



## Ohio Revised Code

### Section 122.633 Tax credit for constructing or rehabilitating affordable housing.

Effective: October 3, 2023

Legislation: House Bill 33 - 135th General Assembly

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(A) As used in this section, "eligible developer" means any of the following:

(1) A nonprofit corporation, as defined in section 1702.01 of the Revised Code, based in this state with a primary activity of the development and preservation of affordable housing;

(2) A limited partnership or domestic limited partnership, as defined in section 1782.01 of the Revised Code, in which a general partner is a nonprofit corporation based in this state, a primary activity of which is the development and preservation of affordable housing;

(3) A limited liability company, as defined in section 1706.01 of the Revised Code, in which the manager is a nonprofit corporation based in this state, a primary activity of which is the development and preservation of affordable housing;

(4) A community improvement corporation, as defined in section 1724.01 of the Revised Code, or a community urban redevelopment corporation, as defined in section 1728.01 of the Revised Code.

(B) An electing subdivision or eligible developer that rehabilitates or constructs a unit of qualifying residential property and sells the property to an individual or individuals for the individual's or individuals' occupancy may apply to the director of development for a nonrefundable credit against the tax levied under section 5726.02 or 5747.02 of the Revised Code, provided the rehabilitation or construction and the sale comply with division (C) of this section. The credit application shall be made on forms prescribed by the director. The credit shall equal ninety thousand dollars or one-third of the cost to rehabilitate or construct the property, whichever is less.

(C) An application for a credit authorized by division (C) of this section shall certify all of the following:

(1) That the rehabilitation or construction of qualifying residential property that is the subject of the



application was completed according to all applicable construction and design standards;

(2) That each qualifying residential property that is the subject of the application was sold to an individual or individuals who have annual income that is not more than the qualifying median income, demonstrated the financial means to purchase the qualifying residential property, and agreed to all of the following in the purchase agreement:

(a) To maintain ownership of the qualifying residential property, occupy it as a primary residence, and not to rent any portion of the property to another individual for use as a dwelling, for at least five years following the date of purchase;

(b) Not to sell the qualifying residential property to a purchaser other than an individual or individuals who have annual income that is no more than the qualifying median income for at least twenty years after the date of purchase;

(c) To pay a penalty to the director of development for violation of the agreement required by division (C)(2)(a) of this section that, subject to division (F)(3) of section 122.631 of the Revised Code, equals the total amount of the tax credit authorized by this section and attributable to the qualifying residential property purchased by the individual, reduced by twenty per cent of that amount for each full year the individual or individuals owned the property;

(d) That the director of development is a third-party beneficiary of the purchase agreement;

(e) To participate in the applicant's financial literacy program;

(f) Agree to annually certify to the director of development or the director's designee, during the period described by division (C)(2)(a) of this section, that the individual or individuals own and occupy the qualifying residential property, and that no part of the property is being rented to another individual for use as a dwelling.

(3) That the qualifying residential property that is the subject of the application was sold for not more than one hundred eighty thousand dollars;



(4) That the qualifying residential property that is the subject of the application was transferred with a deed restriction prohibiting the sale of the property to a person other than an individual or individuals who have annual income that is not more than the qualifying median income for at least twenty years after the date of transfer.

(5) That the applicant provides a minimum of one year of financial literacy counseling to each purchaser of qualifying residential property that is the subject of the application. An applicant may provide information regarding its financial literacy program to the director of development for review as part of the application or prior to application;

(6) That the applicant shall report to the department of development the date when the qualifying residential property that is the subject of the application is sold by the applicant.

(7) That the qualifying residential property that is the subject of the application was not rehabilitated or constructed using grant funds received under section 122.632 of the Revised Code.

(D) The director of development is granted authority and standing to sue for the enforcement of a deed restriction described in division (C)(4) of this section.

(E)(1) Subject to division (E)(2) of this section, if the director determines that the applicant qualifies for a credit under this section, the director shall issue a tax credit certificate to the applicant identified with a unique number and listing the amount of the credit that is eligible to be transferred or claimed pursuant to division (E)(3) or (F) of this section.

(2) The total amount of tax credits issued by the director under this section shall not exceed twenty-five million dollars in any fiscal year, and no tax credits shall be issued after June 30, 2025.

(3) A person granted a certificate pursuant to division (E)(1) of this section may claim the credit against the tax levied under section 5726.02 of the Revised Code or against the person's aggregate tax liability under section 5747.02 of the Revised Code for the taxable year in which the certificate is issued. The taxpayer shall claim the credit in the order prescribed by section 5726.98 or 5747.98 of the Revised Code, as applicable. Any unused amount may be carried forward for the following five taxable years. If the person is a pass-through entity, any taxpayer that is a direct or indirect investor



in the pass-through entity on the last day of the entity's taxable year may claim the taxpayer's proportionate or distributive share of the credit against the taxpayer's aggregate amount of tax levied under section 5747.02 of the Revised Code.

A taxpayer claiming a credit under this section shall submit a copy of the certificate with the taxpayer's return or report.

(F) A person granted a certificate pursuant to division (E)(1) of this section may transfer the right to claim all or part of the credit reflected on the certificate to another person.

To effectuate the transfer, the transferor shall notify the tax commissioner, in writing, that the transferor is transferring the right to claim all or part of the remaining credit stated on the certificate. The transferor shall identify in that notification the certificate's number, the name and the tax identification number of the transferee, the amount of the remaining credit transferred to the transferee, and, if applicable, the amount of remaining credit retained by the transferor.

The transferee may claim the amount of the credit received under this division against the tax levied under section 5726.02 of the Revised Code or against the person's aggregate tax liability under section 5747.02 of the Revised Code for the taxable year in the same manner and for the same taxable years as it may be claimed by a person under division (E)(3) of this section.

Any person to which a credit has been transferred under this division may transfer the right to claim all or part of the transferred credit amount to any other person, in the same manner prescribed by this division for the initial transfer, including that any such transfer be reported by the transferor to the tax commissioner as described in this division.

Transferring a credit under this division does not extend the taxable years for which the credit may be claimed or number of years for which the unclaimed credit amount may be carried forward.

(G) The director may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to administer the tax credits authorized by this section. Such rules may include the following:

(1) Application forms, deadlines, and procedures;



- (2) Criteria for evaluating and prioritizing applications;
- (3) Guidelines for promoting an even geographic distribution of credits throughout the state.