

Sub. H. B. No. 96  
As Passed by the Senate  
DEVCD32

\_\_\_\_\_ moved to amend as follows:

In line 9023, reinsert the comma; delete "or" 1

In line 9024, reinsert ", or division (C) (4) of" 2

In line 9025, reinsert "section 122.633"; delete "or a restrictive" 3

Delete line 9026 4

In line 9027, delete "Revised Code is recorded" 5

In line 9127, reinsert "(C) (5)"; delete "(C) (6)" 6

Delete lines 9319 through 9551 (remove R.C. 122.633) and insert: 7

"**Sec. 122.633.** (A) As used in this section, "eligible 8  
developer" means any of the following: 9

(1) A nonprofit corporation, as defined in section 1702.01 10  
of the Revised Code, based in this state with a primary activity 11  
of the development and preservation of affordable housing; 12

(2) A limited partnership or domestic limited partnership, 13  
as defined in section 1782.01 of the Revised Code, in which a 14  
general partner is a nonprofit corporation based in this state, 15  
a primary activity of which is the development and preservation 16

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~~ ninety per cent of the cost to rehabilitate or construct the property, whichever is less.

(C) An application for a credit authorized by division ~~(C)~~ (B) 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~~three years following the date of  
purchase;

(b) Not to sell the qualifying residential property to a  
purchaser other than the electing subdivision, the eligible  
developer, or an individual or individuals who have annual  
income that is no more than the qualifying median income for at  
least ~~twenty~~fifteen 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~~one-third 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 qualifying 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 75  
residential property, and that no part of the property is being 76  
rented to another individual for use as a dwelling. 77

(3) That the qualifying residential property that is the 78  
subject of the application was sold for not more than ~~one~~two 79  
hundred ~~eighty~~twenty thousand dollars; 80

(4) That the purchaser of the qualifying residential 81  
property that is the subject of the application was transferred 82  
with a deed restriction prohibiting the sale of the property to 83  
a person other than the electing subdivision, the eligible 84  
developer, or an individual or individuals who have annual 85  
income that is not more than the qualifying median income for at 86  
least ~~twenty~~fifteen years after the date of transfer. The deed 87  
restriction is a covenant running with the land and is fully 88  
binding on subsequent purchasers of the property until it 89  
expires on the fifteenth anniversary of the property's first 90  
transfer from the applicant under this section. The electing 91  
subdivision or eligible developer may include in the deed 92  
restriction a right of first refusal to repurchase the property 93  
for the purposes of ensuring that the property is ultimately 94  
sold to an individual or individuals who have annual income that 95  
is not more than the qualifying median income. 96

(5) That the applicant provides a minimum of ~~one year~~six 97  
months of qualifying financial literacy counseling, delivered by 98  
a qualifying counseling provider, to each purchaser of 99  
qualifying residential property that is the subject of the 100  
application. An applicant may provide information regarding its 101  
qualifying financial literacy program to the director of 102  
development for review as part of the application or prior to 103  
application~~;~~. 104

(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 after the effective date of this amendment shall not exceed ~~twenty-five~~ twenty million dollars ~~in any fiscal year~~, and no tax credits shall be issued after June 30, ~~2025~~ 2027.

(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 134  
following five taxable years. If the person is a pass-through 135  
entity, any taxpayer that is a direct or indirect investor in 136  
the pass-through entity on the last day of the entity's taxable 137  
year may claim the taxpayer's proportionate or distributive 138  
share of the credit against the taxpayer's aggregate amount of 139  
tax levied under section 5747.02 of the Revised Code. 140

A taxpayer claiming a credit under this section shall 141  
submit a copy of the certificate with the taxpayer's return or 142  
report. 143

(F) A person granted a certificate pursuant to division 144  
(E) (1) of this section may transfer the right to claim all or 145  
part of the credit reflected on the certificate to another 146  
person. 147

To effectuate the transfer, the transferor shall notify 148  
the tax commissioner, in writing, that the transferor is 149  
transferring the right to claim all or part of the remaining 150  
credit stated on the certificate. The transferor shall identify 151  
in that notification the certificate's number, the name and the 152  
tax identification number of the transferee, the amount of the 153  
remaining credit transferred to the transferee, and, if 154  
applicable, the amount of remaining credit retained by the 155  
transferor. 156

The transferee may claim the amount of the credit received 157  
under this division against the tax levied under section 5726.02 158  
of the Revised Code or against the person's aggregate tax 159  
liability under section 5747.02 of the Revised Code for the 160  
taxable year in the same manner and for the same taxable years 161  
as it may be claimed by a person under division (E) (3) of this 162  
section. 163

Any person to which a credit has been transferred under 164  
 this division may transfer the right to claim all or part of the 165  
 transferred credit amount to any other person, in the same 166  
 manner prescribed by this division for the initial transfer, 167  
 including that any such transfer be reported by the transferor 168  
 to the tax commissioner as described in this division. 169

Transferring a credit under this division does not extend 170  
 the taxable years for which the credit may be claimed or number 171  
 of years for which the unclaimed credit amount may be carried 172  
 forward. 173

(G) The director may adopt rules in accordance with 174  
 Chapter 119. of the Revised Code as necessary to administer the 175  
 tax credits authorized by this section. Such rules may include 176  
 the following: 177

- (1) Application forms, deadlines, and procedures; 178
- (2) Criteria for evaluating and prioritizing applications; 179
- (3) Guidelines for promoting an even geographic 180  
 distribution of credits throughout the state." 181

The motion was \_\_\_\_\_ agreed to.

#### SYNOPSIS

#### **Welcome Home Ohio (WHO) Program**

#### **R.C. 122.633, with conforming changes in R.C. 122.631**

Removes provisions, added by the Senate, concerning the 185  
 WHO program, that would have done all the following, essentially 186

retaining just the changes made to the program by the Executive 187  
and House: 188

--Required applicants for Welcome Home Ohio (WHO) Program 189  
tax credits to hold until maturity the note and mortgage, on an 190  
interest free loan, for any home that is the subject of the 191  
application. 192

--Transferred liability for a penalty imposed when 193  
purchasers of homes that were the basis of a WHO Program tax 194  
credit do not maintain ownership and occupancy for three years 195  
or sell to a buyer with more than the maximum income level from 196  
the buyer to the recipient of the tax credit. 197

--Reduced the amount by which penalties are reduced 198  
annually from one-third, as in the Executive bill, to one- 199  
twentieth of the total amount of tax credit awarded for each 200  
year the original or subsequent buyer with a qualifying income 201  
resided in the home. Current law reduces the penalty by 20% for 202  
each year of residence. 203

--Allowed the Director of Development to waive penalties 204  
for hardship faced by a home buyer who does not abide by the 205  
occupancy and resale restrictions. 206

--Allowed recipients of WHO Program tax credits to avoid 207  
penalties for a buyer's failure to abide by the occupancy and 208  
resale restrictions by reacquiring the home and reselling it to 209  
new qualified buyers within twelve months, provided several 210  
conditions are met. 211

--Allowed applicants for WHO Program tax credits to sell 212  
homes that are the subject of applications under any terms not 213  
in conflict with the authorizing legislation. 214



--Reverted the period during which a home that was the  
basis of a WHO Program tax credit must only be sold to a buyer  
with a maximum income to current law's twenty years. The  
Executive bill reduces it to fifteen.

--Replaced a requirement that purchasers of homes that are  
the basis of WHO Program tax credits must annually certify,  
during the initial minimum ownership term, that they own and  
occupy the home as a primary residence and have not rented the  
home with a requirement that the applicant for the tax credit  
make such certification upon request. (The House-passed bill  
converts the annual certification to one that must be made upon  
request, but still requires purchasers to be the party to make  
them.)

--Replaced a requirement that homes that are the subject  
of WHO Program tax credit applications be sold with deed  
restrictions limiting their sale to individuals with a maximum  
allowable income with a requirement that the homes be sold with  
a twenty-year restrictive covenant, with the same income  
limitations, that is conditional and recorded only upon award of  
a tax credit and names DEV as a third-party beneficiary. The  
House-passed bill allows a deed restriction to include a right  
of first refusal for the applicant, which the amendment removes,  
but allows rights of first refusal by contract.

--Required financial literacy counseling, required under  
current law and modified by the House-passed bill, to be  
provided before the application for a WHO Program tax credit is  
submitted.