

# HB357 INTRODUCED



1 DYUXNH-1  
2 By Representative Almond  
3 RFD: Ways and Means Education  
4 First Read: 20-Apr-23  
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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 the state income tax; 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 minimum and maximum annual award amounts for qualified projects; to allow the tax credits to be claimed for 10 years against the income tax liability of a qualified taxpayer; to allow carryforward for earned but unused tax credits; to require a minimum of the annual award cycle cap be awarded for qualified projects located in areas designated as rural by the authority; and to require the Alabama Housing Finance Authority to implement and administer the provisions of this act.



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29 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

32 Section 2. For the purposes of this act, the following  
33 terms and phrases have the following meanings:

34 (1) ALABAMA TAX LIABILITY. The taxes otherwise due  
35 under Sections 27-3-29, 27-4A-3, 40-16-4, or 40-18-2, Code of  
36 Alabama 1975. An insurance company claiming a workforce  
37 housing tax credit against the taxes, licenses, and other  
38 fees, fines, and penalties imposed, including any retaliatory  
39 tax imposed on insurance companies by Section 27-3-29, Code of  
40 Alabama 1975, shall not be required to pay any additional tax  
41 as a result of claiming the tax credit. The workforce housing  
42 tax credit may fully offset any retaliatory tax imposed by the  
43 Code of Alabama 1975. A reduction in the taxes of a foreign  
44 insurance company to the extent obtained through a claim for  
45 credit under this act does not increase the retaliatory tax  
46 liability otherwise charged against that company.

47 (2) AUTHORITY. The Alabama Housing Finance Authority or  
48 its successor agency.

49 (3) AWARD. The issuance by the authority of either of  
50 the following:

51 a. A reservation letter pursuant to the qualified  
52 allocation plan.

53 b. A declaration of official intent pursuant to the  
54 Multifamily Housing Revenue Bond Policy, for workforce housing  
55 tax credits to a qualified project during an award cycle, the  
56 amount of which award shall be claimed in each year of the



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57 credit period.

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

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

62 a. Fifteen million dollars (\$15,000,000) for each year  
63 of the 10-year credit period prescribed in 26 U.S.C. §  
64 42(f)(1).

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

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

72 (6) CREDIT PERIOD. The 10-year credit period as defined  
73 in 26 U.S.C. § 42(f)(1), subject to the special rule for the  
74 first year of the credit period as set forth in 26 U.S.C. §  
75 42(f)(2).

76 (7) DEPARTMENT. The Department of Revenue, or its  
77 successor agency.

78 (8) ELIGIBILITY CERTIFICATE. A certificate issued by  
79 the authority to the owner of a qualified project certifying  
80 that such project is a qualified project that qualifies for  
81 the workforce housing tax credit authorized by this act and  
82 specifying the annual amount of workforce housing tax credits  
83 that may be claimed in each year of the credit period. The  
84 authority shall issue an eligibility certificate to a



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85 qualified project upon the authority's approval of a final  
86 cost certification that complies with the authority's  
87 requirements.

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

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

93 (11) MULTIFAMILY HOUSING REVENUE BOND POLICY. The  
94 authority's policy, in effect from time to time, respecting  
95 allocation of tax-exempt bond volume cap for affordable  
96 multifamily housing.

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

100 (13) QUALIFIED PROJECT. A qualified low-income  
101 building, as defined in 26 U.S.C. § 42(c), that is located in  
102 the State of Alabama, is eligible for the federal low-income  
103 housing tax credit, and is placed in service on or after  
104 January 1, 2024.

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

109 (15) TAXPAYER. An individual, corporation, S  
110 corporation, partnership, limited partnership, limited  
111 liability partnership, limited liability company, joint  
112 venture, financial institution, fiduciary and trusts, or



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113 insurer.

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

116 Section 3. (a) For applications for federal credits  
117 submitted to the authority on and after January 1, 2024, the  
118 authority, upon approving a federal low-income housing tax  
119 credit for a qualified project pursuant to the authority's  
120 qualified allocation plan or Multifamily Housing Revenue Bond  
121 Policy, may award a workforce housing tax credit under this  
122 act to the owner of the qualified project so long as doing so  
123 will not result in exceeding the award cycle cap prescribed by  
124 this subsection. The workforce housing tax credit shall be in  
125 an amount determined by the authority to be necessary for the  
126 financial feasibility of the qualified project and consistent  
127 with the authority's qualified allocation plan and Multifamily  
128 Housing Revenue Bond Policy, as applicable, but the annual  
129 award for each qualified project shall not be less than two  
130 hundred thousand dollars (\$200,000) nor greater than two  
131 million dollars (\$2,000,000). The authority shall send written  
132 notice of the award to the owner of the qualified project. The  
133 award notice shall state the amount of workforce housing tax  
134 credit awarded for each year of the qualified project's credit  
135 period and stipulate that receipt of the tax credit is  
136 contingent upon issuance of an eligibility certificate. Upon  
137 issuance of an eligibility certificate, a workforce housing  
138 tax credit shall be allowed for the qualified project for each  
139 year of the credit period in the amount specified in the  
140 eligibility certificate. The total amount of tax credit awards



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141 made by the authority under this chapter in each award cycle  
142 shall not exceed the award cycle cap.

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



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169 excise tax, the offset shall be limited to the state portion  
170 of the financial institution excise tax.

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

175 (d) A qualified taxpayer claiming a workforce housing  
176 tax credit shall submit a copy of the eligibility certificate  
177 at the time of filing its tax return with the department. If  
178 the owner of the qualified project has applied to the  
179 authority for the eligibility certificate but the authority  
180 has not yet issued the eligibility certificate at the time the  
181 qualified taxpayer files its original tax return claiming the  
182 tax credit, the qualified taxpayer may claim the tax credit  
183 based upon the amount of tax credit set forth in the award  
184 issued to the qualified project, and shall amend its tax  
185 return to include the eligibility certificate upon its  
186 receipt. If the amount of tax credit in the eligibility  
187 certificate is different than the amount of tax credit  
188 previously claimed, the qualified taxpayer shall adjust the  
189 tax credit amount claimed on the amended tax return.

190 (e) If under 26 U.S.C. § 42, a portion of any federal  
191 low-income housing credits taken on a qualified project is  
192 required to be recaptured or is otherwise disallowed during  
193 the credit period, the qualified taxpayer claiming workforce  
194 housing tax credits with respect to the qualified project  
195 shall also be required to recapture a portion of any tax  
196 credits authorized by this act. The percentage of workforce





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197 housing tax credits subject to recapture shall be equal to the  
198 percentage of federal low-income housing credits subject to  
199 recapture or otherwise disallowed during such period. Any tax  
200 credits recaptured or disallowed shall increase the income tax  
201 liability of the qualified taxpayer who claimed the tax  
202 credits in a like amount and shall be included on the tax  
203 return of the qualified taxpayer submitted for the taxable  
204 year in which the recapture or disallowance event is  
205 identified. The owner of the qualified project shall report  
206 any recapture event to the department, authority, and, in the  
207 same manner done for recapture of federal low-income housing  
208 credits, to the qualified taxpayer, if the project owner is  
209 not the qualified taxpayer.

210 (f) For each award cycle, the authority shall award at  
211 least 20 percent but not more than 25 percent of the award  
212 cycle cap to qualified projects located in areas designated as  
213 rural by the authority, and the balance of the remaining  
214 available award cycle cap to four percent qualified projects  
215 without any geographic limitation.

216 Section 4. The authority shall administer the workforce  
217 housing tax credit program and shall be authorized to adopt  
218 the regulations, guidelines, and qualified allocation plans  
219 necessary to implement and administer this act. The workforce  
220 housing tax credit authorized by this act shall not be  
221 available to taxpayers which submit an application for federal  
222 low-income housing tax credits for a qualified project after  
223 September 30, 2026. No action or inaction on the part of the  
224 Legislature shall reduce or suspend the tax credits authorized



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225 by this act in any past or future calendar year with respect  
226 to a qualified project if the application to the authority was  
227 substantially complete on or prior to September 30, 2026, even  
228 if the award is made after such date, the qualified project is  
229 placed in service after September 30, 2026, or the first  
230 workforce housing credits are available to the qualified  
231 taxpayer after September 30, 2026. The authority shall adopt  
232 by July 31, 2023, any and all regulations, guidelines, and  
233 qualified allocation plans necessary to implement this act.

234 Section 5. The tax credit created pursuant to this act  
235 shall only be claimed with respect to taxable years beginning  
236 on or after January 1, 2024. The tax credit provided in this  
237 act shall be subject to the reporting requirements of Section  
238 40-1-50, Code of Alabama 1975. The department may adopt rules  
239 for the implementation and administration of this act.

240 Section 6. In connection with the adoption of qualified  
241 allocation plans insofar as they relate to the workforce  
242 housing tax credit by the authority, the authority shall  
243 consult with the Alabama Department of Commerce concerning its  
244 priorities for the location and type, including new  
245 construction, rehabilitation, or both, of multifamily housing  
246 which will support economic development efforts and the  
247 creation of stable, good-paying jobs in the State of Alabama.  
248 It is the desire of the Legislature that the efforts of the  
249 Alabama Department of Commerce in seeking to create jobs will  
250 be generally supported by the creation of multifamily rental  
251 housing opportunities supported by the workforce housing tax  
252 credit.



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253           Section 7. This act shall become effective on the first  
254 day of the third month following its passage and approval by  
255 the Governor, or its otherwise becoming law.