15.0646.05000

Sixty-fourth
Legislative Assembly
of North Dakota

SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2257

Introduced by

Senators Bekkedahl, Laffen

Representatives Hatlestad, Sukut

A BILL for an Act to amend and reenact sections 54-17-40, 54-17-41, and 57-38-01.32 of the North Dakota Century Code, relating to extending the housing incentive fund program and tax credit; to provide an appropriation; to provide a continuing appropriation; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17-40 of the North Dakota Century Code is amended and reenacted as follows:

54-17-40. (Effective through June 30, ~~2015~~2017) Housing incentive fund - Continuing appropriation - Report to budget section.

1. The housing incentive fund is created as a special revolving fund at the Bank of North Dakota. The housing finance agency may direct disbursements from the fund and a continuing appropriation from the fund is provided for that purpose.
2. After a public hearing, the housing finance agency shall create an annual allocation plan for the distribution of the fund. At least twenty-five percent of the fund must be used to assist developing communities to address an unmet housing need or alleviate a housing shortage. The agency may collect a reasonable administrative fee from the fund, project developers, applicants, or grant recipients.

   The annual allocation plan must give first priority through its scoring and ranking process to housing for essential service workers. For purposes of this subsection, "essential service workers" means individuals employed by a city, county, school district, medical or long-term care facility, the state of North Dakota, or others as determined by the housing finance agency who fulfill an essential public service.

   The second priority in the annual allocation plan must be to provide housing for individuals and families of low or moderate income. For purposes of this ~~second~~

priority, eligible income limits are determined as a percentage of median family income as published in the most recent federal register notice. Under this ~~second~~ priority, the annual allocation plan must give preference to projects that benefit households with the lowest income and to projects that have rent restrictions at or below department of housing and urban development published federal fair market rents or department of housing and urban development section 8 payment standards.

The housing finance agency shall maintain a register reflecting the number of housing units owned or master leased by cities, counties, school districts, or other employers of essential service workers. This register must also reflect those entities that are providing rent subsidies for their essential workers. The housing finance agency shall report quarterly to the budget section of the legislative management on the progress being made to reduce the overall number of units owned, master leased, or subsidized by these entities. This report must include a listing of projects approved and number of units within those projects that provide housing for essential service workers.

3. The housing finance agency shall adopt guidelines for the fund so as to address unmet housing needs in this state. Assistance from the fund may be used solely for:
   a. New construction, rehabilitation, or acquisition of a multifamily housing project;
   b. Gap assistance, matching funds, and accessibility improvements;
   c. Assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary market financing or to make the project feasible; and
   d. Rental assistance, emergency assistance, or targeted supportive services designated to prevent homelessness.
4. Eligible recipients include units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning councils; and nonprofit organizations and for-profit developers of multifamily housing. Individuals may not receive direct assistance from the fund.
5. Except for subdivision d of subsection 3, assistance is subject to repayment or recapture under the guidelines adopted by the housing finance agency. Any

assistance that is repaid or recaptured must be deposited in the fund and is appropriated on a continuing basis for the purposes of this section.

SECTION 2. AMENDMENT. Section 54-17-41 of the North Dakota Century Code is amended and reenacted as follows:

54-17-41. (Effective through June 30, ~~2015~~2017) Report.

Upon request, the housing finance agency shall report to the industrial commission on the activities of the housing incentive fund.

SECTION 3. AMENDMENT. Section 57-38-01.32 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.32. (Effective for the first two taxable years beginning after December 31, ~~2012~~2014) Housing incentive fund tax credit.

1. A taxpayer is entitled to a credit as determined under this section against state income tax liability under section 57-38-30 or 57-38-30.3 for contributing to the housing incentive fund under section 54-17-40. The amount of the credit is equal to the amount contributed to the fund during the taxable year.
2. North Dakota taxable income must be increased by the amount of the contribution upon which the credit under this section is computed but only to the extent the contribution reduced federal taxable income.
3. The contribution amount used to calculate the credit under this section may not be used to calculate any other state income tax deduction or credit allowed by law.
4. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess may be carried forward to each of the ten succeeding taxable years.
5. The aggregate amount of tax credits allowed to all eligible contributors is limited to ~~twenty~~thirty million dollars.
6. Within thirty days after the date on which a taxpayer makes a contribution to the housing incentive fund, the housing finance agency shall file with each contributing taxpayer, and a copy with the tax commissioner, completed forms that show as to each contribution to the fund by that taxpayer the following:
   a. The name, address, and social security number or federal employer identification number of the taxpayer that made the contribution.
   b. The dollar amount paid for the contribution by the taxpayer.

c. The date the payment was received by the fund.

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

8. Notwithstanding the time limitations contained in section 57-38-38, this section does not prohibit the tax commissioner from conducting an examination of the credit claimed and assessing additional tax due under section 57-38-38.

9. A passthrough entity making a contribution to the housing incentive fund under this section is considered to be the taxpayer for purposes of this section, and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

SECTION 4. APPROPRIATION - TRANSFER - GENERAL FUND TO HOUSING INCENTIVE FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $20,000,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the housing incentive fund, for the period beginning with the effective date of this Act, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

SECTION 5. EFFECTIVE DATE - EXPIRATION DATE. Sections 1 and 2 of this Act are effective July 1, 2015, through June 30, 2017. Section 3 of this Act is effective for the first two taxable years beginning after December 31, 2014, and is thereafter ineffective.

SECTION 6. EMERGENCY. Section 4 of this Act is declared to be an emergency measure.