

# 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.