

## HOUSE BILL No. 2119

By Committee on Commerce, Labor and Economic Development

Requested by Representative Tarwater

1-28

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1 AN ACT concerning taxation; relating to the Kansas affordable housing  
2 tax credit act; discontinuing such credit effective July 1, 2025;  
3 amending K.S.A. 2024 Supp. 79-32,306 and repealing the existing  
4 section.  
5

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

7 Section 1. K.S.A. 2024 Supp. 79-32,306 is hereby amended to read as  
8 follows: 79-32,306. (a) For all taxable years commencing after December  
9 31, 2022, and ending on December 31, 2025, except as provided in  
10 subsection (i), there shall be allowed a credit against the income tax  
11 liability imposed pursuant to the Kansas income tax act, the privilege tax  
12 liability imposed upon any national banking association, state bank, trust  
13 company or savings and loan association pursuant to article 11 of chapter  
14 79 of the Kansas Statutes Annotated, and amendments thereto, or the  
15 premium tax liability imposed upon an insurance company pursuant to  
16 K.S.A. 40-252, and amendments thereto, for each qualified development  
17 for each year of the credit period, in an amount equal to the federal tax  
18 credit allocated or allowed by the KHRC to such qualified development,  
19 except that there shall be no reduction in the credit allowable in the first  
20 year of the credit period due to the calculation in section 42(f)(2) of the  
21 federal internal revenue code.

22 (b) The KHRC shall issue an allocation certificate to an owner of a  
23 qualified development to which a credit has been allocated. The KHRC  
24 shall issue an allocation certificate to the qualified development  
25 simultaneously with issuance of federal form 8609 with respect to the  
26 federal tax credits.

27 (c) All allocations shall be made pursuant to the qualified allocation  
28 plan.

29 (d) If an owner of a qualified development receiving an allocation of  
30 a credit is a pass-through entity, the owner may allocate the credit among  
31 its partners or members in any manner agreed to by such persons  
32 regardless of whether: (1) Any such person is allocated or allowed any  
33 portion of any federal tax credit with respect to the qualified project; (2)  
34 the allocation of the credit under the terms of the agreement has substantial  
35 economic effect within the meaning of section 704(b) of the federal

1 internal revenue code; or (3) any such person is deemed a partner for  
2 federal income tax purposes, if the partner or member would be considered  
3 a partner or member under applicable state law governing such entity and  
4 has been admitted as a partner or member on or prior to the date for filing  
5 the qualified taxpayer's tax return, including any amendments to such tax  
6 return, with respect to the year of the credit. In the case of multiple tiers of  
7 pass-through entities, the credit may be so allocated through any number  
8 of pass-through entities in any manner agreed by the owners of such pass-  
9 through entities, none of which shall be considered a transfer. Any pass-  
10 through entity allocating a credit to its partners or members shall attach a  
11 pass-through certification to its tax return annually. Each partner or  
12 member shall be allowed to claim or further allocate such amount subject  
13 to any restrictions set forth in this act.

14 (e) An owner of a qualified development to which a credit has been  
15 allocated and each qualified taxpayer to which such owner has allocated a  
16 portion of such credit, if any, shall file with their state income, privilege or  
17 premium tax return a copy of the allocation certificate issued by the  
18 KHRC with respect to such qualified development and a copy of any pass-  
19 through certification, as prescribed by the director.

20 (f) No credit shall be allocated pursuant to this act unless the qualified  
21 development is the subject of a recorded restrictive covenant requiring the  
22 development to be maintained and operated as a qualified development  
23 and is in accordance with the accessibility and adaptability requirements of  
24 the federal tax credits and title VIII of the civil rights act of 1968, as  
25 amended by the fair housing amendments act of 1988, for a period of 15  
26 taxable years, or such longer period as may be agreed to between the  
27 KHRC and the owner of the qualified development, beginning with the  
28 first taxable year of the credit period.

29 (g) The allocated credit amount may be taken against the income,  
30 privilege or premium taxes imposed for each taxable year of the credit  
31 period. Any amount of credit that exceeds the income, privilege or  
32 premium tax liability of a qualified taxpayer for a taxable year may be  
33 carried forward as a credit against subsequent years' tax liability up to 11  
34 tax years following the tax year in which the allocation was made and shall  
35 be applied first to the earliest years possible. Any amount of the credit that  
36 is not used shall not be refunded to the taxpayer.

37 (h) Unless otherwise provided in this act or the context or law  
38 requires otherwise, the KHRC shall determine eligibility for a credit and  
39 allocate credits in accordance with the standards and requirements set forth  
40 in section 42 of the federal internal revenue code. Any combination of  
41 federal tax credits and credits allowed pursuant to this act shall be the least  
42 amount necessary to ensure the financial feasibility of a qualified  
43 development.

1       (i) *The provisions of the Kansas affordable housing tax credit act,*  
2 *K.S.A. 2024 Supp. 79-32,304 through 79-32,309, and amendments thereto,*  
3 *shall be discontinued on July 1, 2025, except that such provisions shall*  
4 *continue to apply through the credit period, and any applicable carry*  
5 *forward period, of an affordable housing tax credit allocation awarded to*  
6 *the owner of a qualified development by the KHRC as provided in*  
7 *subsection (b) before July 1, 2025. No allocation of a credit shall be*  
8 *awarded by the KHRC as provided in subsection (b) after June 30, 2025.*

9       Sec. 2. K.S.A. 2024 Supp. 79-32,306 is hereby repealed.

10       Sec. 3. This act shall take effect and be in force from and after its  
11 publication in the statute book.