Ohio Revised Code

Section 175.17 Tax credit for single-family housing development.

Effective: October 3, 2023
Legislation: House Bill 33 - 135th General Assembly

(A) As used in this section:

(1) "Qualified project" means a project to develop single-family dwellings in this state that satisfies any qualifications established by the director under division (I) of this section.

(2) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(3) "Reserved credit amount" means the amount determined by the director and stipulated in the notice sent under division (B) of this section.

(4) "Annual credit amount" means the amount computed by the director under division (D) of this section before issuing an eligibility certificate.

(5) "Equity owner" means any person who directly or indirectly, through one or more pass-through entities, is a member, partner, or shareholder of a pass-through entity.

(6) "Person" has the same meaning as in section 5701.01 of the Revised Code.

(7) "Eligibility certificate" means a certificate issued by the director to a project development owner under division (D) of this section.

(8) "Project development owner" means a unit of government that owns a qualified project.

(9) "Affordability period" means the period that commences on the date of sale of a single-family dwelling constructed as part of a qualified project to the initial qualified buyer and continues through subsequent qualified buyers for ten years.

(10) "Designated reporter" means the project development owner or one of the owner's direct or

indirect partners, members, or shareholders, as selected by the owner under division (B) of this section.

(11) "Project development investor" means any person that contributes capital to a qualified project in exchange for an allocation of a tax credit under this section.

(12) "Credit period" means the ten-year period that begins in the year the eligibility certificate is issued.

(13) "Director" means the executive director of the Ohio housing finance agency.

(14) "Unit of government" means a county, township, municipal corporation, regional planning commission, community improvement corporation, economic development corporation, or county land reutilization corporation organized under Chapter 1724. of the Revised Code, or port authority.

(15) "Project development team" means the group of entities that develops, constructs, reports, appraises, finances, and services the associated properties of a qualified project in partnership with the project development owner.

(B)(1) A project development owner may submit an application to the director for a credit reservation under this section on a form and in a manner that the director shall prescribe. On the application, the project development owner shall provide all of the following:

(a) The name and address of the project development owner's designated reporter;

(b) The names and addresses of all members of the project development team;

(c) An estimate of the qualified project's development costs;

(d) Any other information as the director may require pursuant to division (I) of this section.

The director shall competitively evaluate and approve applications and award tax credit reservations under this section for a qualified project in accordance with the plan adopted under division (I)(1) of this section. The director shall determine the credit amount reserved for each qualified project, which shall not exceed the difference between the total estimated development costs included with the application and the appraised market value of all homes in the finished project, as estimated by the director. The director shall not reserve a credit under this section if doing so would exceed the annual limit prescribed by division (B)(3) of this section.

(2) The director shall send written notice of the tax credit reservation to the project development owner of an approved qualified project. The notice shall state the aggregate credit amount reserved for all years of the qualified project's credit period and stipulate that receipt of the credit is contingent upon issuance of an eligibility certificate and filing the information required by division (H) of this section.

(3) The amount of credits reserved by the director under division (B) of this section in a fiscal year shall not exceed the sum of (a) fifty million dollars, (b) the amount, if any, by which the credit allocation prescribed by this division for the preceding fiscal year exceeds the credits reserved by the director in that year, and (c) the amount of tax credits recaptured, assessed, and collected by the tax commissioner or superintendent of insurance, and disallowed or subject to reduction under this section in the preceding fiscal year. For the purpose of computing and determining compliance with the credit allocation prescribed by division (B)(3) of this section, the credit amount reserved for the project development owner is the full amount for all years of the qualified project's credit period.

(4) The director shall not reserve a tax credit under this section after June 30, 2027.

(C) The project development owner shall maintain ownership of a qualified project and associated single-family dwellings until the dwellings are sold to qualified buyers. The project development team shall service the associated properties of a qualified project for the duration of the applicable affordability period.

The qualified buyer of a single-family home constructed as part of a qualified project for which a tax credit was reserved under this section shall occupy the home as the buyer's primary residence during the affordability period.

(D) Upon completion of a qualified project for which a tax credit was reserved under this section, the project development owner shall notify the director and provide a final development cost certification for approval. After receipt of this notice, the director shall appraise the project's dwellings. Immediately after approving the final cost certification, the director shall compute the amount of the tax credit that may be claimed in each year and issue an eligibility certificate to the project development owner. That annual amount, which shall be stated on the certificate, shall equal one-tenth of the reserved credit amount stated in the notice issued under division (B) of this section, subject to any reduction or increase as the result of the approval of the final cost certification and the appraisal conducted under this division.

(E) Each eligibility certificate shall state the annual credit amount, the years that comprise the credit period, the name, address, and the taxpayer identification number of the project development owner, the project development owner's designated reporter, and all members of the project development team along with the date the certificate is issued, a unique identifying number, and any additional information the director may require by rule. The director shall certify a copy of each eligibility certificate to the tax commissioner and the superintendent of insurance.

(F)(1) For each year of a qualified project's credit period, a project development owner may claim a nonrefundable credit against the tax imposed by section 5725.18, 5726.02, 5729.03, 5729.06, or 5747.02 of the Revised Code equal to all or a portion of the annual credit amount listed on the eligibility certificate. The credit shall be claimed in the manner prescribed by section 5725.37, 5726.60, 5729.20, or 5747.84 of the Revised Code.

(2) A project development owner may or, if the owner is not subject to any tax against which the credit authorized under this section may be claimed, shall allocate all or a portion of the annual credit amount for any year of a qualified project's credit period among one or more project development investors. Such allocated credits may be applied by those project development investors or the equity owners of such an investor that is a pass-through entity against more than one tax, as applicable, but the total credits claimed for that year of the qualified project's credit period by all project development investors and equity owners shall not exceed the annual credit amount stated on the eligibility certificate.

(3) A project development investor or the equity owner of such an investor that is a pass-through entity may claim the credit authorized by this section after the date the director issues an eligibility

certificate under division (D) of this section and the applicable annual report required by division (H) of this section is filed by the designated reporter.

(4) A project development investor or equity owner that claims a tax credit under division (F)(2) of this section shall submit a copy of the eligibility certificate with the investor's or equity owner's tax return. Upon request of the tax commissioner or the superintendent of insurance, any project development investor or equity owner claiming a tax credit under that division shall provide the tax commissioner or superintendent other documentation that may be necessary to verify that the project development investor or equity owner is entitled to claim the credit.

(G) The director may disallow or recapture any portion of a credit if the project development owner or the project development owner's qualified project does not or ceases to qualify for the credit. If the director determines to recapture such a tax credit, the director shall certify the name of the project development owner, and the amount to be recaptured to the tax commissioner and to the superintendent of insurance. The tax commissioner or superintendent shall determine the taxpayer or taxpayers that claimed the credit, the tax against which the credit was claimed, and the amount to be recaptured and make an assessment against the taxpayer or taxpayers under Chapter 5725., 5726., 5729., or 5747. of the Revised Code, as applicable, for the amount to be recaptured. The time limitations on assessments under those chapters do not bar an assessment made under this division.

(H) For each calendar year, a designated reporter shall provide the following information to the director on a form prescribed by the director in consultation with the tax commissioner and the superintendent of insurance:

(1) A list of each project development investor or equity owner that has been allocated a portion of the annual credit awarded in an eligibility certificate for that year, including the investor or owner's name, address, taxpayer identification number, and the tax against which the credit will be claimed by each.

(2) For each project development investor or equity owner, the amount of annual credit that has been allocated for that year.

(3) An aggregate list of the credit amount allocated for a qualified project demonstrating that the

aggregate annual amount of the credits allocated does not exceed the aggregate annual credit awarded in the eligibility certificate.

A designated reporter shall notify the director of any changes to the information reported under division (H) of this section in the time and manner prescribed by the director.

No credits allocated under this section may be claimed unless the credits are listed on the report required by division (H) of this section.

(I)(1) The director shall adopt a plan for competitively awarding tax credits under this section. The plan shall establish the criteria and metrics under which projects will be assessed for qualification and may allocate tax credits in a pooled manner.

(2) The director may assess application, processing, and reporting fees to cover the cost of administering this section.

(3) The director, in consultation with the tax commissioner and the superintendent of insurance, shall adopt any rules necessary to implement this section in accordance with Chapter 119. of the Revised Code. Such rules may include all of the following:

(a) Supplementary definitions as may be necessary to administer this section.

(b) Underwriting criteria to assess the risk associated with any application and determine appropriate criteria to deny an application based upon risk.

(c) Criteria by which a project development owner shall be responsible for any or all risk associated with a qualified project such as homeowner abandonment, default, foreclosure, or other such risks.

(d) Criteria to maintain the affordability of each of a qualified project's single-family dwellings during the affordability period, which may include a deed restriction held by the project development owner for some or all of the amount of the tax credit or any appreciated value of the property.

(e) Requirements that the project development owner provide certain capital assets or other investments that contribute to the affordability of the project.

(f) Criteria to be used in determining whether an individual is a qualified buyer.

(g) Criteria regarding the purchase, ownership, and sale of completed qualified project single-family dwellings.

(h) The manner of determining the project's development costs and the appraised market value of qualified project single-family dwellings.

(i) Any other qualifications a project must meet to qualify as a qualified project.