SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 764

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DATE	D-PG	OFFICIAL STATUS
02/12/2015	270	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
02/26/2015	419a	Comm report: To pass as amended and re-refer to State and Local Government
03/18/2015		Comm report: To pass as amended and re-refer to Finance

A bill for an act

relating to economic development; creating an Office of Workforce Housing; creating a workforce housing grant program; creating tax credits for workforce housing; appropriating money for grants for workforce housing; requiring reports; amending Minnesota Statutes 2014, section 290.06, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116J.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[116J.549] OFFICE OF WORKFORCE HOUSING.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given in this subdivision.

(b) "City" means any statutory or home rule charter city.

(c) "Consolidated population center" means a census block with a population density over 200 persons per square mile according to the most recent United States census data available, or an eligible county.

(d) "Director" means the director of the Office of Workforce Housing.

(e) "Eligible county" means a county that is not a metropolitan county as defined in section 473.121, subdivision 4, with a population of 7,000 or less, based on the most recent United States census data available.

(f) "Family" means a family member within the meaning of the Internal Revenue Code, section 267(c)(4).

(g) "Fund" means the workforce housing fund created under subdivision 5.

(h) "Greater Minnesota" means the area of Minnesota located outside the metropolitan area as defined in section 473.121, subdivision 2.

(i) "Market rate residential rental properties" means properties that are rented at market value and excludes: (i) properties constructed with financial assistance requiring the property to be occupied by residents that meet income limits under federal or state law of initial occupancy; and (ii) properties constructed with federal, state, or local flood recovery assistance, regardless of whether that assistance imposed income limits as a condition of receiving assistance.

(j) "Nonstate funding" means funding that is not part of a state-funded grant program, including any funds from the workforce housing fund created under this section.

(k) "Office" means the Office of Workforce Housing.

(l) "Officer" means a person elected or appointed by the board of directors to manage the daily operations of a business.

(m) "Principal" means a person having authority to act on behalf of a business.

(n) "Qualified investment" means a cash investment or the fair market value equivalent for common stock, a partnership or membership interest, preferred stock, debt with mandatory conversion to equity, land, or an equivalent ownership interest as determined by the director that is made in a qualified workforce housing project.

(o) "Qualified local investor" means an investor who has been certified by the director under subdivision 7.

(p) "Qualified project investor" means an investor who has been certified by the director under subdivision 8.

(q) "Qualifying workforce housing project" means a project:

(1) for market rate residential rental properties with a minimum of three dwelling units;

(2) with an average cost per unit of no more than $250,000;

(3) located in a greater Minnesota city or in an eligible county where the median number of full time private sector jobs was 500 or more for the last five years;

(4) located in a city or eligible county with a rental vacancy rate lower than three percent for more than two years based on the most recently available data in a city or county housing analysis;

(5) have more than 50 percent nonstate funding proposed to fund the project;

(6) have a jobs-to-population ratio of greater than 40 percent as measured by the median number of jobs in a city or eligible county for the last five years compared with the median population of the city or county for the last five years;

(7) located in a consolidated population center; and

(8) that has been designated by the director as a qualifying workforce housing project.

Subd. 2. **Office of Workforce Housing; purpose.** (a) The Office of Workforce Housing is established within the Department of Employment and Economic Development. The director must be appointed by the governor and serves in the unclassified service. The director must be qualified by experience and training in housing development and community development. The office may employ staff necessary to carry out the office's duties under subdivision 4.

(b) The purpose of the office is to encourage, foster, develop, and improve workforce housing within the state in order to promote job creation and to provide a high quality workforce for Minnesota businesses by increasing the supply of housing in greater Minnesota.

Subd. 3. **Director and staff.** The office consists of a director of the Office of Workforce Housing and any other staff necessary to carry out the office's duties under subdivision 4.

Subd. 4. **Duties.** The office has the power and duty to:

(1) administer the workforce housing fund for the state of Minnesota;

(2) coordinate with state, regional, local, and private entities to develop workforce housing;

(3) provide consultation services to local units of government or other project sponsors in connection with the financing, planning, acquisition, improvement, construction, or development of any workforce housing project;

(4) consult with the Housing Finance Agency and community housing organizations to organize workforce housing projects and programs;

(5) serve as an information clearinghouse for other programs that provide assistance and funding to developers or others seeking to build workforce housing;

(6) provide grants and certify investor tax credits for qualifying workforce housing projects;

(7) provide an annual report as required by subdivision 12;

(8) set and collect reasonable application fees for grant programs and tax credit applications available under this section; and

(9) perform any other activities consistent with the office's purpose.

Subd. 5. **Workforce housing fund.** (a) The workforce housing fund is created as a separate account in the special revenue fund in the state treasury. Money in the account may be used for the purpose of construction, acquisition, rehabilitation, demolition, removal, and development, including the cost of infrastructure and materials necessary for the creation and production of workforce housing in greater Minnesota.

(b) The fund shall consist of:

(1) state appropriations;

(2) contributions made by companies, individuals, and others including local units of government, nonprofits, and tribes;

(3) investment earnings on money in the fund; and

(4) application fees paid pursuant to programs in this section.

(c) Money in the fund is appropriated to the director of workforce housing to carry out the purposes of this section.

(d) Contributions made to the fund are not refundable.

Subd. 6. **Grants; project eligibility and preferences.** (a) The director shall award grants through a competitive grants program for the purposes defined in this section using the eligibility and preferences provided in this subdivision. If a project meets the qualifications in paragraph (b), the director may certify the project as a qualifying workforce housing project based on the eligibility of the program and the preference in paragraph (c). The total grant to a qualified workforce housing project must not exceed $1,000,000.

(b) To be eligible for a grant, the project must:

(1) be for market rate residential rental properties with a minimum of three dwelling units;

(2) have an average cost per unit of no more than $250,000;

(3) be located in a greater Minnesota city or eligible county where the median number of full time private sector jobs was 500 or more for the last five years;

(4) be located in a city or eligible county with a rental vacancy rate lower than three percent for more than two years based on the most recently available data in a city or county housing analysis;

(5) have more than 50 percent nonstate funding proposed to fund the project;

(6) have a jobs-to-population ratio of greater than 40 percent as measured by the median number of jobs in a city or eligible county for the last five years compared with the median population of the city or county for the last five years; and

(7) be located in a consolidated population center.

(c) Preferences for grants from the workforce housing fund must be given to projects that have the largest total private investment in a project per total project cost.

Subd. 7. **Qualified local investor tax credit.** (a) A qualified local investor is allowed a tax credit in an amount equal to 80 percent of the qualified investment in a qualified workforce housing project but no more than $1,000,000 in the taxable year to reduce the taxpayer's income or corporate franchise tax imposed under chapter 290 in the year that the qualified workforce housing project has housing units that are certified for occupancy by the Department of Labor and Industry or a city inspector. The director must not allocate more than $10,000,000 in credits to qualified local investors for a taxable year, except that the director may use available tax credit allocations from subdivision 8 for qualified local investor tax credits under this subdivision when necessary to achieve the goals of the Office of Workforce Housing. The director must not exceed a total allocation of tax credits for both programs in an amount greater than $30,000,000 annually.

(b) For the purposes of this section, a qualified local investor is an investor that is:

(1) an individual or a business with less than 50 full-time equivalent employees;

(2) located in greater Minnesota; and

(3) resides or has an office or production facility within 120 miles of a qualified workforce housing project.

(c) The director shall not allocate a credit to a qualified local investor if the investor is an officer or principal of a business or a family member of an officer or principal of a business, or sole proprietorship that is competing for a grant through the workforce housing fund in the year the tax credit would be awarded. A taxpayer may only be awarded one tax credit available in this section, however a taxpayer may apply for a credit under both this subdivision and subdivision 8.

(d) Applications for tax credits for a taxable year must be made available by the office by November 1 of the prior year. The office must make every effort to provide applications and relevant data to applicants in a simple, concise manner using plain language. Tax credits must be allocated to qualified local investors in the order that the tax credit request applications are filed with the office. The director must approve or reject tax credit request applications within 15 days of receiving the application. The investment specified in the application must be made within 60 days of the allocation of the credit. If the investment is not made within 60 days, the credit allocation is canceled. A qualified local investor that fails to invest as specified in the application must notify the commissioner immediately and no later than five business days after the expiration of the 60-day investment period. The director may require an application fee for the applications submitted under this subdivision.

(e) All tax credit request applications filed with the department on the same day must be treated as having been filed contemporaneously. If two or more qualified local investors file tax credit request applications on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of credits under this section or the lesser amount of credits that remain unallocated on that day, then the credits must be allocated among the qualified local investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one qualified local investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a qualified local investor and the denominator of which is the total of all credit allocation claims filed on behalf of all applicants on that day, by the amount of credits that remain unallocated on that day for the taxable year.

(f) The director must notify the commissioner of revenue of credit certificates issued under this subdivision.

Subd. 8. **Qualified project investor tax credits.** (a) A taxpayer who makes a qualified investment in a qualified workforce housing project is allowed a tax credit for 50 percent of the amount of the qualified investment, up to $1,000,000, to reduce the taxpayer's income or corporate franchise tax under chapter 290 in the year that the qualified workforce housing project has housing units that are certified for occupancy by the Department of Labor and Industry or a city inspector. The director must not allocate more than $20,000,000 in credits to qualified project investors for a taxable year, except that the director may use available tax credit allocations from subdivision 7 for the qualified project investor tax credits under this subdivision when necessary to achieve the goals of the Office of Workforce Housing. The director must not exceed a total allocation of tax credits for both programs in an amount greater than $30,000,000 annually.

(b) The director shall not allocate a credit if the investor is an officer or principal of a business or sole proprietorship, or a family member of an officer or principal of a business or sole proprietorship, that is competing for a grant through the workforce housing fund in the year the tax credit would be awarded.

(c) Applications for tax credits for a taxable year must be made available by the Office of Workforce Housing by November 1 of the prior year. The office must make every effort to provide applications and relevant data to applicants in a simple, concise manner using plain language. Tax credits must be allocated to qualified project investors in the order that the tax credit request applications are filed with the office. The director must approve or reject tax credit request applications within 15 days of receiving the application. The investment specified in the application must be made within 60 days of the allocation of the credit. If the investment is not made within 60 days, the credit allocation is canceled. A qualified project investor who fails to invest as specified in the application must notify the commissioner immediately and no later than five business days after the expiration of the 60-day investment period. The director may require an application fee for the applications submitted under this subdivision. A taxpayer may only be awarded one tax credit available in this section, however a taxpayer may apply for a credit under both subdivision 7 and this subdivision.

(d) All tax credit request applications filed with the department on the same day must be treated as having been filed contemporaneously. If two or more qualified project investors file tax credit request applications on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of credits under this section or the lesser amount of credits that remain unallocated on that day, then the credits must be allocated among the qualified project investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one qualified project investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a qualified project investor and the denominator of which is the total of all credit allocation claims filed on behalf of all applicants on that day, by the amount of credits that remain unallocated on that day for the taxable year.

(e) The director must notify the commissioner of revenue of credit certificates issued under this subdivision.

Subd. 9. **Transfer and revocation of credits.** (a) A tax credit under this section is not transferable to any other taxpayer.

(b) If the director discovers that a qualified local investor or qualified project investor did not meet the eligibility requirements for the tax credits under this section after the credits have been allocated, the director may determine that credit allocated is revoked and must be repaid by the investor. The director must notify the commissioner of revenue of every credit revoked and subject to full or partial repayment under this section.

Subd. 10. **Reporting.** Beginning in 2016, the director must annually report by March 15 to the chairs and ranking minority members of the legislative committees with jurisdiction over taxes and economic development in the senate and house of representatives, in compliance with sections 3.195 and 3.197, on tax credits issued under this section and the workforce housing projects funded by the workforce housing development fund. The report must include:

(1) information about the availability of workforce housing in greater Minnesota;

(2) information from employers and communities in greater Minnesota about whether or not workforce housing needs are being met;

(3) which projects have been funded by the workforce housing fund and whether previously funded projects have created economic growth;

(4) a summary of the Office of Workforce Housing activities to coordinate workforce housing for the state;

(5) any suggested legislation to accelerate construction of workforce housing;

(6) the number and amount of tax credits issued and the identity of the recipients;

(7) the amount of investments made to the fund and whether or not those funds were for a preferred project;

(8) the number and amount of tax credits revoked under subdivision 10; and

(9) any other relevant information needed to evaluate the effect of the grants and tax credits available through the Office of Workforce Housing.

Subd. 11. **Appropriations.** Amounts in the workforce housing fund are appropriated to the commissioner of employment and economic development for costs associated with the administration of applications and for the personnel and administrative expenses related to administering the workforce housing grant program and investor tax credit programs.

EFFECTIVE DATE. The tax credits in this section are effective for taxable years beginning after December 31, 2015.

Sec. 2. Minnesota Statutes 2014, section 290.06, is amended by adding a subdivision to read:

Subd. 37. **Workforce housing tax credit.** (a) A taxpayer is allowed a credit against the tax under subdivision 1 or 2c equal to the amount certified by the director of workforce housing under section 116J.549, to the taxpayer for the taxable year.

(b) Credits allowed to a partnership, limited liability company taxed as a partnership, corporation, or multiple owners of property are passed through to the partners, members, shareholders, or owners, respectively, pro rata to each partner, member, shareholder, or owner based on that person's share of the entity's income for the taxable year.

(c)(1) The credit is limited to the liability for tax. "Liability for tax" for purposes of this subdivision means the tax imposed under subdivision 1 or 2c, as applicable, for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

(2) For a corporation that is a partner in a partnership, the credit allowed for the taxable year is limited to the lesser of the amount determined under clause (1) for the taxable year or an amount, separately computed with respect to the corporation's interest in the trade, business, or entity, equal to the amount of tax attributable to that portion of taxable income that is allocable or apportionable to the corporation's interest in the trade, business, or entity.

(3) If the amount of the credit determined under this subdivision for any taxable year exceeds the limitation under clause (1), the excess is a credit carryover to each of the ten succeeding taxable years. The entire amount of the excess unused credit for the taxable year is carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit that may be added under this clause is limited to the taxpayer's liability for tax, less the credit for the taxable year.

EFFECTIVE DATE. The tax credits in this section are effective for taxable years beginning after December 31, 2015.

Sec. 3. **APPROPRIATION; OFFICE OF WORKFORCE HOUSING.**

$20,000,000 in fiscal year 2016 and $20,000,000 in fiscal year 2017 are appropriated from the general fund to the commissioner of employment and economic development for deposit in the workforce housing fund account for grants under Minnesota Statutes, section 116J.549, subdivision 6. Up to five percent of the appropriation in each year is available to the commissioner for the administration of Minnesota Statutes, section 116J.549.