

HB346 INTRODUCED



1 HB346
2 GRHY22C-1
3 By Representative Almond
4 RFD: Ways and Means Education
5 First Read: 21-Mar-24



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SYNOPSIS:

This bill would establish the Alabama Workforce Housing Tax Credit Act to authorize and provide a tax credit for qualified taxpayers owning an interest in a qualified workforce housing project located in the State of Alabama.

A BILL
TO BE ENTITLED
AN ACT

Relating to taxation; to establish the Alabama Workforce Housing Tax Credit Act; to create the Alabama Workforce Housing Tax Credit for qualified workforce housing projects; to define certain terms; to provide for maximum annual award amounts for qualified projects; to allow the tax credits to be claimed for 10 years against the tax liability of a qualified taxpayer; to allow a carryforward for earned but unused tax credits; to require a portion of the annual award cycle cap to be awarded for qualified projects located in areas designated as rural by the Alabama Housing Finance Authority; and to require the authority to implement and administer the provisions of this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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29 Section 1. This act shall be known and may be cited as
30 the Alabama Workforce Housing Tax Credit Act.

31 Section 2. Regarding the adoption of qualified
32 allocation plans as they relate to the workforce housing tax
33 credit by the authority, the authority shall incentivize and
34 prioritize four percent qualified projects, or in the case of
35 awards under Section 3(f), qualified projects in areas
36 identified by the Department of Commerce concerning its
37 priorities for the location and type, including new
38 construction, rehabilitation, or both, of multifamily housing
39 which will support economic development efforts and the
40 creation of stable, good-paying jobs in the State of Alabama.
41 It is the desire of the Legislature that the efforts of the
42 Department of Commerce in seeking to create jobs will be
43 generally supported by the creation of multifamily rental
44 housing opportunities supported by the workforce housing tax
45 credit.

46 Section 3. For the purposes of this act, the following
47 terms have the following meanings:

48 (1) ALABAMA TAX LIABILITY. The taxes otherwise due
49 under Sections 27-3-29, 27-4A-3, 40-16-4, or 40-18-2, Code of
50 Alabama 1975.

51 (2) AUTHORITY. The Alabama Housing Finance Authority or
52 its successor authority or agency.

53 (3) AWARD. The issuance by the authority of either of
54 the following:

55 a. A reservation letter pursuant to the qualified
56 allocation plan.



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57 b. A determination letter for workforce housing tax
58 credits to a qualified project during an award cycle, the
59 amount of which award shall be claimed in each year of the
60 credit period.

61 (4) AWARD CYCLE. Each fiscal year or other 12-month
62 period designated by the authority over which the authority
63 awards workforce housing tax credits to qualified projects.

64 (5) AWARD CYCLE CAP. The sum of all of the following:

65 a. Five million dollars (\$5,000,000) for each year of
66 the 10-year credit period as defined in 26 U.S.C. § 42(f)(1).
67 Any funds not awarded may be carried forward to the next award
68 cycle.

69 b. The amount, if any, by which the award cycle cap
70 prescribed by this act for the preceding award cycle exceeds
71 the workforce housing tax credits awarded by the authority in
72 that award cycle.

73 c. The amount of workforce housing tax credits
74 recaptured or otherwise disallowed under Section 3(e) in the
75 preceding fiscal year.

76 (6) CREDIT PERIOD. The 10-year credit period as defined
77 in 26 U.S.C. § 42(f)(1), subject to the special rule for the
78 first year of the credit period as set forth in 26 U.S.C. §
79 42(f)(2).

80 (7) DEPARTMENT. The Alabama Department of Revenue, or
81 its successor agency.

82 (8) ELIGIBILITY CERTIFICATE. A certificate issued by
83 the authority to the owner of a qualified project certifying
84 that the project is a qualified project that qualifies for the



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85 workforce housing tax credit authorized by this act and
86 specifying the annual amount of workforce housing tax credits
87 that may be claimed in each year of the credit period. The
88 authority shall issue an eligibility certificate to a
89 qualified project upon the authority's approval of a final
90 cost certification that complies with the authority's
91 requirements.

92 (9) FEDERAL LOW-INCOME HOUSING TAX CREDIT or FEDERAL
93 TAX CREDIT. The federal tax credit as provided in 26 U.S.C. §
94 42.

95 (10) FOUR PERCENT QUALIFIED PROJECT. A qualified
96 project that is eligible for federal low-income housing tax
97 credits pursuant to 26 U.S.C. § 42(h)(4).

98 (11) MULTIFAMILY HOUSING REVENUE BOND POLICY. The
99 authority's policy, as amended from time to time, regarding
100 the allocation of tax-exempt bond volume cap for affordable
101 multifamily housing.

102 (12) QUALIFIED ALLOCATION PLAN. As defined in 26 U.S.C.
103 § 42(m)(1)(B), subject to additions and modifications
104 necessary to implement this act.

105 (13) QUALIFIED PROJECT. A qualified low-income
106 building, as defined in 26 U.S.C. § 42(c)(2), that is located
107 in the state, is eligible for the federal low-income housing
108 tax credit, and is placed in service on or after January 1,
109 2025.

110 (14) QUALIFIED TAXPAYER. A taxpayer owning an interest,
111 directly or indirectly, through one or more pass-through
112 entities, in a qualified project at any time prior to filing a



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113 tax return claiming a workforce housing tax credit.

114 (15) TAXPAYER. An individual, corporation, S
115 corporation, partnership, limited partnership, limited
116 liability partnership, limited liability company, joint
117 venture, financial institution, fiduciary of an estate of a
118 trust, or insurer.

119 (16) WORKFORCE HOUSING TAX CREDIT or TAX CREDIT. The
120 tax credit created by this act.

121 Section 4. (a) (1) For applications for federal tax
122 credits submitted to the authority on and after January 1,
123 2025, the authority, upon approving a federal low-income
124 housing tax credit for a qualified project pursuant to the
125 authority's qualified allocation plan or multifamily housing
126 revenue bond policy, may award a workforce housing tax credit
127 under this act to the owner of the qualified project so long
128 as doing so will not result in exceeding the award cycle cap
129 prescribed by this subsection. The workforce housing tax
130 credit shall be in an amount determined by the authority to be
131 necessary for the financial feasibility of the qualified
132 project and consistent with the qualified allocation plan and
133 multifamily housing revenue bond policy, as applicable, but
134 the annual award for each qualified project shall not be
135 greater than two million dollars (\$2,000,000).

136 (2) The authority shall send written notice of the
137 award to the owner of the qualified project. The award notice
138 shall state the amount of workforce housing tax credit awarded
139 for each year of the qualified project's credit period and
140 stipulate that receipt of the tax credit is contingent upon



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141 issuance of an eligibility certificate.

142 (3) Upon issuance of an eligibility certificate, a
143 workforce housing tax credit shall be allowed for the
144 qualified project for each year of the credit period in the
145 amount specified in the eligibility certificate.

146 (4) The total amount of tax credit awards made by the
147 authority under this act in each award cycle shall not exceed
148 the award cycle cap.

149 (b) (1) A qualified taxpayer may claim a workforce
150 housing tax credit against the taxpayer's Alabama tax
151 liability prior to reduction by any other credits allowed the
152 qualified taxpayer.

153 (2) The tax credit may be allocated by pass-through
154 entities to some or all of its partners, members, or
155 shareholders, including any not-for-profit entity that is a
156 partner, member, or shareholder, in any manner agreed to by
157 such persons, regardless of whether or not the person is
158 allocated or allowed any portion of any federal low-income
159 housing tax credit with respect to the qualified project,
160 whether the allocation of the tax credit under the terms of
161 the agreement has substantial economic effect within the
162 meaning of 26 U.S.C. § 704(b), and whether the person is
163 deemed a partner for federal income tax purposes as long as
164 the partner or member would be considered a partner or member
165 under applicable state law governing such entity, and has been
166 admitted as a partner or member on or prior to the date for
167 filing the qualified taxpayer's tax return, including any
168 amendments thereto, with respect to the year of the tax



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169 credit. Such pass-through entities or qualified taxpayer may
170 assign all or any part of its interest, including its interest
171 in the tax credits, to one or more pass-through entities or
172 qualified taxpayers, and the qualified taxpayer shall be able
173 to claim the tax credit so long as its interest is acquired
174 prior to the filing of its tax return claiming the tax credit.

175 (3) If the tax credit is used to offset financial
176 institution excise tax, the offset shall be limited to the
177 state portion of the financial institution excise tax.

178 (c) The workforce housing tax credit authorized by this
179 act shall not be refundable. Any tax credit not used in a
180 taxable year may be carried forward by a qualified taxpayer
181 for the succeeding five years.

182 (d) A qualified taxpayer claiming a workforce housing
183 tax credit shall submit a copy of the eligibility certificate
184 at the time of filing its tax return with the department. If
185 the owner of the qualified project has applied to the
186 authority for the eligibility certificate but the authority
187 has not yet issued the eligibility certificate at the time the
188 qualified taxpayer files its original tax return claiming the
189 tax credit, the qualified taxpayer may claim the tax credit
190 based upon the amount of tax credit set forth in the award
191 issued to the qualified project, and shall amend the qualified
192 taxpayer's tax return to include the eligibility certificate
193 upon its receipt. If the amount of tax credit in the
194 eligibility certificate is different than the amount of tax
195 credit previously claimed, the qualified taxpayer shall adjust
196 the tax credit amount claimed on the amended tax return.



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197 (e) If under 26 U.S.C. § 42, a portion of any federal
198 low-income housing credits taken on a qualified project is
199 required to be recaptured or is otherwise disallowed during
200 the credit period, the qualified taxpayer claiming workforce
201 housing tax credits with respect to the qualified project
202 shall also be required to recapture a portion of any tax
203 credits authorized by this act. The percentage of workforce
204 housing tax credits subject to recapture shall be equal to the
205 percentage of federal low-income housing credits subject to
206 recapture or otherwise disallowed during such period. Any tax
207 credits recaptured or disallowed shall increase the income tax
208 liability of the qualified taxpayer who claimed the tax
209 credits in a like amount and shall be included on the tax
210 return of the qualified taxpayer submitted for the taxable
211 year in which the recapture or disallowance event is
212 identified. The owner of the qualified project shall report
213 any recapture event to the department, authority, and, in the
214 same manner done for the recapture of federal low-income
215 housing credits, to the qualified taxpayer, if the project
216 owner is not the qualified taxpayer.

217 (f) For each award cycle, the authority shall award at
218 least 20 percent, but not more than 25 percent, of the award
219 cycle cap to qualified projects located in areas designated as
220 rural by the authority, subject to viable requests being
221 received. The authority shall award the balance of the
222 remaining available award cycle cap to four percent qualified
223 projects without any geographic limitation.

224 (g) An insurance company claiming a workforce housing



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225 tax credit against the taxes, licenses, and other fees, fines,
226 and penalties imposed, including any retaliatory tax imposed
227 on insurance companies by Section 27-3-29, Code of Alabama
228 1975, shall not be required to pay any additional tax as a
229 result of claiming the tax credit. The workforce housing tax
230 credit may fully offset any retaliatory tax imposed by the
231 Code of Alabama 1975. A reduction in the taxes of a foreign
232 insurance company to the extent obtained through a claim for
233 credit under this act does not increase the retaliatory tax
234 liability otherwise charged against that company.

235 Section 5. The authority shall administer the workforce
236 housing tax credit program and shall adopt the guidelines and
237 qualified allocation plans necessary to implement and
238 administer this act consistent with federal law provided in 26
239 U.S.C. § 42. The qualified allocation plan shall provide a
240 preference for applications in which there is a commitment
241 for: (i) a furnished children's activity center which will be
242 made available at no cost to a licensed, qualified, and
243 insured childcare provider for after-school care for children
244 in grades K through 8 residing at the qualified project during
245 ordinary school days from 2:30 pm to 6:00 pm; or (ii) the
246 qualified project owner shall subsidize the cost of
247 after-school care for children grades K through 8 residing at
248 the qualified project for at least three years from the placed
249 in service date, by the lesser of \$1,000 per year per unit
250 occupied by a student participating in the after-school
251 program or \$50,000 per annum. The authority shall permit
252 reserves to be established from project sources to fund such



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253 subsidy costs. The workforce housing tax credit authorized by
254 this act shall not be available to taxpayers that submit an
255 application for federal low-income housing tax credits for a
256 qualified project after September 30, 2027. No action or
257 inaction on the part of the Legislature shall reduce or
258 suspend the tax credits authorized by this act in any past or
259 future calendar year with respect to a qualified project if
260 the application to the authority was substantially complete on
261 or prior to September 30, 2027, even if the award is made
262 after such date, the qualified project is placed in service
263 after September 30, 2027, or the first workforce housing
264 credits are available to the qualified taxpayer after
265 September 30, 2027.

266 Section 6. The tax credit created pursuant to this act
267 shall only be claimed with respect to taxable years beginning
268 on or after January 1, 2025. The tax credit provided in this
269 act shall be subject to the reporting requirements of Section
270 40-1-50, Code of Alabama 1975. The department may adopt rules
271 for the administration of this act.

272 Section 7. This act shall become effective on October
273 1, 2024.