

SENATE BILL No. 37

By Committee on Federal and State Affairs

1-17

1 AN ACT concerning taxation; relating to the Kansas housing investor tax
2 credit act; expanding the transferability of income, privilege and
3 premium tax credits issued under the act; amending K.S.A. 2022 Supp.
4 79-32,313 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

35 (A) For qualified housing projects located in a county with a
36 population of not more than 8,000, in an amount not to exceed \$35,000 per

1 residential unit;

2 (B) for qualified housing projects located in a county with a
3 population of more than 8,000 but not more than 25,000, in an amount not
4 to exceed \$32,000 per residential unit; and

5 (C) for all other qualified housing projects, in an amount not to
6 exceed \$30,000.

7 (2) A qualified housing project shall be limited to a total of 40 such
8 residential units per year for both single-family and multi-family
9 dwellings.

10 (3) Tax credits may be issued to a qualified investor in the amount of
11 a cash investment of up to the total amount that may be issued by the
12 director under this subsection for the qualified housing project, or as
13 provided in the agreement required by K.S.A. 2022 Supp. 79-32,312, and
14 amendments thereto. Project builders or developers may apply to the
15 director each year for tax credits for additional units or phases of a project.
16 Qualified investors may be issued tax credits for cash investments in
17 multiple qualified housing projects. Project builders or developers may
18 apply and be approved for multiple qualified housing projects in the same
19 tax year.

20 (4) The aggregate amount of tax credits that may be issued under this
21 section shall not exceed \$13,000,000 each tax year, except that if the
22 director issues an aggregate amount of tax credits in one tax year that is
23 less than \$13,000,000, then the director may carry forward the difference
24 and issue such amount of tax credits in the immediately succeeding tax
25 year in addition to the statutory amount that may be issued under this
26 section. Of the aggregate amount of tax credits issued in one tax year, the
27 director shall allocate:

28 (A) Not less than \$2,500,000 in tax credits for qualified housing
29 projects located in counties with a population of not more than 8,000;

30 (B) not less than \$2,500,000 in tax credits for qualified housing
31 projects located in counties with a population of more than 8,000 but not
32 more than 25,000; and

33 (C) up to \$8,000,000 in tax credits for qualified housing projects
34 located in counties with a population of more than 25,000 but not more
35 than 75,000.

36 (c) A cash investment in a qualified housing project shall be deemed
37 to have been made on the date of acquisition of the qualified security, as
38 such date is determined by the director.

39 (d) ~~Any qualified investor without a current tax liability at the time of~~
40 ~~the investment in a qualified housing project that does not reasonably~~
41 ~~believe such investor will owe any such tax for the current taxable year~~
42 ~~and who receives a tax credit pursuant to this section shall be deemed to~~
43 acquire an interest in the nature of a transferable credit limited to the

1 amount of the credit issued to the qualified investor by the director. ~~This~~
2 ~~interest~~ *All or a portion of such credit may be transferred by the qualified*
3 *investor or any subsequent transferee to ~~any person~~ one or more persons*
4 *whether or not such ~~person~~ transferee is then a qualified investor and be*
5 *claimed by the transferee as a credit against the transferee's Kansas tax*
6 *liability in the same manner as the transferor beginning in the year the*
7 *credit is transferred. The credit may be carried forward as permitted by*
8 *subsection (a). There shall be no limit on the number of times a credit or*
9 *any portion thereof can be transferred. No person shall be entitled to a*
10 *refund for any interest on such tax credit that may be created under this*
11 *section. ~~Only the full amount of the tax credit for any one qualified~~*
12 *housing project investment may be transferred and may only be transferred*
13 *one time. A credit acquired by transfer shall be subject to the limitations*
14 *prescribed in this section. Any such transferee succeeds to all remaining*
15 *rights and restrictions of the transferor with respect to the credit being*
16 *transferred on the date of such transfer. Documentation of any credit*
17 *acquired by transfer shall be provided by the taxpayer claiming such credit*
18 *in the manner required by the secretary of revenue. The qualified investor*
19 *or subsequent transferee transferring such credit shall provide the director*
20 *and the secretary of revenue with the name, address and taxpayer*
21 *identification number of each person to whom ~~tax~~ credits have been*
22 *transferred and such other information as may be required by the director*
23 *or the secretary of revenue. The provisions of this subsection shall apply to*
24 *credits issued for tax year 2022 and all tax years thereafter.*

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

27 ***(f) For purposes of calculating any tax due under K.S.A. 40-253,***
28 ***and amendments thereto, the credit allowed by this section shall be***
29 ***treated as a tax paid under K.S.A. 40-252, and amendments thereto.***

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

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