

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

ALLEN/TURNER
MARCH 21, 2019

CLERK OF THE HOUSE

PROPOSES THE FOLLOWING AMENDMENT
No. TO H. 3998 (COUNCIL\SA\3998C001.RT.SA19):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING SECTIONS 2 AND 3 AND INSERTING:**

**/ SECTION 2. ARTICLE 25, CHAPTER 6,
TITLE 12 OF THE 1976 CODE IS AMENDED BY
ADDING:**

**“SECTION 12-6-3795. (A) AS USED IN THIS
SECTION:**

**(1) FEDERAL HOUSING TAX CREDIT MEANS
THE FEDERAL TAX CREDIT AS PROVIDED IN**

SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

(2) MEDIAN INCOME MEANS THOSE INCOMES THAT ARE DETERMINED BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT GUIDELINES AND ADJUSTED FOR FAMILY SIZE.

(3) 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.

(4) QUALIFIED PROJECT MEANS A QUALIFIED LOW-INCOME BUILDING AS THAT TERM IS DEFINED IN SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THAT IS LOCATED IN SOUTH CAROLINA.

(5) TAXPAYER MEANS A SOLE PROPRIETOR, PARTNERSHIP, CORPORATION OF ANY CLASSIFICATION, LIMITED LIABILITY COMPANY, OR ASSOCIATION TAXABLE AS A BUSINESS ENTITY THAT IS SUBJECT TO SOUTH CAROLINA TAXES PURSUANT TO SECTION 12-6-510, SECTION 12-6-530, CHAPTER 11, TITLE 12, OR CHAPTER 7, TITLE 38.

(B)(1) A STATE TAX CREDIT PURSUANT TO THIS SECTION MAY BE CLAIMED AGAINST INCOME TAXES IMPOSED BY SECTION 12-6-510 OR 12-6-530, BANK TAXES IMPOSED PURSUANT TO CHAPTER 11, TITLE 12, CORPORATE LICENSE FEES IMPOSED PURSUANT TO CHAPTER 20, TITLE 12, AND INSURANCE PREMIUM AND RETALIATORY TAXES IMPOSED PURSUANT TO CHAPTER 7, TITLE 38, TO BE TERMED THE SOUTH CAROLINA HOUSING TAX CREDIT, AND IS ALLOWED WITH RESPECT TO EACH QUALIFIED PROJECT PLACED IN SERVICE AFTER JANUARY 1, 2020, IN AN AMOUNT EQUAL TO THE FEDERAL HOUSING TAX CREDIT ALLOWED WITH RESPECT TO SUCH QUALIFIED

PROJECT. IN COMPUTING A TAX PAYABLE BY A TAXPAYER PURSUANT TO SECTION 38-7-90, THE CREDIT ALLOWED PURSUANT TO THIS SECTION MUST BE TREATED AS A PREMIUM TAX PAID PURSUANT TO SECTION 38-7-20.

(2)(A) IF UNDER SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, A PORTION OF ANY FEDERAL HOUSING TAX CREDIT TAKEN ON A PROJECT IS REQUIRED TO BE RECAPTURED, THE TAXPAYER CLAIMING ANY STATE TAX CREDIT WITH RESPECT TO SUCH PROJECT IS ALSO REQUIRED TO RECAPTURE A PORTION OF ANY STATE TAX CREDIT AUTHORIZED BY THIS SECTION. 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.

(B) IN THE EVENT THAT RECAPTURE OF ANY SOUTH CAROLINA HOUSING TAX CREDIT IS

REQUIRED, ANY AMENDED RETURN SUBMITTED TO THE DEPARTMENT, AS PROVIDED IN THIS SECTION, SHALL 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 SUCH TAXPAYER.

(3) THE TOTAL AMOUNT OF THE TAX CREDIT ALLOWED BY SECTION FOR A TAXABLE YEAR MAY NOT EXCEED THE TAXPAYER'S INCOME TAX LIABILITY. ANY UNUSED TAX CREDIT MAY BE CARRIED FORWARD TO APPLY TO THE TAXPAYER'S NEXT FIVE SUCCEEDING YEARS' TAX LIABILITY. THE TAXPAYER MAY NOT APPLY THE CREDIT AGAINST ANY PRIOR TAX YEARS' TAX LIABILITY.

(4) THE TAX CREDIT ALLOWED BY THIS SECTION, AND ANY RECAPTURED TAX CREDIT, MUST BE ALLOCATED AMONG SOME OR ALL OF THE PARTNERS, MEMBERS, OR SHAREHOLDERS OF THE ENTITY OWNING THE PROJECT IN ANY MANNER AGREED TO BY SUCH PERSONS, REGARDLESS OF WHETHER SUCH PERSONS ARE

ALLOCATED OR ALLOWED ANY PORTION OF THE FEDERAL HOUSING TAX CREDIT WITH RESPECT TO THE PROJECT.

(C) THE SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY MAY PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT AND ADMINISTER THE PROVISIONS OF THIS SECTION.”

SECTION 3. IF ANY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, OR WORD OF THIS ACT IS FOR ANY REASON HELD TO BE UNCONSTITUTIONAL OR INVALID, SUCH HOLDING SHALL NOT AFFECT THE CONSTITUTIONALITY OR VALIDITY OF THE REMAINING PORTIONS OF THIS ACT, THE GENERAL ASSEMBLY HEREBY DECLARING THAT IT WOULD HAVE PASSED THIS ACT, AND EACH AND EVERY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, AND WORD THEREOF, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE OTHER SECTIONS,

SUBSECTIONS, PARAGRAPHS, SUBPARAGRAPHS, SENTENCES, CLAUSES, PHRASES, OR WORDS HEREOF MAY BE DECLARED TO BE UNCONSTITUTIONAL, INVALID, OR OTHERWISE INEFFECTIVE.

SECTION 4. THIS ACT TAKES EFFECT UPON APPROVAL OF THE GOVERNOR AND APPLIES TO TAXABLE YEARS BEGINNING AFTER 2019. /

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

REPORT OF THE SALES & USE TAX AND INCOME TAX SUBCOMMITTEE

(Clemmons, Hosey, Stavrinakis, Whitmire & Moss - Staff Contact: Michael Jackson)

HOUSE BILL 3998

H. 3998 -- Reps. Bannister, Bernstein, Crawford, Pendarvis, Garvin, Herbkersman, Hosey, Alexander, Bales, Stavrinakis, Cogswell, Whitmire, Norrell, Cobb-Hunter, Dillard, Elliott, Moore, Mack, Rutherford, Govan, Bennett, Clemmons, Funderburk, Hayes, McDaniel, Ridgeway, G.M. Smith, G.R. Smith, Sottile, Weeks, Wheeler and S. Williams: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "WORKFORCE AND SENIOR AFFORDABLE HOUSING ACT" BY ADDING SECTION 12-6-3795 SO AS TO ALLOW A TAXPAYER ELIGIBLE FOR A FEDERAL LOW-INCOME HOUSING TAX CREDIT TO CLAIM A LOW-INCOME STATE TAX CREDIT.

Received by Ways and Means: February 19, 2019

Summary of Bill: This bill enacts the "Workforce and Senior Affordable Housing Act" to allow a taxpayer eligible for a federal low-income housing tax credit to claim a low-income state tax credit. The total amount of the tax credit allowed by this section for a taxable year may not exceed the taxpayer's income tax liability. In addition, the taxpayer may not apply the credit against any prior tax years' tax liability.

Estimated Revenue Impact: Pending

Subcommittee Recommendation: Favorable with amendment

Full Committee Recommendation: Pending

South Carolina General Assembly
123rd Session, 2019-2020

H. 3998

STATUS INFORMATION

General Bill

Sponsors: Reps. Bannister, Bernstein, Crawford, Pendarvis, Garvin, Herbkersman, Hosey, Alexander, Bales, Stavrinakis, Cogswell, Whitmire, Norrell, Cobb-Hunter, Dillard, Elliott, Moore, Mack, Rutherford, Govan, Bennett, Clemmons, Funderburk, Hayes, McDaniel, Ridgeway, G.M. Smith, G.R. Smith, Sottile, Weeks, Wheeler, S. Williams and Davis

Document Path: I:\council\bill\ncd\11229dg19.docx

Companion/Similar bill(s): 585

Introduced in the House on February 19, 2019

Currently residing in the House Committee on **Ways and Means**

Summary: Workforce and Senior Affordable Housing Act

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/19/2019	House	Introduced and read first time (House Journal-page 30)
2/19/2019	House	Referred to Committee on Ways and Means (House Journal-page 30)
2/21/2019	House	Member(s) request name added as sponsor: Davis

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VERSIONS OF THIS BILL

[2/19/2019](#)

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A BILL

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, TO ENACT THE “WORKFORCE AND SENIOR
13 AFFORDABLE HOUSING ACT” BY ADDING SECTION
14 12-6-3795 SO AS TO ALLOW A TAXPAYER ELIGIBLE FOR A
15 FEDERAL LOW-INCOME HOUSING TAX CREDIT TO CLAIM
16 A LOW-INCOME STATE TAX CREDIT.

17
18 Be it enacted by the General Assembly of the State of South
19 Carolina:

20
21 SECTION 1. This act may be cited as the “Workforce and Senior
22 Affordable Housing Act”.

23
24 SECTION 2. Article 25, Chapter 6, Title 12 of the 1976 Code is
25 amended by adding:

26
27 “Section 12-6-3795. (A) As used in this section:
28 (1) ‘Federal housing tax credit’ means the federal tax credit
29 as provided in Section 42 of the Internal Revenue Code of 1986, as
30 amended.

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

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

40 (4) ‘Qualified project’ means a qualified low-income building
41 as that term is defined in Section 42 of the Internal Revenue Code
42 of 1986, as amended, that is located in South Carolina.

1 (B)(1) A state tax credit against the tax imposed by this chapter
2 or insurance premium and retaliatory taxes imposed pursuant to
3 Chapter 7, Title 38, to be termed the South Carolina housing tax
4 credit, is allowed with respect to each qualified project placed in
5 service after January 1, 2020, in an amount equal to the federal
6 housing tax credit allowed with respect to such qualified project.

7 (2)(a) If under Section 42 of the Internal Revenue Code of
8 1986, as amended, a portion of any federal housing tax credit taken
9 on a project is required to be recaptured, the taxpayer claiming any
10 state tax credit with respect to such project is also required to
11 recapture a portion of any state tax credit authorized by this section.
12 The state recapture amount is equal to the proportion of the state tax
13 credit claimed by the taxpayer that equals the proportion the federal
14 recapture amount bears to the original federal housing tax credit
15 amount subject to recapture.

16 (b) In the event that recapture of any South Carolina
17 housing tax credit is required, any amended return submitted to the
18 department, as provided in this section, shall include the proportion
19 of the state tax credit required to be recaptured, the identity of each
20 taxpayer subject to the recapture, and the amount of tax credit
21 previously allocated to such taxpayer.

22 (3) The total amount of the tax credit allowed by section for a
23 taxable year may not exceed the taxpayer's income tax liability.
24 Any unused tax credit may be carried forward to apply to the
25 taxpayer's next five succeeding years' tax liability. The taxpayer
26 may not apply the credit against any prior tax years' tax liability.

27 (4) The tax credit allowed by this section, and any recaptured
28 tax credit, must be allocated among some or all of the partners,
29 members, or shareholders of the entity owning the project in any
30 manner agreed to by such persons, regardless of whether such
31 persons are allocated or allowed any portion of the federal housing
32 tax credit with respect to the project.

33 (C) The department may promulgate regulations necessary to
34 implement and administer the provisions of this section.”

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36 SECTION 3. This act takes effect upon approval of the Governor
37 and applies to taxable years beginning after 2019.

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