

HB346 ENROLLED



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



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1 Enrolled, An Act,

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

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 Section 2. Regarding the adoption of qualified
19 allocation plans as they relate to the workforce housing tax
20 credit by the authority, the authority shall incentivize and
21 prioritize four percent qualified projects, or in the case of
22 awards under Section 4(f), qualified projects in areas
23 identified by the Department of Commerce concerning its
24 priorities for the location and type, including new
25 construction, rehabilitation, or both, of multifamily housing
26 which will support economic development efforts and the
27 creation of stable, good-paying jobs in the State of Alabama.
28 It is the desire of the Legislature that the efforts of the



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29 Department of Commerce in seeking to create jobs will be
30 generally supported by the creation of multifamily rental
31 housing opportunities supported by the workforce housing tax
32 credit.

33 Section 3. For the purposes of this act, the following
34 terms have the following meanings:

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

38 (2) AUTHORITY. The Alabama Housing Finance Authority or
39 its successor authority or agency.

40 (3) AWARD. The issuance by the authority of either of
41 the following:

42 a. A reservation letter pursuant to the qualified
43 allocation plan.

44 b. A determination letter for workforce housing tax
45 credits to a qualified project during an award cycle, the
46 amount of which award shall be claimed in each year of the
47 credit period.

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

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

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

56 b. The amount, if any, by which the award cycle cap



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57 prescribed by this act for the preceding award cycle exceeds
58 the workforce housing tax credits awarded by the authority in
59 that award cycle.

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

63 (6) CREDIT PERIOD. The 10-year credit period as defined
64 in 26 U.S.C. § 42(f)(1), subject to the special rule for the
65 first year of the credit period as set forth in 26 U.S.C. §
66 42(f)(2).

67 (7) DEPARTMENT. The Alabama Department of Revenue, or
68 its successor agency.

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

79 (9) FEDERAL LOW-INCOME HOUSING TAX CREDIT or FEDERAL
80 TAX CREDIT. The federal tax credit as provided in 26 U.S.C. §
81 42.

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



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

89 (12) QUALIFIED ALLOCATION PLAN. As defined in 26 U.S.C.
90 § 42(m)(1)(B), subject to additions and modifications
91 necessary to implement this act.

92 (13) QUALIFIED PROJECT. A qualified low-income
93 building, as defined in 26 U.S.C. § 42(c)(2), that is located
94 in the state, is eligible for the federal low-income housing
95 tax credit, and is placed in service on or after January 1,
96 2025.

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

101 (15) TAXPAYER. An individual, corporation, S
102 corporation, partnership, limited partnership, limited
103 liability partnership, limited liability company, joint
104 venture, financial institution, fiduciary of an estate of a
105 trust, or insurer.

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

108 Section 4. (a)(1) For applications for federal tax
109 credits submitted to the authority on and after January 1,
110 2025, the authority, upon approving a federal low-income
111 housing tax credit for a qualified project pursuant to the
112 authority's qualified allocation plan or multifamily housing



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113 revenue bond policy, may award a workforce housing tax credit
114 under this act to the owner of the qualified project so long
115 as doing so will not result in exceeding the award cycle cap
116 prescribed by this subsection. The workforce housing tax
117 credit shall be in an amount determined by the authority to be
118 necessary for the financial feasibility of the qualified
119 project and consistent with the qualified allocation plan and
120 multifamily housing revenue bond policy, as applicable, but
121 the annual award for each qualified project shall not be
122 greater than two million dollars (\$2,000,000).

123 (2) The authority shall send written notice of the
124 award to the owner of the qualified project. The award notice
125 shall state the amount of workforce housing tax credit awarded
126 for each year of the qualified project's credit period and
127 stipulate that receipt of the tax credit is contingent upon
128 issuance of an eligibility certificate.

129 (3) Upon issuance of an eligibility certificate, a copy
130 of which shall be provided to the department and the Alabama
131 Department of Insurance, a workforce housing tax credit shall
132 be allowed for the qualified project for each year of the
133 credit period in the amount specified in the eligibility
134 certificate.

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

138 (b) (1) The tax credit may be allocated by pass-through
139 entities to some or all of its partners, members, or
140 shareholders, including any not-for-profit entity that is a



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

160 (2) If the tax credit is used to offset financial
161 institution excise tax, the offset shall be limited to the
162 state portion of the financial institution excise tax.

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

167 (d) Prior to filing the tax return, or in the case of
168 pass-through entities, prior to passing the credit to the



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169 qualified taxpayer, a project owner that has been awarded a
170 workforce housing tax credit shall submit a copy of the
171 eligibility certificate to the department in a manner
172 prescribed by the department.

173 (e) If under 26 U.S.C. § 42, a portion of any federal
174 low-income housing credits taken on a qualified project is
175 required to be recaptured or is otherwise disallowed during
176 the credit period, the qualified taxpayer claiming workforce
177 housing tax credits with respect to the qualified project
178 shall also be required to recapture a portion of any tax
179 credits authorized by this act. The percentage of workforce
180 housing tax credits subject to recapture shall be equal to the
181 percentage of federal low-income housing credits subject to
182 recapture or otherwise disallowed during such period. Any tax
183 credits recaptured or disallowed shall increase the income tax
184 liability of the qualified taxpayer who claimed the tax
185 credits in a like amount and shall be included on the tax
186 return of the qualified taxpayer submitted for the taxable
187 year in which the recapture or disallowance event is
188 identified. The owner of the qualified project shall report
189 any recapture event to the department, the Alabama Department
190 of Insurance, authority, and, in the same manner done for the
191 recapture of federal low-income housing credits, to the
192 qualified taxpayer, if the project owner is not the qualified
193 taxpayer.

194 (f) For each award cycle, the authority shall award at
195 least 20 percent, but not more than 25 percent, of the award
196 cycle cap to qualified projects located in areas designated as



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197 rural by the authority, subject to viable requests being
198 received. The authority shall award the balance of the
199 remaining available award cycle cap to four percent qualified
200 projects without any geographic limitation.

201 (g) An insurance company claiming a workforce housing
202 tax credit against the taxes, licenses, and other fees, fines,
203 and penalties imposed, including any retaliatory tax imposed
204 on insurance companies by Section 27-3-29, Code of Alabama
205 1975, shall not be required to pay any additional tax as a
206 result of claiming the tax credit. The workforce housing tax
207 credit may fully offset any retaliatory tax imposed by the
208 Code of Alabama 1975. A reduction in the taxes of a foreign
209 insurance company to the extent obtained through a claim for
210 credit under this act does not increase the retaliatory tax
211 liability otherwise charged against that company.

212 Section 5. The authority shall administer the workforce
213 housing tax credit program and shall adopt the guidelines and
214 qualified allocation plans necessary to implement and
215 administer this act consistent with federal law provided in 26
216 U.S.C. § 42. The qualified allocation plan shall provide a
217 preference for applications in which there is a commitment
218 for: (i) a furnished children's activity center which will be
219 made available at no cost to a licensed, qualified, and
220 insured childcare provider for after-school care for children
221 in grades K through 8 residing at the qualified project during
222 ordinary school days from 2:30 pm to 6:00 pm; or (ii) the
223 qualified project owner shall subsidize the cost of
224 after-school care for children grades K through 8 residing at



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225 the qualified project for at least three years from the placed
226 in service date, by the lesser of \$1,000 per year per unit
227 occupied by a student participating in the after-school
228 program or \$50,000 per annum. The authority shall permit
229 reserves to be established from project sources to fund such
230 subsidy costs. The workforce housing tax credit authorized by
231 this act shall not be available to taxpayers that submit an
232 application for federal low-income housing tax credits for a
233 qualified project after September 30, 2027. No action or
234 inaction on the part of the Legislature shall reduce or
235 suspend the tax credits authorized by this act in any past or
236 future calendar year with respect to a qualified project if
237 the application to the authority was substantially complete on
238 or prior to September 30, 2027, even if the award is made
239 after such date, the qualified project is placed in service
240 after September 30, 2027, or the first workforce housing
241 credits are available to the qualified taxpayer after
242 September 30, 2027.

243 Section 6. The tax credit created pursuant to this act
244 shall only be claimed with respect to taxable years beginning
245 on or after January 1, 2025. The tax credit provided in this
246 act shall be subject to the reporting requirements of Section
247 40-1-50, Code of Alabama 1975. The department and the Alabama
248 Department of Insurance may adopt rules for the administration
249 of this act.

250 Section 7. This act shall become effective on October
251 1, 2024.

