

Taxation and Revenue Department
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AFFORDABLE HOUSING TAX CREDIT
Section 7-9I-1 Through 7-9I-6 NMSA 1978

Revised May 2010

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**7-9I-1. SHORT TITLE.--Sections 17 through 22 of this act may be cited as the "Affordable Housing Tax Credit Act".
(Laws 2005, Chapter 104, Section 17)**

***7-9I-1. SHORT TITLE.-- Chapter 7, Article 9I NMSA 1978 may be cited as the "Affordable Housing Tax Credit Act".
(Laws 2010, Chapter 17, Section 1 – Effective July 1, 2010)***

7-9I-2. DEFINITIONS.--As used in the Affordable Housing Tax Credit Act:

A. "affordable housing project" means land acquisition, construction, building acquisition, remodeling, improvement, rehabilitation, conversion or weatherization for residential housing that is approved by the authority and that includes only single family housing or multifamily housing located in a county with a population of less than one hundred thousand according to the most recent federal decennial census;

B. "authority" means the New Mexico mortgage finance authority;

C. "department" means the taxation and revenue department;

D. "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the affordable housing tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes and governmental gross receipts taxes; and

E. "person" means an individual, county, municipality, tribal government, housing authority, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization. (Laws 2005, Chapter 104, Section 18)

7-9I-2. DEFINITIONS.-- As used in the Affordable Housing Tax Credit Act:

A. "affordable housing project" means land acquisition, construction, building acquisition, remodeling, improvement, rehabilitation, conversion or weatherization for residential housing that is approved by the authority and that includes single-family housing or multifamily housing;

B. "authority" means the New Mexico mortgage finance authority;

C. "department" means the taxation and revenue department;

D. "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the affordable housing tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes and governmental gross receipts taxes; and

*E. "person" means an individual, county, municipality, tribal government, housing authority, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization.
(Laws 2010, Chapter 17, Section 2 – Effective July 1, 2010)*

7-9I-3. INVESTMENT VOUCHERS--ISSUANCE--TRANSFER.--

A. The authority may issue an investment voucher to a person who has made an investment of land, buildings, cash or services for an affordable housing project approved by the authority or for a trust fund administered by the authority. The value of the voucher shall equal fifty percent of the amount of cash invested or the fair market value of the land, building or service invested by that person. The authority may approve an investment voucher for any affordable housing project in accordance with Subsection B of this section and in accordance with rules adopted by the authority. An investment voucher that is approved for an affordable housing project shall equal fifty percent of the amount of cash invested or the fair market value of land, buildings or services invested in that affordable housing project by a person upon issuance of that investment voucher.

B. During the calendar year:

(1) beginning on January 1, 2006, the authority may issue or approve investment vouchers in an amount that shall not exceed two hundred thousand dollars (\$200,000) in aggregate value;

(2) beginning on January 1, 2007, the authority may issue or approve investment vouchers in an amount that shall not exceed five hundred thousand dollars (\$500,000) in aggregate value; and

(3) beginning on January 1, 2008 and during each subsequent calendar year, the authority may issue or approve investment vouchers for each calendar year in an amount that shall not exceed an aggregate value of a base rate of one dollar eighty-five cents (\$1.85) adjusted annually to account for inflation, multiplied by the state population during the calendar year as determined by the United States census bureau.

C. Any limitation on the issuance or approval of investment vouchers for a calendar year pursuant to Subsection B of this section shall not apply to an investment voucher issued by the authority during that calendar year that was approved by the authority during a previous calendar year.

D. At the beginning of each calendar year that begins on or after January 1, 2009, the department shall make an adjustment for inflation pursuant to Paragraph (3) of Subsection B of this section by multiplying the base rate by a fraction, the numerator of which is the consumer price index for the previous calendar year and the denominator of which is the same index for the 2007 calendar year prior to the calendar year for which a maximum aggregate value is determined for the issuance of investment vouchers pursuant to Paragraph (3) of Subsection B of this section.

E. An investment voucher issued by the authority shall be numbered for identification and may be sold, exchanged or otherwise transferred once in whole or in part to one or more persons. The parties to such a transaction shall notify the department and the authority of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

**F. The authority shall adopt rules for the approval, issuance and administration of investment vouchers pursuant to this section.
(Laws 2005, Chapter 104, Section 19)**

7-9I-3. INVESTMENT VOUCHERS--ISSUANCE--TRANSFER.--

A. The authority may issue an investment voucher to a person who has made an investment of land, buildings, materials, cash or services for an affordable housing project approved by the authority or for a trust fund administered by the authority. The value of the voucher shall equal fifty percent of the amount of cash invested or the fair market value of the land, buildings, materials or services invested by that person. The authority may approve an investment voucher for any affordable housing project in accordance with Subsection B of this section and in accordance with rules adopted by the authority. An investment voucher that is approved for an affordable housing project shall equal fifty percent of the amount of cash invested or the fair market value of land, buildings, materials or services invested in that affordable housing project by a person upon issuance of that investment voucher.

B. During the calendar year:

(1) beginning on January 1, 2006, the authority may issue or approve investment vouchers in an amount that shall not exceed two hundred thousand dollars (\$200,000) in aggregate value;

(2) beginning on January 1, 2007, the authority may issue or approve investment vouchers in an amount that shall not exceed five hundred thousand dollars (\$500,000) in aggregate value; and

(3) beginning on January 1, 2008 and during each subsequent calendar year, the authority may issue or approve investment vouchers for each calendar year in an amount that shall not exceed an aggregate value of a base rate of one dollar eighty-five cents (\$1.85) adjusted annually to account for inflation, multiplied by the state population during the calendar year as determined by the United States census bureau.

C. Any limitation on the issuance or approval of investment vouchers for a calendar year pursuant to Subsection B of this section shall not apply to an investment voucher issued by the authority during that calendar year that was approved by the authority during a previous calendar year.

D. At the beginning of each calendar year that begins on or after January 1, 2009, the department shall make an adjustment for inflation pursuant to Paragraph (3) of Subsection B of this section by multiplying the base rate by a fraction, the numerator of which is the consumer price index for the previous calendar year and the denominator of which is the same index for the 2007 calendar year prior to the calendar year for which a maximum aggregate value is determined for the issuance of investment vouchers pursuant to Paragraph (3) of Subsection B of this section.

E. An investment voucher issued by the authority shall be numbered for identification and may be sold, exchanged or otherwise transferred once in whole or in part to one or more persons. The parties to such a transaction shall notify the department and the authority of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

F. The authority shall adopt rules for the approval, issuance and administration of investment vouchers pursuant to this section.

(Laws 2010, Chapter 17, Section 3 – Effective July 1, 2010)

7-9I-4. AFFORDABLE HOUSING PROJECT COMPLETION NOTICE.--

The authority shall certify to the department approval of an affordable housing project for which an investment voucher is issued pursuant to the Affordable Housing Tax Credit Act within twenty days of issuance of that voucher.

(Laws 2005, Chapter 104, Section 20)

7-9I-5. AFFORDABLE HOUSING TAX CREDIT.--

A. The tax credit provided in this section may be referred to as the "affordable housing tax credit". Except as otherwise provided by the Affordable Housing Tax Credit Act, a holder of an investment voucher that submits the investment voucher to the department may apply for, and the department may allow, a tax credit in an amount not to exceed the value of the investment voucher during the tax year in which the authority certifies to the department:

(1) completion of a service for which an investment voucher has been issued pursuant to the Affordable Housing Tax Credit Act; or

(2) approval by the authority or completion of an affordable housing project for which a land, building or cash donation has been made and for which an investment voucher has been issued pursuant to the Affordable Housing Tax Credit Act.

B. A holder of an investment voucher may apply all or a portion of the affordable housing tax credit against the holder's modified combined tax liability, personal income tax liability or corporate income tax liability. Any balance of the affordable housing tax credit claimed may be carried forward for up to five years from the calendar year during which the authority certifies to the department approval of the affordable housing project for which the investment voucher used to claim the affordable housing tax credit is issued. No amount of the affordable housing tax credit may be applied against a local option gross receipts tax imposed by a municipality or county or against the government gross receipts tax.

C. Notwithstanding the provisions of Section 7-1-8 NMSA 1978, the department may disclose to a person the balance of the affordable housing tax credit remaining with respect to any investment voucher submitted by that person.

(Laws 2005, Chapter 104, Section 21)

7-9I-6. ADMINISTRATION OF THE ACT.—Unless otherwise provided by the Affordable Housing Tax Credit Act, the department shall administer the Affordable Housing Tax Credit Act pursuant to the Tax Administration Act. (Laws 2005, Chapter 104, Section 22)
