SENATE BILL No. 37

By Committee on Federal and State Affairs

1-17

AN ACT concerning taxation; relating to the Kansas housing investor tax credit act; expanding the transferability of income, privilege and premium tax credits issued under the act; amending K.S.A. 2022 Supp. 79-32,313 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2022 Supp. 79-32,313 is hereby amended to read as follows: 79-32,313. (a) (1) For tax year 2022 and all tax years thereafter, a credit against the income tax liability imposed pursuant to the Kansas income tax act, the privilege tax liability imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or the premium tax liability imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, shall be allowed to:

(A) A qualified investor for a cash investment in a qualified housing project that has been approved and issued a tax credit by the director. The tax credit may be claimed in its entirety in the taxable year the cash investment is made; and

(B) a project builder or developer of a qualified housing project that has been approved and issued a tax credit by the director.

(2) To claim such tax credit, the qualified investor or project builder or developer or transferee shall provide all information or documentation in the form and manner required by the secretary of revenue. If the amount of the credit exceeds the taxpayer's tax liability in any one taxable year, the remaining portion of the credit may be carried forward in the succeeding taxable years until the total amount of the credit is used, except that no credit may be claimed after four taxable years next succeeding the taxable year that such credit was issued, and any remaining credit shall be forfeited. Any portion of the credit that is carried forward may be transferred pursuant to subsection (d) and claimed by the transferee in the same manner as the transferor.

(b) (1) Tax credits may be issued by the director for a qualified housing project as follows:

(A) For qualified housing projects located in a county with a population of not more than 8,000, in an amount not to exceed $35,000 per
residential unit;
(B) for qualified housing projects located in a county with a
population of more than 8,000 but not more than 25,000, in an amount not
to exceed $32,000 per residential unit; and
(C) for all other qualified housing projects, in an amount not to
exceed $30,000.
(2) A qualified housing project shall be limited to a total of 40 such
residential units per year for both single-family and multi-family
dwellings.
(3) Tax credits may be issued to a qualified investor in the amount of
a cash investment of up to the total amount that may be issued by the
director under this subsection for the qualified housing project, or as
provided in the agreement required by K.S.A. 2022 Supp. 79-32,312, and
amendments thereto. Project builders or developers may apply to the
director each year for tax credits for additional units or phases of a project.
Qualified investors may be issued tax credits for cash investments in
multiple qualified housing projects. Project builders or developers may
apply and be approved for multiple qualified housing projects in the same
tax year.
(4) The aggregate amount of tax credits that may be issued under this
section shall not exceed $13,000,000 each tax year, except that if the
director issues an aggregate amount of tax credits in one tax year that is
less than $13,000,000, then the director may carry forward the difference
and issue such amount of tax credits in the immediately succeeding tax
year in addition to the statutory amount that may be issued under this
section. Of the aggregate amount of tax credits issued in one tax year, the
director shall allocate:
(A) Not less than $2,500,000 in tax credits for qualified housing
projects located in counties with a population of not more than 8,000;
(B) not less than $2,500,000 in tax credits for qualified housing
projects located in counties with a population of more than 8,000 but not
more than 25,000; and
(C) up to $8,000,000 in tax credits for qualified housing projects
located in counties with a population of more than 25,000 but not more
than 75,000.
(c) A cash investment in a qualified housing project shall be deemed
to have been made on the date of acquisition of the qualified security, as
such date is determined by the director.
(d) Any qualified investor without a current tax liability at the time of
the investment in a qualified housing project that does not reasonably
believe such investor will owe any such tax for the current taxable year
and who receives a tax credit pursuant to this section shall be deemed to
acquire an interest in the nature of a transferable credit limited to the
amount of the credit issued to the qualified investor by the director. This interest All or a portion of such credit may be transferred by the qualified investor or any subsequent transferee to any person whether or not such person transferee is then a qualified investor and be claimed by the transferee as a credit against the transferee's Kansas tax liability in the same manner as the transferor beginning in the year the credit is transferred. The credit may be carried forward as permitted by subsection (a). There shall be no limit on the number of times a credit or any portion thereof can be transferred. No person shall be entitled to a refund for any interest on such tax credit that may be created under this section. Only the full amount of the tax credit for any one qualified housing project investment may be transferred and may only be transferred one time. A credit acquired by transfer shall be subject to the limitations prescribed in this section. Any such transferee succeeds to all remaining rights and restrictions of the transferor with respect to the credit being transferred on the date of such transfer. Documentation of any credit acquired by transfer shall be provided by the taxpayer claiming such credit in the manner required by the secretary of revenue. The qualified investor or subsequent transferee transferring such credit shall provide the director and the secretary of revenue with the name, address and taxpayer identification number of each person to whom tax credits have been transferred and such other information as may be required by the director or the secretary of revenue. The provisions of this subsection shall apply to credits issued for tax year 2022 and all tax years thereafter.

(e) The secretary of revenue may adopt rules and regulations as necessary to implement and administer the provisions of this act.

Sec. 2. K.S.A. 2022 Supp. 79-32,313 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.