

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1029

Introduced by

Legislative Management

(Energy Development and Transmission Committee)

1 A BILL for an Act to create and enact a new subsection to section 57-35.3-05 of the North
2 Dakota Century Code, relating to a tax credit for contributions to the housing incentive fund; to
3 amend and reenact subsection 3 of section 54-17-07.3 and sections 54-17-40, 54-17-41, and
4 57-38-01.32 of the North Dakota Century Code, relating to a multifamily housing finance
5 program and to the housing incentive fund and tax credits; to provide a continuing
6 appropriation; to provide an effective date; to provide an expiration date; and to declare an
7 emergency.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Subsection 3 of section 54-17-07.3 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 3. Multifamily housing finance program. A program or programs to provide financing
12 directly or indirectly of construction, permanent, and combined construction and
13 permanent mortgage loans, including participations in mortgage loans, for the
14 acquisition, construction, refurbishing, reconstruction, rehabilitation, or improvement of
15 multifamily housing facilities. As part of the program, the industrial commission, acting
16 in its capacity as a state housing finance agency, may enter a public and private
17 partnership with any interested private entity and accept any gift, grant, or other type
18 of financial aid or assistance, including a contribution to the housing incentive fund, to
19 provide financing for the construction or rehabilitation of a multifamily housing facility in
20 a developing community in the state to address an unmet housing need or alleviate a
21 housing shortage. A private entity participating in this program may reserve a
22 proportionate share of available units in the facility for occupancy by its workforce
23 based on its financial participation in the facility, in addition to any units held for
24 occupancy by individuals or families of low or moderate income.

1 **SECTION 2. AMENDMENT.** Section 54-17-40 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-17-40. (Effective through June 30, 2013~~2015~~) Housing incentive fund - Continuing**
4 **appropriation.**

- 5 1. The housing incentive fund in an amount not to exceed twenty million dollars is
6 created as a special revolving fund at the Bank of North Dakota. The housing finance
7 agency may direct disbursements from the fund and a continuing appropriation from
8 the fund is provided for that purpose.
- 9 2. After a public hearing, the housing finance agency shall create an annual allocation
10 plan for the distribution of the fund. At least twenty-five percent of the fund must be
11 used to assist developing communities ~~with a population of not more than ten-~~
12 ~~thousand individuals~~ to address an unmet housing need or alleviate a housing
13 shortage. ~~At least fifty percent~~ A portion of the fund as determined by the housing
14 finance agency in the annual allocation plan must be used to benefit ~~households with~~
15 ~~incomes at not more than fifty percent of the area median~~ individuals and families of
16 low or moderate income. The agency may collect a reasonable administrative fee from
17 the fund, project developers, applicants, or grant recipients.
- 18 3. The housing finance agency shall adopt guidelines for the fund so as to address
19 unmet housing needs in this state. Assistance from the fund may be used solely for:
- 20 a. New construction, rehabilitation, or acquisition of a multifamily housing project;
21 b. Gap assistance, matching funds, and accessibility improvements;
22 c. Assistance that does not exceed the amount necessary to qualify for a loan using
23 underwriting standards acceptable for secondary market financing or to make the
24 project feasible; and
25 d. Rental assistance, emergency assistance, or targeted supportive services
26 designated to prevent homelessness.
- 27 4. Eligible recipients include units of local, state, and tribal government; local and tribal
28 housing authorities; community action agencies; regional planning councils; and
29 nonprofit organizations and for-profit developers of multifamily housing. Individuals
30 may not receive direct assistance from the fund.

1 5. Except for subdivision d of subsection 3, assistance is subject to repayment or
2 recapture under the guidelines adopted by the housing finance agency. Any
3 assistance that is repaid or recaptured must be deposited in the fund and is
4 appropriated on a continuing basis for the purposes of this section.

5 **SECTION 3. AMENDMENT.** Section 54-17-41 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-17-41. (Effective through June 30, ~~2013~~2015) Report.**

8 Upon request, the housing finance agency shall report to the industrial commission on the
9 activities of the housing incentive fund.

10 **SECTION 4.** A new subsection to section 57-35.3-05 of the North Dakota Century Code is
11 created and enacted as follows:

12 There is allowed a credit against the tax imposed by sections 57-35.3-01 through
13 57-35.3-12 in an amount equal to the contribution to the housing incentive fund under
14 section 54-17-40. For the purposes of the credit allowed in this subsection,
15 subsections 2 through 8 of section 57-38-01.32 apply.

16 **SECTION 5. AMENDMENT.** Section 57-38-01.32 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **57-38-01.32. (Effective for the first two taxable years beginning after December 31,**
19 **~~2010~~2012) Housing incentive fund tax credit.**

- 20 1. A taxpayer is entitled to a credit as determined under this section against state income
21 tax liability under section 57-38-30 or 57-38-30.3 for contributing to the housing
22 incentive fund under section 54-17-40. The amount of the credit is equal to the amount
23 contributed to the fund during the taxable year.
- 24 2. North Dakota taxable income must be increased by the amount of the contribution
25 upon which the credit under this section is computed but only to the extent the
26 contribution reduced federal taxable income.
- 27 3. The contribution amount used to calculate the credit under this section may not be
28 used to calculate any other state income tax deduction or credit allowed by law.
- 29 4. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the
30 excess may be carried forward to each of the ten succeeding taxable years.

- 1 5. The aggregate amount of tax credits allowed to all eligible contributors is limited to
2 fifteen~~twenty~~ million dollars ~~per biennium~~. This limitation applies to all contributions for
3 which tax credits are claimed under section 57-35.3-05 and this section.
- 4 6. Within thirty days after the date on which a taxpayer makes a contribution to the
5 housing incentive fund, the housing finance agency shall file with each contributing
6 taxpayer, and a copy with the tax commissioner, completed forms that show as to
7 each contribution to the fund by that taxpayer the following:
 - 8 a. The name, address, and social security number or federal employer identification
9 number of the taxpayer that made the contribution.
 - 10 b. The dollar amount paid for the contribution by the taxpayer.
 - 11 c. The date the payment was received by the fund.
- 12 7. To receive the tax credit provided under this section, a taxpayer shall claim the credit
13 on the taxpayer's state income or financial institutions tax return in the manner
14 prescribed by the tax commissioner and file with the return a copy of the form issued
15 by the housing finance agency under subsection 6.
- 16 8. Notwithstanding the time limitations contained in section 57-38-38, this section does
17 not prohibit the tax commissioner from conducting an examination of the credit
18 claimed and assessing additional tax due under section 57-38-38.
- 19 9. A partnership, subchapter S corporation, limited partnership, limited liability company,
20 or any other passthrough entity making a contribution to the housing incentive fund
21 under this section is considered to be the taxpayer for purposes of this section, and
22 the amount of the credit allowed must be determined at the passthrough entity level.
23 The amount of the total credit determined at the entity level must be passed through to
24 the partners, shareholders, or members in proportion to their respective interests in
25 the passthrough entity.

26 **SECTION 6. EFFECTIVE DATE - EXPIRATION DATE.** Sections 4 and 5 of this Act are
27 effective for the first two taxable years beginning after December 31, 2012, and are thereafter
28 ineffective.

29 **SECTION 7. EMERGENCY.** Sections 1 through 3 of this Act are declared to be an
30 emergency measure.