New Indiana Low-Income Housing Tax Credit

Mar 29, 2022

Categories:

Blogs
Multifamily Matters
Tax Law Defined™ Blog

Authors:

S. Bradford Butler
Matthew S. Carr
J. Christopher Coffman
Amy F. Curry

Indiana recently enacted a state Affordable and Workforce Housing Tax Credit (the "Affordable Housing Tax Credit") program, similar to the federal Low-Income Housing Tax Credit (LIHTC) program to incentivize the development of affordable housing in the state. On March 15, Governor Eric Holcomb signed Senate Bill 382, omnibus tax legislation containing provisions for the new state Affordable Housing Tax Credit. The Affordable Housing Tax Credit will be available for certain low-income housing projects receiving a federal 4% LIHTC and will be claimed over a period of five taxable years.

Eligibility

The Indiana Housing and Community Development Authority (IHCDA) will consider applications and issue eligibility statements on and after July 1, 2023. Applicants that receive an eligibility statement may begin claiming credits against their Indiana state tax liability for taxable years beginning as soon as January 1, 2024. To be eligible, an applicant must own a qualified project or be an affiliated entity that is designated by the owner of a qualified project. In order for a project to be deemed a "qualified project" for purposes of the Affordable Housing Tax Credit program, such project must be:

- a "qualified project" for purposes of the LIHTC program;
- located in Indiana;
- financed by tax exempt bonds subject to the private activity bond volume cap;
- and eligible for a federal 4% LIHTC.

Credit Overview

For each fiscal year beginning after June 30, 2023, but before July 1, 2028, IHCDA may award a total of $30 million in tax credits for qualified projects. For each approved project, IHCDA will have discretion to determine a state credit amount between 40% and

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

100% of the aggregate federal LIHTC amount. This state credit amount will be claimed over a period of five years, as opposed to the 10-year credit period for federal LIHTCs. If the tax credit holder has an amount of Affordable Housing Tax Credit that exceeds their state tax liability under the (a) Indiana adjusted gross income tax, (b) Indiana financial institutions tax, (c) Indiana insurance premiums tax, or (d) Indiana insurance premiums retaliatory tax for a given year, the Affordable Housing Tax Credit may be carried forward through the ninth year following the first year of the credit period for the Affordable Housing Tax Credit Program. Pass through entities, such as partnerships, that are entitled to state tax credits may allocate those credits among shareholders, members, or partners within that entity regardless of whether such allocation has substantial economic effect under Section 704(b) of the Internal Revenue Code of 1986, as amended.

Additionally, the tax credit holder may transfer, sell, or assign any portion of their Affordable Housing Tax Credit by reporting the transfer to the Indiana Department of Revenue and providing the transferee with certain documentation. The transferability of the Affordable Housing Tax Credit provides developers, sponsors, and investors greater flexibility when structuring their transactions.

Next Steps

Until the application period opens, IHCDA will be responsible for developing the application process and specifying the timing and information required by applicants. Owners of existing qualified projects and developers of future projects that are interested in applying for the Affordable Housing Tax Credit should stay apprised of the latest developments to prepare for applications opening on July 1, 2023. The Indiana state Affordable Housing Tax Credit program is currently set to expire after 2028; Senate Bill 382 requires the Indiana General Assembly to review the effectiveness of the credit one year prior to its expiration before determining whether to extend the program. Structuring state credits such as the Affordable Housing Tax Credit can be difficult, and any sponsors, developers, investors, or other interested parties should consult with qualified counsel to help determine the availability of

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

the Affordable Housing Tax Credit for a specific project or ownership structure.

Conclusion

Frost Brown Todd counsels investors, developers, sponsors, lenders, and other key stakeholders on low-income housing transactions across the country. We stay at the forefront of all legislative efforts affecting the industry, and we are ready to assist clients with navigating the changing legislative environment.

For more information, please contact Brad Butler, Matt Carr, Chris Coffman, Amy Curry, or any attorney with Frost Brown Todd's Multifamily Housing industry team.

Multifamily Matters Blog

Providing relevant legal perspectives to keep developers, investors, and lenders at the forefront of the multifamily industry in our footprint.

Visit Blog

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

FBT Gibbons