Rules and regulations.**

31           The department, in consultation with the division of taxation, shall adopt guidelines,  
32 directives, criteria, and rules and regulations pursuant to chapter 35 of title 42 to implement the  
33 purposes of the Rhode Island low-income housing improvement tax credit program.

34           **44-72-10. Reporting.**

1 By November 1, 2025, and each year thereafter, the department shall report to the governor,  
2 the chairpersons of the house and senate finance committees, and the house and senate fiscal  
3 advisors, the amount of Rhode Island low-income housing improvement tax credits that were  
4 approved during the prior fiscal year. A summary of any tax credit agreements entered into under  
5 this chapter by the department and applicants shall be sent to the division of taxation, shall be public  
6 and shall be published by the tax administrator on the tax division website.

7 **44-72-11. Low-income housing tax credit fund.**

8 There is hereby established, at the department, a restricted account known as the low-  
9 income housing improvement tax credit fund (the "fund") in which all amounts appropriated for  
10 the program authorized in this chapter shall be deposited. The fund shall be used for the purpose of  
11 securing payment for the redemption of tax credits or to reimbursement to the state for tax credits  
12 applied against a taxpayer's liability.

13 **44-72-12. Sunset.**

14 No credits shall be authorized to be reserved pursuant to this chapter after June 30, 2029.

15 SECTION 2. This act shall take effect on July 1, 2024.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO TAXATION -- LOW-INCOME HOUSING IMPROVEMENT TAX CREDIT

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1           This act establishes the Rhode Island low-income housing improvement tax credit program  
2 providing tax credits for a period of five (5) years to applicants that are competitively selected and  
3 that meet the requirements of this chapter.

4           This act would take effect on July 1, 2024.

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