

Amendment No. 2 to HB1046

Hazlewood
Signature of Sponsor

AMEND Senate Bill No. 1000

House Bill No. 1046*

by deleting all language after the enacting clause and substituting:

SECTION 1. This act is known and may be cited as the "Tennessee Rural and Workforce Housing Act."

SECTION 2. Tennessee Code Annotated, Title 13, Chapter 23, Part 1, is amended by adding the following as a new section:

13-23-134.

(a) As used in this section:

(1) "Agency" means the Tennessee housing development agency;

(2) "Eligibility statement" means a statement authorized and issued by the agency certifying that the owner of a qualified project is eligible for a Tennessee rural and workforce housing tax credit;

(3) "Federal housing tax credit" means the low-income housing credit as provided in Section 42 of the Internal Revenue Code of 1986 (26 U.S.C. § 42), as amended;

(4) "Qualified project" means a qualified low-income building, as that term is defined in Section 42 of the Internal Revenue Code of 1986 (26 U.S.C. § 42), as amended, located in this state and placed in service after January 1, 2026, that receives a federal housing tax credit allocation from the agency for a project;

(5) "Taxpayer" means a business entity that is subject to liability for the premium tax, retaliatory tax, franchise tax, or excise tax; and

(6) "Tennessee rural and workforce housing tax credit" means the credit created by subsection (b) against liability for premium tax, retaliatory tax, franchise tax, and excise tax.

(b)

(1) Subject to subsections (c) and (d), the agency may allocate to the owner of a qualified project a credit against taxpayer liability for any tax imposed by title 56, chapter 4; title 67, part 20; or title 67, part 21.

(2) The owner of a qualified project may apportion a Tennessee rural and workforce housing tax credit among some or all of the direct partners or direct members of the business entity or association owning the qualified project, in any manner agreed to by such business entity or association, regardless of whether such business entities or associations are allocated or allowed any portion of the federal housing tax credit with respect to the qualified project. Likewise, if any of the direct partners or direct members of the business entity or association owning the qualified project is a pass-through entity, any such pass-through entity may further apportion a Tennessee rural and workforce housing tax credit to any of its direct partners, direct members, or direct shareholders in any manner agreed to by such parties, regardless of whether such parties are allocated or allowed any portion of the federal housing tax credit with respect to the qualified project.

(3) Upon application or request, the agency shall issue an eligibility statement to the owner of a qualified project to submit with a tax credit application as provided for in this section.

(4) The owner of a qualified project shall file a tax credit application with the commissioner of revenue or the commissioner of commerce and insurance, as applicable, in order to claim a Tennessee rural and workforce housing tax credit against any taxpayer liability provided for in this subsection (b). The application must include the eligibility statement from the agency, a description of

the qualified project, the amount of federal housing tax credit the qualified project received, the direct partners and members involved in the qualified project, how the Tennessee rural and workforce housing tax credit will be allocated among those direct partners and members, whether the qualified project is located in an eligible rural area as designated by the agency, and the amount of the Tennessee rural and workforce tax credit being claimed in the application.

(5) The total amount of the Tennessee rural and workforce housing tax credit that may be claimed pursuant to this section for a taxable year may not exceed the taxpayer's liability. A credit authorized under this subsection (b) that is unused may be carried forward in a tax period until the credit is taken; provided, however, that the credit may not be carried forward for more than twenty-five (25) years. A taxpayer shall not apply the credit against a prior tax years' liability, except that a credit may be claimed in a prior year corresponding to the date for which the agency issues an eligibility statement related to the qualified project. In the event that the agency does not issue an eligibility statement with respect to a qualified project before the end of the year in which a qualified project has been placed in service, any credits attributable to tax years prior to the year in which the agency issues the eligibility statement with respect to such qualified project shall be allowed on a properly filed tax return for the year that includes the date on which the agency issued the eligibility statement related to the qualified project.

(6)

(A) If, under Section 42 of the Internal Revenue Code of 1986 (26 U.S.C. § 42), as amended, a portion of a federal housing tax credit taken on a qualified project is required to be recaptured, then the taxpayer claiming a Tennessee rural and workforce housing tax credit with respect to such qualified project shall have a portion of the Tennessee rural and

workforce housing tax credit recaptured. The state recapture amount is equal to the proportion of the Tennessee rural and workforce housing tax credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal housing tax credit amount subject to recapture.

(B) If the recapture of a Tennessee rural and workforce housing tax credit is required, then the taxpayer shall immediately notify the department of revenue on a form prescribed by the commissioner and submit an amended return to the department of revenue that includes the proportion of the Tennessee rural and workforce housing tax credit required to be recaptured, the identity of each taxpayer subject to the recapture, and the amount of tax credit previously allocated to such taxpayer. Notwithstanding § 67-1-1501, the statutory period for the assessment of additional franchise or excise tax resulting from such recapture shall not expire prior to the expiration of two (2) years from the date the commissioner or the commissioner's designee is notified in writing by the taxpayer of such recapture. In the case of an agreement in writing entered into by the commissioner, or the commissioner's designee, and the taxpayer within the time prescribed in this subdivision (b)(6)(B) for assessment, consenting to an assessment after such time, the tax may be assessed or a levy or other proceeding to enforce collection of such recapture may be made or begun with or without assessment at any time within the agreed upon period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the previously agreed upon period.

(c) The total amount of all new Tennessee rural and workforce housing tax credits that may be allocated by the agency in any fiscal year is subject to authorization

and must not exceed the amounts of such authorization, plus the total of all unallocated tax credits, if any, for any preceding years, and the total amount of any previously allocated tax credits that have been recaptured, revoked, canceled, or otherwise recovered but not otherwise reallocated.

(d) The agency shall allocate Tennessee rural and workforce housing tax credits pursuant to the qualified allocation plan developed by the agency pursuant to Section 42 of the Internal Revenue Code of 1986 (26 U.S.C. § 42) using uniform criteria that in the agency's discretion promote the highest value and greatest public benefit; provided, that no less than fifty percent (50%) of the Tennessee rural and workforce housing tax credits must be allocated to qualified projects in an eligible rural area as designated by the United States department of agriculture. The agency must allocate all authorized credits in the year they are authorized.

(e) The agency and the department of revenue and department of commerce and insurance may promulgate rules to effectuate this section. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(f) Tax credits must be authorized by joint resolution of the general assembly.

SECTION 3. Tennessee Code Annotated, Section 67-4-2009, is amended by adding the following as a new subdivision:

(12) A credit must be allowed against the tax imposed by this part in accordance with § 13-23-134.

SECTION 4. Tennessee Code Annotated, Section 67-4-2109, is amended by adding the following as a new subsection:

(s) A credit must be allowed against the tax imposed by this part in accordance with § 13-23-134.

SECTION 5. If any provision of this act, or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of this act that

can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 6. For purposes of rulemaking and other administrative actions, this act takes effect July 1, 2024, the public welfare requiring it. The Tennessee Housing Development Agency shall not allocate, and the Department of Revenue shall not credit, any tax credits prior to an authorization to implement the Tennessee Rural and Workforce Housing Tax Credits Act by joint resolution by the General Assembly. For all other purposes, this act takes effect July 1, 2025, the public welfare requiring it.