

HB346 ENGROSSED



1 HB346
2 V3Q4VVV-2
3 By Representative Almond
4 RFD: Ways and Means Education
5 First Read: 21-Mar-24



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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:

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

Section 2. Regarding the adoption of qualified allocation plans as they relate to the workforce housing tax credit by the authority, the authority shall incentivize and prioritize four percent qualified projects, or in the case of awards under Section 4(f), qualified projects in areas



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29 identified by the Department of Commerce concerning its
30 priorities for the location and type, including new
31 construction, rehabilitation, or both, of multifamily housing
32 which will support economic development efforts and the
33 creation of stable, good-paying jobs in the State of Alabama.
34 It is the desire of the Legislature that the efforts of the
35 Department of Commerce in seeking to create jobs will be
36 generally supported by the creation of multifamily rental
37 housing opportunities supported by the workforce housing tax
38 credit.

39 Section 3. For the purposes of this act, the following
40 terms have the following meanings:

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

44 (2) AUTHORITY. The Alabama Housing Finance Authority or
45 its successor authority or agency.

46 (3) AWARD. The issuance by the authority of either of
47 the following:

48 a. A reservation letter pursuant to the qualified
49 allocation plan.

50 b. A determination letter for workforce housing tax
51 credits to a qualified project during an award cycle, the
52 amount of which award shall be claimed in each year of the
53 credit period.

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



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

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

62 b. The amount, if any, by which the award cycle cap
63 prescribed by this act for the preceding award cycle exceeds
64 the workforce housing tax credits awarded by the authority in
65 that award cycle.

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

69 (6) CREDIT PERIOD. The 10-year credit period as defined
70 in 26 U.S.C. § 42(f)(1), subject to the special rule for the
71 first year of the credit period as set forth in 26 U.S.C. §
72 42(f)(2).

73 (7) DEPARTMENT. The Alabama Department of Revenue, or
74 its successor agency.

75 (8) ELIGIBILITY CERTIFICATE. A certificate issued by
76 the authority to the owner of a qualified project certifying
77 that the project is a qualified project that qualifies for the
78 workforce housing tax credit authorized by this act and
79 specifying the annual amount of workforce housing tax credits
80 that may be claimed in each year of the credit period. The
81 authority shall issue an eligibility certificate to a
82 qualified project upon the authority's approval of a final
83 cost certification that complies with the authority's
84 requirements.



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85 (9) FEDERAL LOW-INCOME HOUSING TAX CREDIT or FEDERAL
86 TAX CREDIT. The federal tax credit as provided in 26 U.S.C. §
87 42.

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

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

95 (12) QUALIFIED ALLOCATION PLAN. As defined in 26 U.S.C.
96 § 42(m)(1)(B), subject to additions and modifications
97 necessary to implement this act.

98 (13) QUALIFIED PROJECT. A qualified low-income
99 building, as defined in 26 U.S.C. § 42(c)(2), that is located
100 in the state, is eligible for the federal low-income housing
101 tax credit, and is placed in service on or after January 1,
102 2025.

103 (14) QUALIFIED TAXPAYER. A taxpayer owning an interest,
104 directly or indirectly, through one or more pass-through
105 entities, in a qualified project at any time prior to filing a
106 tax return claiming a workforce housing tax credit.

107 (15) TAXPAYER. An individual, corporation, S
108 corporation, partnership, limited partnership, limited
109 liability partnership, limited liability company, joint
110 venture, financial institution, fiduciary of an estate of a
111 trust, or insurer.

112 (16) WORKFORCE HOUSING TAX CREDIT or TAX CREDIT. The



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113 tax credit created by this act.

114 Section 4. (a) (1) For applications for federal tax
115 credits submitted to the authority on and after January 1,
116 2025, the authority, upon approving a federal low-income
117 housing tax credit for a qualified project pursuant to the
118 authority's qualified allocation plan or multifamily housing
119 revenue bond policy, may award a workforce housing tax credit
120 under this act to the owner of the qualified project so long
121 as doing so will not result in exceeding the award cycle cap
122 prescribed by this subsection. The workforce housing tax
123 credit shall be in an amount determined by the authority to be
124 necessary for the financial feasibility of the qualified
125 project and consistent with the qualified allocation plan and
126 multifamily housing revenue bond policy, as applicable, but
127 the annual award for each qualified project shall not be
128 greater than two million dollars (\$2,000,000).

129 (2) The authority shall send written notice of the
130 award to the owner of the qualified project. The award notice
131 shall state the amount of workforce housing tax credit awarded
132 for each year of the qualified project's credit period and
133 stipulate that receipt of the tax credit is contingent upon
134 issuance of an eligibility certificate.

135 (3) Upon issuance of an eligibility certificate, a copy
136 of which shall be provided to the department and the Alabama
137 Department of Insurance, a workforce housing tax credit shall
138 be allowed for the qualified project for each year of the
139 credit period in the amount specified in the eligibility
140 certificate.



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

144 (b) (1) The tax credit may be allocated by pass-through
145 entities to some or all of its partners, members, or
146 shareholders, including any not-for-profit entity that is a
147 partner, member, or shareholder, in any manner agreed to by
148 such persons, regardless of whether or not the person is
149 allocated or allowed any portion of any federal low-income
150 housing tax credit with respect to the qualified project,
151 whether the allocation of the tax credit under the terms of
152 the agreement has substantial economic effect within the
153 meaning of 26 U.S.C. § 704(b), and whether the person is
154 deemed a partner for federal income tax purposes as long as
155 the partner or member would be considered a partner or member
156 under applicable state law governing such entity, and has been
157 admitted as a partner or member on or prior to the date for
158 filing the qualified taxpayer's tax return, including any
159 amendments thereto, with respect to the year of the tax
160 credit. Such pass-through entities or qualified taxpayer may
161 assign all or any part of its interest, including its interest
162 in the tax credits, to one or more pass-through entities or
163 qualified taxpayers, and the qualified taxpayer shall be able
164 to claim the tax credit so long as its interest is acquired
165 prior to the filing of its tax return claiming the tax credit.

166 (2) If the tax credit is used to offset financial
167 institution excise tax, the offset shall be limited to the
168 state portion of the financial institution excise tax.



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

173 (d) Prior to filing the tax return, or in the case of
174 pass-through entities, prior to passing the credit to the
175 qualified taxpayer, a project owner that has been awarded a
176 workforce housing tax credit shall submit a copy of the
177 eligibility certificate to the department in a manner
178 prescribed by the department.

179 (e) If under 26 U.S.C. § 42, a portion of any federal
180 low-income housing credits taken on a qualified project is
181 required to be recaptured or is otherwise disallowed during
182 the credit period, the qualified taxpayer claiming workforce
183 housing tax credits with respect to the qualified project
184 shall also be required to recapture a portion of any tax
185 credits authorized by this act. The percentage of workforce
186 housing tax credits subject to recapture shall be equal to the
187 percentage of federal low-income housing credits subject to
188 recapture or otherwise disallowed during such period. Any tax
189 credits recaptured or disallowed shall increase the income tax
190 liability of the qualified taxpayer who claimed the tax
191 credits in a like amount and shall be included on the tax
192 return of the qualified taxpayer submitted for the taxable
193 year in which the recapture or disallowance event is
194 identified. The owner of the qualified project shall report
195 any recapture event to the department, the Alabama Department
196 of Insurance, authority, and, in the same manner done for the



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197 recapture of federal low-income housing credits, to the
198 qualified taxpayer, if the project owner is not the qualified
199 taxpayer.

200 (f) For each award cycle, the authority shall award at
201 least 20 percent, but not more than 25 percent, of the award
202 cycle cap to qualified projects located in areas designated as
203 rural by the authority, subject to viable requests being
204 received. The authority shall award the balance of the
205 remaining available award cycle cap to four percent qualified
206 projects without any geographic limitation.

207 (g) An insurance company claiming a workforce housing
208 tax credit against the taxes, licenses, and other fees, fines,
209 and penalties imposed, including any retaliatory tax imposed
210 on insurance companies by Section 27-3-29, Code of Alabama
211 1975, shall not be required to pay any additional tax as a
212 result of claiming the tax credit. The workforce housing tax
213 credit may fully offset any retaliatory tax imposed by the
214 Code of Alabama 1975. A reduction in the taxes of a foreign
215 insurance company to the extent obtained through a claim for
216 credit under this act does not increase the retaliatory tax
217 liability otherwise charged against that company.

218 Section 5. The authority shall administer the workforce
219 housing tax credit program and shall adopt the guidelines and
220 qualified allocation plans necessary to implement and
221 administer this act consistent with federal law provided in 26
222 U.S.C. § 42. The qualified allocation plan shall provide a
223 preference for applications in which there is a commitment
224 for: (i) a furnished children's activity center which will be



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225 made available at no cost to a licensed, qualified, and
226 insured childcare provider for after-school care for children
227 in grades K through 8 residing at the qualified project during
228 ordinary school days from 2:30 pm to 6:00 pm; or (ii) the
229 qualified project owner shall subsidize the cost of
230 after-school care for children grades K through 8 residing at
231 the qualified project for at least three years from the placed
232 in service date, by the lesser of \$1,000 per year per unit
233 occupied by a student participating in the after-school
234 program or \$50,000 per annum. The authority shall permit
235 reserves to be established from project sources to fund such
236 subsidy costs. The workforce housing tax credit authorized by
237 this act shall not be available to taxpayers that submit an
238 application for federal low-income housing tax credits for a
239 qualified project after September 30, 2027. No action or
240 inaction on the part of the Legislature shall reduce or
241 suspend the tax credits authorized by this act in any past or
242 future calendar year with respect to a qualified project if
243 the application to the authority was substantially complete on
244 or prior to September 30, 2027, even if the award is made
245 after such date, the qualified project is placed in service
246 after September 30, 2027, or the first workforce housing
247 credits are available to the qualified taxpayer after
248 September 30, 2027.

249 Section 6. The tax credit created pursuant to this act
250 shall only be claimed with respect to taxable years beginning
251 on or after January 1, 2025. The tax credit provided in this
252 act shall be subject to the reporting requirements of Section



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253 40-1-50, Code of Alabama 1975. The department and the Alabama
254 Department of Insurance may adopt rules for the administration
255 of this act.

256 Section 7. This act shall become effective on October
257 1, 2024.



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House of Representatives

Read for the first time and referred21-Mar-24
to the House of Representatives
committee on Ways and Means
Education
Read for the second time and placed11-Apr-24
on the calendar:
1 amendment
Read for the third time and passed18-Apr-24
as amended
Yeas 103
Nays 0
Abstains 0

John Treadwell
Clerk