

HOUSE BILL No. 2832

By Committee on Taxation

Requested by Representative Butler on behalf of Friends of Historic Preservation

3-12

1 AN ACT concerning income taxation; relating to the Kansas housing
2 investor tax credit; providing for transferability of credits from the year
3 that the credit was issued; amending K.S.A. 2023 Supp. 79-32,313 and
4 repealing the existing section.
5

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

7 Section 1. K.S.A. 2023 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, project builder or
23 developer or transferee shall provide all information or documentation in
24 the form and manner required by the secretary of revenue. If the amount of
25 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

1 population of not more than 8,000, in an amount *of* not to exceed \$35,000
2 per residential unit;

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

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

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

11 (3) Tax credits may be issued to a qualified investor in the amount of
12 a cash investment of up to the total amount that may be issued by the
13 director under this subsection for the qualified housing project, or as
14 provided in the agreement required by K.S.A. 2023 Supp. 79-32,312, and
15 amendments thereto. Project builders or developers may apply to the
16 director each year for tax credits for additional units or phases of a project.
17 Qualified investors may be issued tax credits for cash investments in
18 multiple qualified housing projects. Project builders or developers may
19 apply and be approved for multiple qualified housing projects in the same
20 tax year.

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

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

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

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

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

40 (d) Any qualified investor who receives a tax credit pursuant to this
41 section shall be deemed to acquire an interest in the nature of a
42 transferable credit limited to the amount of the credit issued to the
43 qualified investor by the director. All or a portion of such credit may be

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

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

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

27 Sec. 2. K.S.A. 2023 Supp. 79-32,313 is hereby repealed.

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