**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑6‑3540 SO AS TO ENACT THE “SOUTH CAROLINA LOW INCOME HOUSING TAX CREDIT ACT” WHICH PROVIDES AN INCOME OR INSURANCE PREMIUM TAX CREDIT FOR EXPENDITURES TO DEVELOP RENTAL HOUSING UNITS FOR LOW INCOME TENANTS, TO PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS UNDER WHICH THIS INCOME TAX CREDIT IS AUTHORIZED, AND TO PERMIT THE HOUSING FINANCE AND DEVELOPMENT AUTHORITY AND THE DEPARTMENT OF REVENUE TO PROMULGATE REGULATIONS TO ADMINISTER THIS PROGRAM AND THE TAX CREDITS UNDER THE PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “South Carolina Low Income Housing Tax Credit Act”.

SECTION 2. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3540. (A) For purposes of this section:

(1) ‘Credit period’ means the period over which the federal housing tax credit is available with respect to a qualified South Carolina project, as that term is defined in the Internal Revenue Code Section 42.

(2) ‘Federal housing tax credit’ means the federal tax credit as provided in the Internal Revenue Code Section 42.

(3) ‘Median income’ means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.

(4) ‘Project’ means a housing project that has restricted rents that do not exceed thirty percent of median income for at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, or at least twenty percent of the units occupied by persons or families having incomes of fifty percent or less of the median income.

(5) ‘Qualified basis’ means that portion of the tax basis of a qualified South Carolina project eligible for the federal housing tax credit, as that term is defined in the Internal Revenue Code Section 42.

(6) ‘Qualified South Carolina project’ means a qualified low‑income building, as that term is defined in the Internal Revenue Code Section 42, that is located in South Carolina.

(7) ‘South Carolina housing tax credit’ means a state tax credit against the taxes imposed by this chapter and Chapter 7, Title 38.

(B)(1) A South Carolina housing tax credit is allowed with respect to each qualified South Carolina project whose credit period begins on or after January 1, 2009. The total amount of credits authorized for a qualified South Carolina project is an amount equal to the aggregate federal housing tax credit allowed with respect to the project over the credit period of the project.

(2) The total amount of state tax credits authorized for a qualified South Carolina project may be claimed by the eligible taxpayer ratably over the first five years of the credit period applicable to the project.

(C)(1) If under Internal Revenue Code Section 42 a portion of any federal housing tax credit taken on a project is required to be recaptured as a result of a reduction in the qualified basis of the project during the first five years of the credit period, the taxpayer claiming any state tax credit with respect to such project also is required to recapture a portion of any state tax credit authorized by this section and previously claimed by the taxpayer. The state recapture amount is equal to the proportion of the state 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.

(2) If recapture of any South Carolina housing tax credit is required, an amended return submitted as provided in this section must include the proportion of the state tax credit required to be recaptured, the identity of each taxpayer subject to the recapture, and the amount of tax credit previously allocated to the taxpayer.

(3) The total amount of the tax credit under this section for a taxable year may not exceed the taxpayer’s income tax liability. Any unused tax credit must be allowed to be carried back to apply to the taxpayer’s previous three taxable years or carried forward to apply to the taxpayer’s succeeding five taxable years.

(4) The tax credit allowed under this section may be allocated among some or all of the owners of a project or the partners, members, or shareholders of the entity owning the project, in any manner agreed to by these persons, whether or not these persons are allocated or allowed any portion of the federal housing tax credit with respect to the project. An ‘S’ corporation, limited liability company, or partnership that qualifies for a credit under this section may pass through the credit earned to any shareholder of the ‘S’ corporation, member of the limited liability company, or partner of the partnership. For purposes of this subsection, limited liability company means a limited liability company taxed as a partnership. The credit earned pursuant to this section by an ‘S’ corporation owing corporate level income tax must be used first at the entity level. Only the remaining credit passes through to each shareholder.

(D) The South Carolina Housing Finance and Development Authority may promulgate regulations needed to administer the South Carolina low income housing tax credit process. The Department of Revenue may promulgate regulations to administer the tax credit.”

SECTION 3. Upon approval by the Governor, this act is effective for taxable years beginning after 2008.

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