OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 470
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 470's Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Hillyer

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill authorizes the Ohio Community Investor Credit for qualifying developers of multifamily residential housing projects. The nonrefundable credit may be claimed against the personal income tax (PIT). The bill makes the credit transferable, and permits any unused credit amounts to be carried forward for the following five taxable years.
- The credit equals 10% of the costs incurred by the developer during the qualifying taxable year for a qualifying project.
- The Director of Development must not issue certificates in a total amount that would cause the tax credits allocated in any fiscal biennium to exceed $50 million. LBO assumes revenue losses will begin in FY 2024.
- Under codified law, 96.68% of any tax revenue losses would be borne by the GRF. The remaining revenue losses would be borne by the Local Government Fund (LGF) and Public Library Fund (PLF). Each fund receives 1.66% of GRF tax revenues.

Detailed Analysis

The bill authorizes a nonrefundable income tax credit, known as the Ohio Community Investor Credit, for 10% of the costs incurred by a developer to build, purchase, or refinance certain multifamily housing projects. To qualify, the project must: (1) be located in Ohio, (2) include at least four family residential units, and (3) have at least 1% of the project's cost attributable to an investment from a "non-accredited Ohio investor." The bill defines this type of investor as an individual who is an Ohio resident and whose net worth or income do not exceed both the net worth and income levels prescribed by the U.S. Securities and Exchange Commission to define an accredited investor (i.e., the individual must not have a net worth exceeding

$1 million and an income exceeding $200,000, or $300,000 in joint income if married or cohabitating).

The credit applies for taxable years beginning on or after the bill's 90-day effective date. The bill makes the credit transferable (but only once), and permits any unused credit amounts to be carried forward for the following five taxable years.

To receive the credit, a developer must apply to the Director of Development between January 1 and February 1 following the end of the applicant's taxable year in which the costs were incurred. If the developer qualifies for the credit, the Director must approve the application and award a tax certificate within 60 days after receiving a completed application. Credits are issued on a first-come, first-served basis.

If an application is approved, the taxpayer must submit a copy of the certificate with the taxpayer's tax return. If the developer is a pass-through entity (PTE),[1] the entity's investors may claim their proportionate or distributive share of the credit in the investor's taxable year that includes the last day of the developer's taxable year for which the credit is awarded.

Fiscal effect

LBO assumes tax year (TY) 2023 will be the first year that projects will qualify for this credit. Under this scenario, it would reduce state tax receipts beginning in FY 2024 when TY 2023 personal income tax (PIT) returns are filed. LBO assumes the full $50 million limitation would be reached during the FY 2024-FY 2025 biennium. The majority (96.68%) of any tax revenue losses would be borne by the GRF. The remaining revenue losses would be borne by two local government funds, the Local Government Fund (LGF) and Public Library Fund (PLF). The LGF and PLF each will receive transfers equal to 1.66% of GRF tax receipts under current law beginning with FY 2024.

Regarding business incentive tax credits, continuing law in R.C. 107.036 requires the Governor to provide "a detailed estimate of the total amount of credits that may be authorized in each year, an estimate of the amount of credits expected to be claimed in each year, and an estimate of the amount of credits expected to remain outstanding at the end of the biennium." The Governor must include such estimates in the state's main operating budget submitted to the General Assembly. The bill adds this newly authorized credit alongside the list of ten other business incentive tax credits. Therefore, the estimation requirement would likely apply to the FY 2024-FY 2025 operating budget submitted by the Governor in the first months of calendar year 2023.

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[1] Examples of PTEs include partnerships, S corporations, and limited liability corporations (LLCs).