

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 408

BY REDMAN

AN ACT

1 RELATING TO INCOME TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE
2 ADDITION OF A NEW SECTION 63-3029N, IDAHO CODE, TO ESTABLISH PROVISIONS
3 REGARDING THE MIDDLE INCOME PROPERTY DEVELOPMENT TAX CREDIT; AMEND-
4 ING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
5 63-3029O, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE MIDDLE IN-
6 COME LAND TRUST TAX CREDIT; AND DECLARING AN EMERGENCY AND PROVIDING
7 RETROACTIVE APPLICATION.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 63-3029N, Idaho Code, and to read as follows:

13 63-3029N. MIDDLE INCOME PROPERTY DEVELOPMENT TAX CREDIT. (1) There is
14 hereby created the Idaho middle income property development tax credit. Be-
15 ginning in tax year 2025, there shall be allowed a credit against the taxes
16 imposed by this chapter to any taxpayer that develops and sells a deed re-
17 stricted property as defined in this section. The amount of the credit for
18 the development and sale of a deed restricted property shall be equal to the
19 difference between the sale price of the deed restricted property and the ap-
20 praised value of the deed restricted property at the time of sale as deter-
21 mined by a third-party appraiser. If the amount of the credit is greater than
22 the tax liability of the taxpayer, the excess amount may be carried forward
23 for a period that does not exceed the next ten (10) taxable years.

24 (2) As used in this section:

25 (a) "Area median income" means the median income for the metropolitan
26 statistical area, or county if no metropolitan statistical area exists,
27 where a property is located, as determined by the United States depart-
28 ment of housing and urban development.

29 (b) "Deed restricted property" means a newly constructed residen-
30 tial structure that previously did not exist, once it is completed and
31 taxable, on land that is subject to a fee simple deed that is properly
32 recorded in the county recorder's office for the county in which the
33 property is located and that contains enforceable covenants running
34 with the land as recognized by Idaho law that restrict the sale of the
35 property, at a minimum, as follows:

36 (i) At the time of purchase, the purchaser of the property shall
37 belong to a household that had a total income for the most recently
38 completed income tax year that was at or below one hundred twenty
39 percent (120%) of the most current available area median income
40 for the area in which the property is located;

41 (ii) The property must be used as the purchaser's homestead pur-
42 suant to section 63-602G, Idaho Code;

1 (iii) The purchaser is required to enter into a contract with a
2 deed restriction program manager and such deed restriction pro-
3 gram manager is obligated to verify that the purchaser meets the
4 requirements set forth in subparagraphs (i) and (ii) of this para-
5 graph. The purchaser shall be required to disclose all household
6 income information to the deed restriction program manager, in-
7 cluding the purchaser's most recent household tax returns and pay
8 stubs for the previous six (6) months. The contract shall also re-
9 quire regular visits to the property by an agent of the deed re-
10 striction program manager to verify continuing homestead exemp-
11 tion qualification as long as the purchaser owns the property. If
12 a purchaser no longer meets the homestead qualification provided
13 in this section, the purchaser shall be required to notify the deed
14 restriction program manager;

15 (iv) The purchaser is restricted from selling the property at a
16 price greater than one (1) of the following formulas as designated
17 in the deed of trust:

18 1. The amount equal to the increase in value of the prop-
19 erty using the inflation rate from the time of the purchase
20 of the property, including any fixtures or improvements to
21 the property made by the purchaser, to the time of sale. The
22 inflation rate used shall be the unadjusted consumer price
23 index for all urban consumers as published by the United
24 States department of labor;

25 2. Twenty-five percent (25%) of total market appreciation
26 of the property, including any fixtures or improvements to
27 the property made by the purchaser, which shall equal the
28 difference between the appraised value at the time of the
29 original purchase and the appraised value at the time of sale
30 as determined by a third-party appraiser; or

31 3. A fixed annual percentage accretion over the purchase
32 price of the property, including any fixtures or improve-
33 ments to the property made by the purchaser, not to exceed
34 five percent (5%); and

35 (v) The covenants running with the land in such deed, including
36 the restrictions provided in this paragraph, shall be binding on
37 the property for at least sixty (60) years.

38 (c) "Deed restriction program manager" means a not-for-profit entity
39 exempt from federal income taxation pursuant to section 501(c)(3) of
40 the Internal Revenue Code established for the purpose of managing deed
41 restricted properties. At a minimum, a program manager shall perform
42 the following contractual duties for a deed restricted property forming
43 the basis for the tax credit provided by this section:

44 (i) Verify that the purchaser of a deed restricted property meets
45 the income requirements set forth in paragraph (b) (i) of this sub-
46 section, by requesting, receiving, and reviewing the income tax
47 returns of the purchaser and the purchaser's household for the
48 most recent tax year and the pay stubs of the purchaser and the
49 purchaser's household for the previous six (6) months;

1 (ii) Verify that the purchaser of a deed restricted property is using the property as the purchaser's homestead pursuant to section
 2 63-602G, Idaho Code, by requesting and receiving a signed certification from the purchaser that upon the purchase, the property
 3 shall qualify as the purchaser's homestead pursuant to section
 4 63-602G, Idaho Code; and

5 (iii) Conduct home visits of the deed restricted property at least
 6 two (2) times per year for as long as the purchaser owns the property,
 7 to verify that the purchaser is using the property as the
 8 purchaser's homestead pursuant to section 63-602G, Idaho Code.
 9

10 (d) "Fixtures" shall have the same meaning as provided in section
 11 63-201(9), Idaho Code.

12 (e) "Household" means individuals over eighteen (18) years of age
 13 living together in the same residence, except for children of household
 14 members who are living in the home and are enrolled and attending
 15 postsecondary education institutions, trade schools, or vocational
 16 schools. The term does not include bona fide lessees, tenants, or
 17 roomers and boarders on contract.
 18

19 (f) "Improvements" shall have the same meaning as provided in section
 20 63-201(11), Idaho Code.

21 (3) The state tax commission shall prescribe forms for the purpose of
 22 claiming the Idaho middle income property development tax credit.

23 (4) Taxpayers claiming the credit shall:

24 (a) Enter into a written contract with a deed restriction program manager
 25 whereby such program manager is obligated to verify purchaser eligibility
 26 pursuant to subsection (2) (b) (i) and (ii) of this section, and
 27 to provide ongoing compliance with the deed restrictions as provided in
 28 subsection (2) of this section; and

29 (b) Retain all documents related to the sale of the deed restricted
 30 property, including a copy of the recorded deed and the covenants running
 31 with the land and the contract with the deed restriction program
 32 manager. The taxpayer shall retain such documents for ten (10) years
 33 after the filing of a return claiming the tax credit and shall submit
 34 such documents to the state tax commission upon request.

35 (5) The state tax commission shall deny or recapture credits claimed by
 36 a taxpayer for claiming credit amounts not authorized by the provisions of
 37 this section.

38 SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is
 39 hereby amended by the addition thereto of a NEW SECTION, to be known and designated
 40 as Section 63-30290, Idaho Code, and to read as follows:

41 63-30290. MIDDLE INCOME LAND TRUST TAX CREDIT. (1) There is hereby
 42 created the Idaho middle income land trust tax credit. Beginning in tax year
 43 2025, there shall be allowed a credit against the taxes imposed by this chapter
 44 to any taxpayer that donates fee simple land to a land trust in accordance
 45 with the provisions of this section.

46 (2) As used in this section:

47 (a) "Area median income" means the median income for the metropolitan
 48 statistical area, or county if no metropolitan statistical area exists,

1 where a housing unit is located, as determined by the United States de-
2 partment of housing and urban development.

3 (b) "Fixtures" shall have the same meaning as provided in section
4 63-201(9), Idaho Code.

5 (c) "Household" means individuals over eighteen (18) years of age
6 living together in the same residence, except for children of house-
7 hold members who are living in the home and are enrolled and attending
8 postsecondary education institutions, trade schools, or vocational
9 schools. The term does not include bona fide lessees, tenants, or
10 roomers and boarders on contract.

11 (d) "Improvements" shall have the same meaning as provided in section
12 63-201(11), Idaho Code.

13 (e) "Land trust" means a not-for-profit entity exempt from federal
14 income taxation pursuant to section 501(c)(3) of the Internal Revenue
15 Code that holds real property in trust for the purpose of leasing such
16 real property to lessees who purchase and own residential housing units
17 constructed on the leased land. Such housing units shall be subject to a
18 land lease that is recognized by Idaho law. Such land lease with a land
19 trust shall have, at a minimum, the following requirements:

20 (i) The land lease shall be for a term of at least ninety-nine (99)
21 years;

22 (ii) The lessee shall belong to a household with a total income at
23 or below one hundred percent (100%) of the area median income where
24 the housing unit is located;

25 (iii) The housing unit being purchased must be the lessee's pri-
26 mary dwelling place as that term is defined in section 63-701,
27 Idaho Code;

28 (iv) The total liquid assets of the lessee's household, includ-
29 ing cash, bank account funds, stocks, bonds, and any other asset
30 that can be readily converted to United States currency, and not
31 including retirement accounts, shall be limited to an amount equal
32 to twelve (12) months of the household's recurring expenses, and
33 shall not exceed twenty-five thousand dollars (\$25,000) at the
34 time of entering into the land lease. Households with liquid as-
35 sets greater than such limit shall qualify if the funds greater
36 than twenty-five thousand dollars (\$25,000) are used to pay for
37 closing transaction costs for entering into the lease and for
38 the purchase of the housing unit, and after such costs are sub-
39 tracted from the purchaser's liquid assets, such assets are below
40 twenty-five thousand dollars (\$25,000); and

41 (v) The lessee shall not sell any housing unit located on the
42 property at a price greater than one (1) of the following formulas,
43 to be designated in the lease:

44 1. The amount equal to the increase in value of the housing
45 unit, including any fixtures or improvements to the housing
46 unit made by the lessee, using the inflation rate from the
47 time of purchase to the time of sale as determined by a third-
48 party appraiser. The inflation rate used shall be the unad-
49 justed consumer price index for all urban consumers as pub-
50 lished by the United States department of labor;

1 2. Twenty-five percent (25%) of total market appreciation
2 as determined by the difference between the purchase price
3 of the housing unit, including any fixtures or improvements
4 to the housing unit made by the lessee, and the appraised
5 value at the time of resale; or

6 3. A fixed annual percentage accretion over the purchase
7 price of the housing unit, including any fixtures or im-
8 provements to the housing unit made by the lessee, not to
9 exceed five percent (5%).

10 (f) "Lessee" means the person who leases property from a land trust and
11 who owns a residential housing unit located on such land that serves as
12 such lessee's primary dwelling place as that term is defined in section
13 63-701, Idaho Code.

14 (3) (a) For the donation of real property to a land trust that, by the
15 terms of its governing corporate documents, services lessee households
16 with an income of no more than eighty percent (80%) of the area median
17 income:

18 (i) If the taxpayer purchased the property, the taxpayer shall
19 receive a tax credit in the amount of fifty percent (50%) of the
20 difference between the purchase price of the property and the ap-
21 praised value of such property at the time of the donation as de-
22 termined by a third-party appraiser; or

23 (ii) If there was no purchase price when the taxpayer acquired the
24 property, the taxpayer shall receive a tax credit in the amount
25 of fifty percent (50%) of the difference between the tax basis of
26 the property at the time the taxpayer acquired the property and
27 the appraised value at the time of the donation as determined by a
28 third-party appraiser.

29 (b) For the donation of real property to a land trust that, by the terms
30 of its governing corporate documents, services lessee households with
31 an income greater than eighty percent (80%) but no more than one hundred
32 percent (100%) of the area median income:

33 (i) If the taxpayer purchased the property, the taxpayer shall
34 receive a tax credit in the amount of forty percent (40%) of the
35 difference between the purchase price of the property at the time
36 the taxpayer purchased the property and the appraised value at the
37 time the taxpayer donated the property as determined by a third-
38 party appraiser; or

39 (ii) If there was no purchase price when the taxpayer acquired the
40 property, the taxpayer shall receive a tax credit in the amount of
41 forty percent (40%) of the difference between the tax basis at the
42 time the taxpayer acquired the property and the appraised value
43 at the time the taxpayer donated the property as determined by a
44 third-party appraiser.

45 (c) If the amount of any credit under this subsection is greater than
46 the tax liability of the taxpayer, the excess amount may be carried for-
47 ward by the taxpayer for a period that does not exceed the next ten (10)
48 taxable years.

49 (4) The state tax commission shall prescribe forms for the purpose of
50 claiming the Idaho middle income land trust tax credit.

- 1 (5) Taxpayers claiming the credit shall:
2 (a) Certify that, before donating the property to a land trust pursuant
3 to the provisions of this section, the taxpayer requested and received a
4 certification from a lawful agent of the land trust that the land trust
5 properly qualifies pursuant to the provisions of this section; and
6 (b) Retain all documents related to the transfer of the property to the
7 land trust, including a copy of the deed, the land lease to which the
8 donated property shall be subject, and the certification pursuant to
9 paragraph (a) of this subsection, for ten (10) years after the filing of
10 a return claiming the tax credit and shall submit such documents to the
11 state tax commission upon request.
12 (6) The state tax commission shall deny or recapture credits claimed by
13 a taxpayer for claiming credit amounts not authorized by the provisions of
14 this section.

15 SECTION 3. An emergency existing therefor, which emergency is hereby
16 declared to exist, this act shall be in full force and effect on and after its
17 passage and approval, and retroactively to January 1, 2025.