

Str0icken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H3/17/97 H3/28/97 H3/31/97

A Bill

ACT 1332 OF 1997
HOUSE BILL 2197

5 *By: Representatives Courtway, Stalnaker, Malone, Bennett, Booker, Broadway, Brown, Ferrell, Jones, Roberts, Judy Smith, Vess,*
6 *Walker, and McGee*
7 *By: Senators Gwatney, Argue, Edwards, Malone, Walker, and Wyrick*
8
9

For An Act To Be Entitled

11 "AN ACT TO ESTABLISH AN ARKANSAS TAX CREDIT FOR LOW INCOME
12 HOUSING; AND FOR OTHER PURPOSES."
13

Subtitle

15 "TO ESTABLISH AN ARKANSAS TAX CREDIT FOR
16 LOW INCOME HOUSING."
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Definitions. As used in this Act, unless the context
21 clearly requires otherwise, the following words and phases shall mean:

22 (1) "Authority" shall mean the Arkansas Development Finance Authority,
23 or its successor agency;

24 (2) "Director" shall mean the director of the Arkansas Department of
25 Finance and Administration;

26 (3) "Eligibility Statement" shall mean a statement authorized and
27 issued by the Authority certifying that a given project qualifies for the
28 Arkansas Low Income Housing Tax Credit. The Authority shall promulgate rules
29 establishing criteria upon which the Eligibility Statements will be issued.
30 The Eligibility Statement shall specify the amount of the Arkansas Low Income
31 Housing Tax Credit allowed;

32 (4) "Federal Low Income Housing Tax Credit" shall mean the federal tax
33 credit as provided in Section 42 of the Internal Revenue Code of 1986, as
34 amended;

35 (5) "Qualified Project" shall mean a qualified low income building as
36 that term is defined in Section 42 of the Internal Revenue Code of 1986, as

1 amended, which is located in Arkansas;

2 (6) "Taxpayer" shall mean a person, firm or corporation subject to the
3 state income tax imposed by provisions of Ark. Code Ann. § 26-51-101 through
4 51-1510, or an insurance company paying an annual tax on its gross premium
5 receipts in this state, or a financial institution paying income taxes to the
6 state of Arkansas.

7

8 SECTION 2. Allowance and Calculation of Tax Credit.

9 (a) A Taxpayer owning an interest in a Qualified Project shall be
10 allowed a state tax credit, to be termed the Arkansas Low Income Housing Tax
11 Credit, if the Authority issues an Eligibility Statement for that project.
12 For any Taxpayer which is, for state income tax purposes, taxed as a
13 partnership or an S corporation, the tax credits allocated to the Taxpayer
14 shall be allocated to each partner, member or shareholder of the Taxpayer in
15 accordance with the provisions of the articles of incorporation, bylaws,
16 partnership agreement, operating agreement or other agreement setting forth
17 such allocation.

18 (b) The Arkansas Low Income Housing Tax Credit available to a
19 Qualified Project shall be calculated by multiplying an amount equal to the
20 Federal Low Income Housing Tax Credit for a Qualified Project for a federal
21 tax period, by twenty percent (20%) and such amount shall be subtracted from
22 the amount of state income or premium tax otherwise due from the Taxpayer for
23 the same tax period.

24 (c) The Arkansas Low Income Housing Tax Credit shall be taken against
25 the state income or premium taxes due from the Taxpayer. The credit
26 authorized by this section shall not be refundable. Any amount of credit that
27 exceeds the tax due for a taxable year may be carried forward to any of the
28 five (5) subsequent taxable years or carried forward to any of the five
29 subsequent taxable years.

30 (d) All or any portion of the Arkansas Low Income Housing Tax Credits
31 may be allocated to parties who are eligible under the provisions of
32 subsection (a) of this section. An owner of a Qualified Project shall certify
33 to the Director the amount of Arkansas Low Income Housing Tax Credit allocated
34 to each Taxpayer.

35 (e) In the event that recapture of Arkansas Low Income Housing Tax
36 Credits is required pursuant to subsection (b) of Section 3 of this Act, any

1 statement submitted to the Director as provided in this section shall include
2 the proportion of the Arkansas Low Income Housing Tax Credit required to be
3 recaptured, the identity of each Taxpayer subject to the recapture and the
4 amount of Arkansas Low Income Housing Tax Credit previously allocated to such
5 Taxpayer.

6 (f) The total amount of tax credits granted under this act shall not
7 exceed two hundred fifty thousand dollars (\$250,000) in any taxable year.

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9 SECTION 3. Eligibility Statement.

10 (a) The owner of a Qualified Project eligible for the Arkansas Low
11 Income Housing Tax Credit shall submit, at the time of filing the owner's
12 income or gross premium tax return, an Eligibility Statement. In the case of
13 failure to attach the Eligibility Statement, no Arkansas Low Income Housing
14 Tax Credit under the section shall be allowed with respect to such project for
15 that year until these copies are provided to the Department of Finance and
16 Administration.

17 (b) If under Section 42 of the Internal Revenue Code of 1986, as
18 amended, a portion of any Federal Low Income Housing Tax Credits taken with
19 respect to a Qualified Project is required to be recaptured, the Taxpayer
20 claiming Arkansas Low Income Housing Tax Credit with respect to such Project
21 shall also be required to recapture a portion of any Arkansas Low Income
22 Housing Tax Credit authorized by this section. The state recapture amount
23 shall be equal to the proportion of the Arkansas Low Income Housing Tax Credit
24 claimed by the Taxpayer that equals the proportion the federal recapture
25 amount bears to the original Federal Low Income Housing Credit claimed by the
26 Taxpayer.

27

28 SECTION 4. Sale, Assignment, and Transfer of Tax Credits Allowed.

29 (a) All or any portion of Arkansas Low Income Housing Tax Credits
30 issued in accordance with the provisions of this Act may be transferred, sold
31 or assigned but only in connection with the sale or transfer of the interest
32 in the Qualified Project or in the Taxpayer.

33 (b) An owner or transferee desiring to make a transfer, sale, or
34 assignment as described in subsection (a) of this section shall submit to the
35 Director a statement which describes the amount of Arkansas Low Income Housing
36 Tax Credit for which transfer, sale, or assignment of Arkansas Low Income

1 Housing Tax Credit is eligible. The owner shall provide to the Director such
2 information as is specified by the Department in regulations so that the
3 Arkansas Low Income Housing Tax Credit may be properly allocated.

4 (c) In the event that recapture of Arkansas Low Income Housing Tax
5 Credits is required pursuant to subsection (b) of Section 3 of this Act, the
6 statements submitted to the Director as provided in this section shall include
7 the proportion of the Arkansas Low Income Housing Tax Credit required to be
8 recaptured, the identity of each transferee subject to recapture, and the
9 amount of Arkansas Low Income Housing Tax Credit previously transferred to
10 such transferee and such other information as is specified by the Department
11 in regulations.

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13 SECTION 5. Rules and Regulations. The Director and the Authority shall
14 promulgate rules and regulations necessary to administer the provisions of
15 this Act. No rule or portion of a rule promulgated under the authority of
16 this section shall become effective until it has been approved by the Director
17 in accordance with the Arkansas Administrative Procedure Act, Ark. Code Ann.
18 §§ 25-13-201 et seq.

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20 SECTION 6. All provisions of this Act of a general and permanent nature
21 are amendatory to the Arkansas Code Annotated of 1987 and the Arkansas Code
22 Revision Commission shall incorporate the same in the Code.

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24 SECTION 7. If any provision of this Act or the application thereof to
25 any person or circumstance is held invalid, such invalidity shall not affect
26 other provisions or applications of the Act which can be effected without the
27 invalid provisions or application, and to this end the provisions of this act
28 are declared to be severable.

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30 SECTION 8. All laws and parts of laws in conflict with this Act are
31 hereby repealed.

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33 /s/Rep. Courtway, et al

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35 APPROVED:4-10-97