



City of Philadelphia

City Council
Chief Clerk's Office
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BILL NO. 080212

Introduced February 28, 2008

**Councilmembers Clarke, DiCicco, Blackwell, Jones, Reynolds Brown,
Green, Miller, Greenlee and Sanchez**

**Referred to the
Committee on Housing, Neighborhood Development and The Homeless**

AN ORDINANCE

Amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Privilege Taxes," by amending Section 19-2604, entitled "Tax Rates, Credits, and Alternative Tax Computation," by providing an affordable housing tax credit for losses incurred in providing affordable housing, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-2600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES.

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§ 19-2604. Tax Rates, Credits, and Alternative Tax Computation.

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(9) Affordable Housing Tax Credit.

(a) Definitions: For purposes of this subsection, the following definitions shall apply:

(.1) Affordable Dwelling Unit. As defined in Section 7-102 of this Code.

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(.2) Substantial Renovation. A structural modification that alters more than 50% of a building's gross floor area.

(b) Eligibility. Any business that constructs affordable dwelling units for sale or rental or substantially renovates a building to create affordable dwelling units for sale or rental shall be eligible to apply for an Affordable Housing Tax Credit.

(c) Application. A business seeking an Affordable Housing Tax Credit shall file an Affordable Housing Tax Credit Application with the Revenue Department, on a form prepared by the Revenue Department, that includes the following:

(.1) The total number of affordable dwelling units;

(.2) The location of the affordable dwelling units;

(.3) Proof that the applicant has obtained all required permits and approvals for the construction of the affordable dwelling units or for the substantial renovation of the building creating such units;

(.4) The approved plans, which shall be attached to the application; and

(.5) Such other information as the Revenue Department may require.

(d) Commitment Letter. The Revenue Department shall approve the application if it contains all the required information. After approval of the application, the applicant must execute a commitment letter with the Revenue Department setting forth the following:

(.1) For affordable dwelling units offered for sale: The net actual loss sustained by the business as a result of selling the dwelling units at an affordable price, which shall be calculated as the difference between: (i) the costs of acquisition, construction or substantial renovation, and other related costs as documented by a cost certification completed by an independent auditor; and (ii) the sales price of the units.

(.2) For affordable dwelling units offered for rent: The net actual loss sustained by the business as a result of renting the dwelling units at an affordable price, which shall be calculated as the difference between: (i) the costs of acquisition, construction or substantial renovation, and other related costs as documented by a cost certification completed by an independent auditor; and (ii) the appraised price for which the units could be sold, with such appraisal based upon the "income" appraisal method

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and taking into account the restriction that the units may only be rented at an affordable rental for fifteen (15) years.

(.3) Agreement that a declaration of covenants, conditions and restrictions in the same form required by §7-111 of this Code will be filed so that the affordable dwelling units supporting the tax credit will remain affordable for ten (10) years from the date of issuance of the certificate of occupancy, in the case of units for sale, and fifteen (15) years from such date in the case of rental units.

(.4) Such other information as the Revenue Department deems appropriate.

(e) Tax Credits. After the applicant and the Revenue Department have executed a commitment letter, and the applicant has certified to the Revenue Department that it has completed the affordable dwelling units in accordance with the approved plans and has obtained a certificate of occupancy and that the required declaration of covenants, conditions and restrictions has been filed, the applicant may claim a tax credit of twenty-five (25) % of its net actual loss. Such tax credit shall be applied against the applicant's total business privilege tax liability for the Tax Year during which the applicant certifies completion of such units and the issuance of a certificate of occupancy, provided that any unused credits may be carried forward until fully used.

(f) Regulations. The Revenue Department shall promulgate regulations further detailing how "net actual loss" as set forth in subsection 9(d) shall be determined and the proof that may be required to establish such net actual loss, and it may promulgate such other regulations as it deems necessary and appropriate for the implementation of this subsection.

(g) Penalties. A business which receives an Affordable Housing Tax Credit in accordance with the provisions of this subsection, and fails to comply with the requirement to provide affordable dwelling units set forth in the commitment letter shall be required to refund to the City of Philadelphia the total amount of the tax credit received.

Explanation:

Italics indicate new matter added.

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