

SB3738



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3738

Introduced 2/5/2026, by Sen. Mike Porfirio

SYNOPSIS AS INTRODUCED:

20 ILCS 3805/7.28
35 ILCS 5/214

Amends the Illinois Housing Development Act and the Illinois Income Tax Act. Provides that the amount of credits awarded under the affordable housing tax donation program is limited to \$41,831,227 in State fiscal year 2027 and shall increase by 10% each fiscal year thereafter (currently, \$32,850,352 in State fiscal years 2022 and 2023 increased by 5% each fiscal year thereafter). Provides that the affordable housing donation income tax credit applies through the taxable year ending on December 31, 2036 (currently, December 31, 2026). Effective immediately.

LRB104 17225 HLH 30646 b

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Housing Development Act is amended
5 by changing Section 7.28 as follows:

6 (20 ILCS 3805/7.28)

7 Sec. 7.28. Tax credit for donation to sponsors. The
8 Authority may administer and adopt rules for an affordable
9 housing tax donation credit program to provide tax credits for
10 donations as set forth in this Section.

11 (a) In this Section:

12 "Administrative housing agency" means either the Authority
13 or an agency of the City of Chicago.

14 "Affordable housing project" means either:

15 (1) a rental project in which at least 25% of the units
16 have rents (including tenant-paid heat) that do not
17 exceed, on a monthly basis, maximum gross rent figures, as
18 published by the Authority, that are:

19 (i) based on data published annually by the U.S.
20 Department of Housing and Urban Development;

21 (ii) based on the annual income of households
22 earning 60% of the area median income;

23 (iii) computed using a 30% of gross monthly income

1 standard; and

2 (iv) adjusted for unit size and at least 25% of the
3 units are occupied by persons and families whose
4 incomes do not exceed 60% of the median family income
5 for the geographic area in which the residential unit
6 is located; or

7 (2) a unit for sale to homebuyers whose gross
8 household income is at or below (A) 60% of the area median
9 income (for taxable years beginning prior to January 1,
10 2022) or (B) 120% of the area median income (for taxable
11 years beginning on or after January 1, 2022) and who pay no
12 more than 30% of their gross household income for mortgage
13 principal, interest, property taxes, and property
14 insurance (PITI).

15 "Donation" means money, securities, or real or personal
16 property that is donated to a not-for-profit sponsor that is
17 used solely for costs associated with either (i) purchasing,
18 constructing, or rehabilitating an affordable housing project
19 in this State, (ii) an employer-assisted housing project in
20 this State, (iii) general operating support, or (iv) technical
21 assistance as defined by this Section.

22 "Employer-assisted housing project" means either
23 down-payment assistance, reduced-interest mortgages, mortgage
24 guarantee programs, rental subsidies, or individual
25 development account savings plans that are provided by
26 employers to employees to assist in securing affordable

1 housing near the workplace, that are restricted to housing
2 near the workplace, and that are restricted to employees whose
3 gross household income is at or below 120% of the area median
4 income.

5 "General operating support" means any cost incurred by a
6 sponsor that is a part of its general program costs and is not
7 limited to costs directly incurred by the affordable housing
8 project.

9 "Geographical area" means the metropolitan area or county
10 designated as an area by the federal Department of Housing and
11 Urban Development under Section 8 of the United States Housing
12 Act of 1937, as amended, for purposes of determining fair
13 market rental rates.

14 "Median income" means the incomes that are determined by
15 the federal Department of Housing and Urban Development
16 guidelines and adjusted for family size.

17 "Project" means an affordable housing project, an
18 employer-assisted housing project, general operating support,
19 or technical assistance.

20 "Sponsor" means a not-for-profit organization that (i) is
21 organized as a not-for-profit organization under the laws of
22 this State or another state and (1) for an affordable housing
23 project, has as one of its purposes the development of
24 affordable housing; (2) for an employer-assisted housing
25 project, has as one of its purposes home ownership education;
26 and (3) for a technical assistance project, has as one of its

1 purposes either the development of affordable housing or home
2 ownership education; (ii) is organized for the purpose of
3 constructing or rehabilitating affordable housing units and
4 has been issued a ruling from the Internal Revenue Service of
5 the United States Department of the Treasury that the
6 organization is exempt from income taxation under provisions
7 of the Internal Revenue Code; or (iii) is an organization
8 designated as a community development corporation by the
9 United States government under Title VII of the Economic
10 Opportunity Act of 1964.

11 "Tax credit" means a tax credit allowed under Section 214
12 of the Illinois Income Tax Act.

13 "Technical assistance" means any cost incurred by a
14 sponsor for project planning, assistance with applying for
15 financing, or counseling services provided to prospective
16 homebuyers.

17 (b) A sponsor must apply to an administrative housing
18 agency for approval of the project. The administrative housing
19 agency must reserve a specific amount of tax credits for each
20 approved project. Tax credits for general operating support
21 can only be reserved as part of a reservation of tax credits
22 for an affordable housing project, an employer-assisted
23 housing project, or technical assistance. No tax credits shall
24 be allowed for a project without a reservation of such tax
25 credits by an administrative housing agency for that project.

26 (c) The Authority must adopt rules establishing criteria

1 for eligible costs and donations, issuing and verifying tax
2 credits, and selecting projects that are eligible for a tax
3 credit.

4 (d) Tax credits for employer-assisted housing projects are
5 limited to that pool of tax credits that have been set aside
6 for employer-assisted housing. Tax credits for general
7 operating support are limited to 10% of the total tax credit
8 reservation for the related project (other than general
9 operating support) and are also limited to that pool of tax
10 credits that have been set aside for general operating
11 support. Tax credits for technical assistance are limited to
12 that pool of tax credits that have been set aside for technical
13 assistance.

14 (e) The amount of tax credits reserved by the
15 administrative housing agency for an approved project is
16 limited to \$32,850,352 in State fiscal years 2022 and 2023 and
17 shall increase by 5% each fiscal year thereafter through
18 fiscal year 2026. Beginning in State fiscal year 2027, the
19 amount of tax credits reserved by the administrative housing
20 agency for an approved project is limited to \$41,831,227 in
21 State fiscal year 2027 and shall increase by 10% each fiscal
22 year thereafter. The City of Chicago shall receive 24.5% of
23 total tax credits authorized for each fiscal year. The
24 Authority shall receive the balance of the tax credits
25 authorized for each fiscal year. The tax credits may be used
26 anywhere in this State. The tax credits have the following

1 set-asides:

2 (1) for employer-assisted housing projects, \$2
3 million; and

4 (2) for general operating support and technical
5 assistance, \$1 million.

6 The balance of the funds must be used for affordable
7 housing projects. During the first 9 months of a fiscal year,
8 if an administrative housing agency is unable to reserve the
9 tax credits set aside for the purposes described in subsection
10 (e), the administrative housing agency may reserve the tax
11 credits for any approved projects.

12 (f) The administrative housing agency that reserves tax
13 credits for an affordable housing project must record against
14 the land upon which the affordable housing project is located
15 an instrument to assure that the property maintains its
16 affordable housing compliance for a minimum of 10 years. The
17 Authority has flexibility to assure that the instrument does
18 not cause undue hardship on homeowners.

19 (Source: P.A. 102-175, eff. 7-29-21.)

20 Section 10. The Illinois Income Tax Act is amended by
21 changing Section 214 as follows:

22 (35 ILCS 5/214)

23 Sec. 214. Tax credit for affordable housing donations.

24 (a) Beginning with taxable years ending on or after

1 December 31, 2001 and until the taxable year ending on
2 December 31, 2036, ~~December 31, 2026,~~ a taxpayer who makes a
3 donation under Section 7.28 of the Illinois Housing
4 Development Act is entitled to a credit against the tax
5 imposed by subsections (a) and (b) of Section 201 in an amount
6 equal to 50% of the value of the donation. For taxable years
7 ending before December 31, 2023, partners, shareholders of
8 subchapter S corporations, and owners of limited liability
9 companies (if the limited liability company is treated as a
10 partnership for purposes of federal and State income taxation)
11 are entitled to a credit under this Section to be determined in
12 accordance with the determination of income and distributive
13 share of income under Sections 702 and 703 and subchapter S of
14 the Internal Revenue Code. For taxable years ending on or
15 after December 31, 2023, partners and shareholders of
16 subchapter S corporations are entitled to a credit under this
17 Section as provided in Section 251. Persons or entities not
18 subject to the tax imposed by subsections (a) and (b) of
19 Section 201 and who make a donation under Section 7.28 of the
20 Illinois Housing Development Act are entitled to a credit as
21 described in this subsection and may transfer that credit as
22 described in subsection (c).

23 (b) If the amount of the credit exceeds the tax liability
24 for the year, the excess may be carried forward and applied to
25 the tax liability of the 5 taxable years following the excess
26 credit year. The tax credit shall be applied to the earliest

1 year for which there is a tax liability. If there are credits
2 for more than one year that are available to offset a
3 liability, the earlier credit shall be applied first.

4 (c) The transfer of the tax credit allowed under this
5 Section may be made (i) to the purchaser of land that has been
6 designated solely for affordable housing projects in
7 accordance with the Illinois Housing Development Act or (ii)
8 to another donor who has also made a donation in accordance
9 with Section 7.28 of the Illinois Housing Development Act.

10 (d) A taxpayer claiming the credit provided by this
11 Section must maintain and record any information that the
12 Department may require by regulation regarding the project for
13 which the credit is claimed. When claiming the credit provided
14 by this Section, the taxpayer must provide information
15 regarding the taxpayer's donation to the project under the
16 Illinois Housing Development Act.

17 (Source: P.A. 102-16, eff. 6-17-21; 102-175, eff. 7-29-21;
18 103-396, eff. 1-1-24.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.