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S.138

Senators Baruth and Benning move that the bill be amended by adding a

Sec. 62 to read:

Sec. 62. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

(1) “Affordable housing project” or “project” means:

(A) a rental housing project identified in 26 U.S.C. § 42(g); or

(B) owner-occupied housing identified in 26 U.S.C. § 143~~(e)~~ ~~and (f)~~

~~and eligible (c)(1) or that qualifies~~ under the Vermont Housing Finance Agency ~~allocation plan~~ criteria governing owner-occupied housing.

(2) “Affordable housing tax credits” means the tax credit provided by this subchapter.

(3) “Allocating agency” means the Vermont Housing Finance Agency.

(4) “Committee” means the Joint Committee on Tax Credits consisting of five members; a representative from the Department of Housing and Community Affairs, the Vermont Housing and Conservation Board, the Vermont Housing Finance Agency, the Vermont State Housing Authority, and the Office of the Governor.

(5) “Credit certificate” means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits

1 that can be applied against the taxpayer’s individual or corporate income tax or
2 franchise or insurance premium tax liability as provided in this subchapter.

3 (6) “Eligible applicant” means any municipality, private sector
4 developer, ~~department of state government as defined in 10 V.S.A. § 6302(a),~~
5 State agency as defined in 10 V.S.A. § 6301a, the Vermont Housing Finance
6 Agency, or a nonprofit organization qualifying under 26 U.S.C. § 501(c)(3), or
7 cooperative housing organization, the purpose of which is ~~the creation and~~
8 retention of ~~to create and retain~~ affordable housing for lower income
9 Vermonters; ~~with lower income and the~~ which has in its bylaws that require a
10 requirement that ~~housing to~~ the housing the organization creates be maintained
11 as affordable housing for lower income Vermonters with lower income on a
12 perpetual basis.

13 (7) “Eligible cash contribution” means an amount of cash contributed to
14 the owner, developer, or sponsor of an affordable housing project and
15 determined by the allocating agency as eligible for affordable housing tax
16 credits.

17 (8) “Section 42 credits” means tax credit provided by 26 U.S.C.
18 §§ 38 and 42.

19 (9) “Allocation plan” means the plan recommended by the Committee
20 and approved by the Vermont Housing Finance Agency, which sets forth the
21 eligibility requirements and process for selection of eligible housing projects to

1 receive affordable housing tax credits under this section. The allocation plan
2 shall include:

3 (A) requirements for creation and retention of affordable housing for
4 ~~low income~~ persons; with low income; and

5 (B) requirements to ensure that eligible housing is maintained as
6 affordable by subsidy covenant, as defined in 27 V.S.A. § 610 on a perpetual
7 basis, and meets all other requirements of the Vermont Housing Finance
8 Agency related to affordable housing.

9 (b) Eligible tax credit allocations.

10 (1) Affordable housing credit allocation.

11 (A) An eligible applicant may apply to the allocating agency for an
12 allocation of affordable housing tax credits under this section related to an
13 affordable housing project authorized by the allocating agency under the
14 allocation plan. In the case of a specific affordable rental housing project, the
15 eligible applicant ~~must~~ shall also be the owner or a person having the right to
16 acquire ownership of the building and ~~must~~ shall apply prior to placement of
17 the affordable housing project in service. In the case of owner-occupied
18 housing units, the applicant ~~must apply prior to purchase of the unit and must~~
19 shall ensure that the allocated funds will be used to ensure that the housing
20 qualifies or program funds remain as an affordable housing resource for all
21 future owners ~~of the housing~~. The allocating agency shall issue a letter of

1 approval if it finds that the applicant meets the priorities, criteria, and other
2 provisions of subdivision ~~(2)(B)~~ of this ~~subsection~~ subdivision (1). The burden
3 of proof shall be on the applicant.

4 ~~(2)(B)~~ Upon receipt of a completed application, the allocating agency
5 shall award an allocation of affordable housing tax credits with respect to a
6 project ~~under this section shall be granted~~ to an applicant, provided the
7 applicant demonstrates to the satisfaction of the ~~committee~~ allocating agency
8 all of the following:

9 ~~(A)(i)~~ The owner of the project has received from the allocating
10 agency a binding commitment for, a reservation or allocation of, or an
11 out-of-cap determination letter for, Section 42 credits, or meets the
12 requirements of the allocation plan for development or financing of units to be
13 owner-occupied;

14 ~~(B)(ii)~~ The project has received community support.

15 (2) Down payment assistance program.

16 (A) The Vermont Housing Finance Agency shall have the authority
17 to allocate affordable housing tax credits to finance down payment assistance
18 loans that meet the following requirements:

19 (i) the loan is made in connection with a mortgage through an
20 Agency program;

1 (ii) the borrower is a first-time homebuyer of an owner-occupied
2 primary residence; and

3 (iii) the borrower uses the loan for the borrower's down payment,
4 or closing costs, or both.

5 (B) The Agency shall require the borrower to repay the loan upon the
6 sale or refinance of the residence.

7 (C) The Agency shall use the proceeds of loans made under the
8 program for future down payment assistance.

9 (c) Amount of credit. A taxpayer who makes an eligible cash contribution
10 shall be entitled to claim against the taxpayer's individual income, corporate,
11 franchise, or insurance premium tax liability a credit in an amount specified on
12 the taxpayer's credit certificate. The first-year allocation of a credit amount to
13 a taxpayer shall also be deemed an allocation of the same amount in each of
14 the following four years.

15 (d) Availability of credit. The amount of affordable housing tax credit
16 allocated with respect to a project shall be available to the taxpayer every year
17 for five consecutive tax years, beginning with the tax year in which the eligible
18 cash contribution is made. Total tax credits available to the taxpayer shall be
19 the amount of the first-year allocation plus the succeeding four years' deemed
20 allocations.

1 (e) Claim for credit. A taxpayer claiming affordable housing tax credits
2 shall submit with each return on which such credit is claimed a copy of the
3 allocating agency's credit allocation to the affordable housing project and the
4 taxpayer's credit certificate. Any unused affordable housing tax credit may be
5 carried forward to reduce the taxpayer's tax liability for no more than 14
6 succeeding tax years, following the first year the affordable housing tax credit
7 is allowed.

8 (f) ~~[Deleted.]~~ [Repealed.]

9 (g)(1) In any fiscal year, the allocating agency may award up to:

10 (A) \$400,000.00 in total first-year credit allocations to all applicants
11 for rental housing projects, for a total aggregate limit of \$2,000,000.00 over
12 any given five-year period that credits are available under this subdivision; and
13 may award up to

14 (B) \$300,000.00 per year for owner-occupied unit applicants
15 financing or down payment loans consistent with the allocation plan, including
16 for new construction and manufactured housing, for a total aggregate limit of
17 \$1,500,000.00 over any given five-year period that credits are available under
18 this subdivision.

19 (2) In fiscal years 2016 through 2020, the allocating agency may award
20 up to \$125,000.00 per year for loans through the down payment assistance
21 program created in subdivision (b)(2) of this section for a total aggregate limit

1 of \$625,000.00 over the five-year period that credits are available under this
2 subdivision.

3 ~~(h) In any fiscal year, total first year allocations plus succeeding year~~
4 ~~deemed allocations shall not exceed \$3,500,000.00. The aggregate limit for all~~
5 credit allocations available under this section in any fiscal year is
6 \$4,125,000.00.

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