

**HB346 ENROLLED**



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



## HB346 Enrolled

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.

