
SENATE BILL 739

S. 739 -- Senators Setzler, Alexander, Peeler, Williams, Davis, Talley and Malloy: A JOINT RESOLUTION PROVIDING FOR A ONE-TIME AUTHORIZATION FOR USE OF CERTAIN REMAINING SOUTH CAROLINA HOUSING TAX CREDITS PROVIDED PURSUANT TO SECTION 1.B.1 OF ACT 202 OF 2022, CERTAIN REMAINING SOUTH CAROLINA HOUSING TAX CREDITS AUTHORIZED PURSUANT TO SECTION 12-6-3795 FOR THE TAX YEAR ENDING DECEMBER 31, 2023, AND NOT EXCEEDING \$25 MILLION IN ONE-TIME, NON-RECURRING FUNDING FROM THE SOUTH CAROLINA HOUSING TRUST FUND ESTABLISHED PURSUANT TO ARTICLE 4 OF CHAPTER 13, TITLE 31 OF THE SOUTH CAROLINA CODE, ALL FOR THE LIMITED PURPOSE OF PROVIDING SUPPLEMENTAL FINANCIAL SUPPORT TO ADDRESS ESCALATIONS AND OTHER COSTS FOR CERTAIN MULTI-FAMILY HOUSING DEVELOPMENTS.

Received by Ways and Means: May 4, 2023

Summary of Bill:

This Joint Resolution provides one-time authorization of SC Housing Tax Credits to cover cost-overruns, increases in interest rates, and other factors affecting the financial feasibility of certain projects. The funds for the authorization will come from funds remaining available from the one-time authorization from Act 202 of 2022, those remaining available for allocations for this tax year, and if necessary an amount of the undesignated balance held in the South Carolina Housing Trust Fund. It also authorizes State Housing Finance and Development Authority to allocate up to 50% of the federal low-income housing tax credit allocated to SC for this tax year as supplemental financial support to projects utilizing the nine percent tax credits that have experienced cost overruns. A plan for the allocation of credits under this Joint Resolution must be presented to JBRC for review and comment.

Estimated Revenue Impact:

This Joint Resolution will have no impact as it is utilizing previously allocated funds and SC Housing will use existing staff and resources for implementation.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	S. 739	Introduced on April 18, 2023
Author:	Setzler	
Subject:	SC Housing Tax Credit	
Requestor:	Senate Finance	
RFA Analyst(s):	Jolliff	
Impact Date:	April 24, 2023	

Fiscal Impact Summary

This joint resolution provides a one-time authorization of South Carolina Housing Tax Credits in an amount necessary but not exceeding \$29,806,029, comprised of \$12,889,152 remaining available from the one-time authorization of South Carolina Housing Tax Credits provided in Section 1.B.1 of Act 202 of 2022, and a total of \$16,916,877 remaining available for allocations for the tax year ending December 31, 2023, pursuant to Section 12-6-3795. Further, the joint resolution authorizes non-recurring, one-time funding of up to \$25,000,000 from the undesignated balance held in the South Carolina Housing Trust Fund. The State Housing Finance and Development Authority (SC Housing) must develop a plan to allocate the funding as supplemental financial support to certain multi-family housing projects.

This bill will not impact expenditures for SC Housing to implement these provisions as the agency will use existing staff and resources.

This bill allows for the allocation of the remaining \$12,889,152 from the one-time \$100 million authorization of South Carolina Housing Tax Credits in Section 1.B.1 of Act 202 of 2022. Further, it changes the allocation of the remaining tax credits available for tax year 2023 under the \$20 million per year limit, but does not increase the limits. The original allocation of these tax credits is included in the revenue forecast. Although the full \$100 million tax credit authorization was not completely allocated in the fiscal year originally anticipated, the impact of these credits carries forward for multiple years as the credits are claimed. The Board of Economic Advisors is accounting for these credits and the impact on revenues under the allocations provided in Act 202 of 2022 based on the actual timing of claims as additional information becomes available. As the multi-year impact of these credits has been anticipated since the adoption of Act 202, the joint resolution will have no further impact on state revenues.

Explanation of Fiscal Impact

Introduced on April 18, 2023

State Expenditure

This joint resolution provides a one-time authorization of South Carolina Housing Tax Credits in an amount necessary but not exceeding \$29,806,029, comprised of \$12,889,152 remaining available from the one-time authorization of South Carolina Housing Tax Credits provided in

Section 1.B.1 of Act 202 of 2022, and a total of \$16,916,877 remaining available for allocations for the tax year ending December 31, 2023, pursuant to Section 12-6-3795. Further, the joint resolution authorizes non-recurring, one-time funding of up to \$25,000,000 from the undesignated balance held in the South Carolina Housing Trust Fund. SC Housing must develop a plan to allocate the funding as supplemental financial support to certain multi-family housing projects.

The plan must conform with such provisions of the Qualified Allocation Plan and the State Ceiling Allocation Plan as SC Housing may recommend to be applicable to any supplemental South Carolina Housing Tax Credits or non-recurring, one-time funding made available pursuant to the joint resolution. However, preference must be given to projects with highest rates of completion and earliest dates that the projects are expected to be placed in service. The plan, and any project allocations proposed thereunder, must be submitted to the Joint Bond Review Committee for review and comment prior to awarding any South Carolina Housing Tax Credits or non-recurring, one-time funding made available pursuant to the joint resolution.

This bill will not impact expenditures for SC Housing to implement these provisions as the agency will use existing staff and resources.

State Revenue

This joint resolution provides a one-time authorization of South Carolina Housing Tax credits in an amount necessary but not exceeding \$29,806,029, comprised of \$12,889,152 remaining available from the one-time authorization of South Carolina Housing Tax Credits provided in Section 1.B.1 of Act 202 of 2022, and a total of \$16,916,877 remaining available for allocations for the tax year ending December 31, 2023, pursuant to Section 12-6-3795. The funding must be used as supplemental financial support to multi-family housing projects utilizing the federal 4 percent tax credit, as defined in Section 12-6-3795, that had by March 31, 2023, received a tentative allocation of South Carolina Housing Tax Credits pursuant to Act 202 of 2022. Any unallocated credits and non-recurring, one-time funding made available under the resolution may be carried forward for allocation beyond the current tax year ending December 31, 2023.

Act 202 of 2022 capped the amount of South Carolina Housing Tax Credits at \$20 million per year. It also provided a one-time allocation of up to \$100 million for projects that were approved by the State Fiscal Accountability Authority or SC Housing prior to December 31, 2021. The annual credit allocations are taken each year for ten years starting when the project is placed in service. This bill allows for the allocation of the remaining \$12,889,152 from the one-time \$100 million authorization of South Carolina Housing Tax Credits in Section 1.B.1 of Act 202 of 2022. Further, it changes the allocation of the remaining tax credits available for tax year 2023 under the \$20 million per year limit. The original allocation of these tax credits is included in the revenue forecast. Although the full \$100 million tax credit authorization was not completely allocated in the fiscal year originally anticipated, the impact of these credits carries forward for multiple years as the credits are claimed. The Board of Economic Advisors is accounting for these credits and the impact on revenues under the allocations provided in Act 202 of 2022 based on the actual timing of claims as additional information becomes available. As the multi-year

impact of these credits has been anticipated since the adoption of Act 202, the joint resolution will have no further impact on state revenues.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
125th Session, 2023-2024

S. 739

STATUS INFORMATION

Joint Resolution

Sponsors: Senators Setzler, Alexander, Peeler, Williams, Davis, Talley and Malloy

Document Path: SF-0023CH23.docx

Introduced in the Senate on April 18, 2023

Introduced in the House on May 4, 2023

Last Amended on May 3, 2023

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

Summary: SCHousing Tax Credit

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
4/18/2023	Senate	Introduced and read first time (Senate Journal-page 4)
4/18/2023	Senate	Referred to Committee on Finance (Senate Journal-page 4)
4/26/2023	Senate	Committee report: Favorable with amendment Finance (Senate Journal-page 7)
4/27/2023		Scrivener's error corrected
5/2/2023	Senate	Read second time (Senate Journal-page 24)
5/3/2023	Senate	Committee Amendment Adopted (Senate Journal-page 21)
5/3/2023	Senate	Read third time and sent to House (Senate Journal-page 21)
5/4/2023	Senate	Roll call Ayes-43 Nays-0 (Senate Journal-page 21)
5/4/2023	House	Introduced and read first time (House Journal-page 17)
5/4/2023	House	Referred to Committee on Ways and Means (House Journal-page 17)

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VERSIONS OF THIS BILL

[04/18/2023](#)

[04/26/2023](#)

[04/27/2023](#)

[05/03/2023](#)

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 AS PASSED BY THE SENATE

5 May 3, 2023

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S. 739

7 Introduced by Senators Setzler, Alexander, Peeler, Williams, Davis, Talley and Malloy

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9 S. Printed 05/03/23--S.

10 Read the first time April 18, 2023

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A JOINT RESOLUTION

PROVIDING FOR A ONE-TIME AUTHORIZATION FOR USE OF CERTAIN REMAINING SOUTH CAROLINA HOUSING TAX CREDITS PROVIDED PURSUANT TO SECTION 1.B.1 OF ACT 202 OF 2022, CERTAIN REMAINING SOUTH CAROLINA HOUSING TAX CREDITS AUTHORIZED PURSUANT TO SECTION 12-6-3795 FOR THE TAX YEAR ENDING DECEMBER 31, 2023, AND NOT EXCEEDING \$25 MILLION IN ONE-TIME, NON-RECURRING FUNDING FROM THE SOUTH CAROLINA HOUSING TRUST FUND ESTABLISHED PURSUANT TO ARTICLE 4 OF CHAPTER 13, TITLE 31 OF THE SOUTH CAROLINA CODE, ALL FOR THE LIMITED PURPOSE OF PROVIDING SUPPLEMENTAL FINANCIAL SUPPORT TO ADDRESS ESCALATIONS AND OTHER COSTS FOR CERTAIN MULTI-FAMILY HOUSING DEVELOPMENTS.

Amend Title To Conform

Whereas, Act 137 of 2020 amended the South Carolina Code to enact the “Workforce and Senior Affordable Housing Act” by adding Section 12-6-3795 so as to allow a taxpayer eligible for the Federal Housing Tax Credit to claim a South Carolina Housing Tax Credit; and

Whereas, following the enactment of Act 137 of 2020 and through December 31, 2021, preliminary determinations of eligibility for the South Carolina Housing Tax Credit totaled approximately \$100 million annually and approximately \$1 billion for the ten-year term of the South Carolina Housing Tax Credit, far exceeding the estimated fiscal impact on the general fund at the time of enactment of approximately \$2.1 million annually and \$20.6 million for the ten-year term of the South Carolina Housing Tax Credit; and

Whereas, following study and a determination that the actual fiscal impact of the South Carolina Housing Tax Credit on the general fund was not sustainable, Act 202 of 2022 amended Section 12-6-3795 to, among other things, limit the South Carolina Housing Tax Credit; and

Whereas, Section 1.B.1 of Act 202 of 2022 provided for a one-time authorization of South Carolina Housing Tax Credits in an amount necessary but not exceeding \$100 million dollars to ratify amounts reflected in preliminary determination statements for qualified projects approved before December 31, 2021, with any allocations of South Carolina Housing Tax Credits made pursuant to this provision subject to the review and comment of the Joint Bond Review Committee; and

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2 Whereas, in accordance with Section 1.B.1 of Act 202, the South Carolina State Housing Finance and
3 Development Authority provided a report to, among others, the Joint Bond Review Committee
4 identifying all qualified projects to which the \$100 million one-time authorization provided in Section
5 1.B.1 of Act 202 of 2022 was proposed to apply; and

6
7 Whereas, on August 23, 2022, the Joint Bond Review Committee determined that the amount of South
8 Carolina Housing Tax Credits applicable to projects qualified for the one-time authorization provided
9 pursuant to Section 1.B.1 of Act 202 of 2022 was \$87,110,848; and

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11 Whereas, it has been asserted that escalations in costs of construction and materials, increases in interest
12 rates, and other factors have negatively impacted the financial feasibility of certain projects to the extent
13 that such projects face a threat that they cannot be completed in the absence of supplemental funding;
14 and

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16 Whereas, there remains available \$12,889,152 in South Carolina Housing Tax Credits pursuant to the
17 one-time authorization provided in Section 1.B.1 of Act 202 of 2022; and

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19 Whereas, there remains available for the tax year ending December 31, 2023, a total of \$16,916,877 in
20 South Carolina Housing Tax Credits, comprised of the amounts of \$6,726,825 and \$10,190,052 for
21 allocation pursuant to Section 12-6-3795 to qualified projects utilizing the federal four percent tax
22 credit and the federal nine percent tax credit, respectively; and

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24 Whereas, there is available no less than \$25 million in undesignated funding held in the South Carolina
25 Housing Trust Fund established pursuant to Article 4 of Chapter 13, Title 31 of the South Carolina
26 Code. Now, therefore,

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

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30 SECTION 1. The General Assembly hereby provides a one-time authorization of South Carolina
31 Housing Tax Credits pursuant to and for the purposes described in this joint resolution in an amount
32 necessary but not exceeding \$29,806,029, comprised of \$12,889,152 remaining available from the
33 one-time authorization of South Carolina Housing Tax Credits provided in Section 1.B.1 of Act 202 of
34 2022, and a total of \$16,916,877 remaining available for allocations for the tax year ending December
35 31, 2023, pursuant to Section 12-6-3795. In addition to the foregoing, the General Assembly hereby
36 authorizes pursuant to and for the purposes described in this joint resolution an amount necessary but

1 not exceeding \$25,000,000 from the undesignated balance held in the South Carolina Housing Trust
2 Fund established pursuant to Article 4 of Chapter 13, Title 31 of the South Carolina Code, as
3 non-recurring, one-time funding, and not as South Carolina Housing Tax Credits. No later than June
4 30, 2023, the State Housing Finance and Development Authority must develop a plan to allocate the
5 South Carolina Housing Tax Credits and non-recurring, one-time funding made available pursuant to
6 this joint resolution as supplemental financial support to certain multi-family housing projects that had
7 by March 31, 2023, received a tentative allocation of South Carolina Housing Tax Credits pursuant to
8 Act 202 of 2022. The plan, and any project allocations proposed thereunder, must be submitted to the
9 Joint Bond Review Committee for review and comment prior to awarding any South Carolina Housing
10 Tax Credits or non-recurring, one-time funding made available pursuant to this joint resolution.

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12 SECTION 2. The plan must be provided in such form and substance as the Joint Bond Review
13 Committee may prescribe, and must include for each project, the project name and location; the amount
14 of any South Carolina Housing Tax Credits, state ceiling, or both, previously allocated to the project;
15 project ownership; the total number of units assisted; any supplemental South Carolina Housing Tax
16 Credits or non-recurring, one-time funding proposed to be made available to the project pursuant to
17 this joint resolution; and any supplemental amount of state ceiling, if any, proposed for allocation to
18 the project. The plan must further include for each project a disclosure of every affiliate or other related
19 legal entity having a direct or beneficial interest in the development of the project.

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21 SECTION 3. Any supplemental South Carolina Housing Tax Credits or non-recurring, one-time
22 funding made available pursuant to this joint resolution must be limited to the amount necessary to
23 provide supplemental financial support to projects that (1) are under construction; and (2) have
24 demonstrated independently-verified costs exceeding original estimates as a consequence of
25 escalations in costs of construction and materials, increases in interest rates, and such other extenuating
26 factors as may be recommended by the State Housing Finance and Development Authority, subject to
27 the review and comment of the Joint Bond Review Committee; provided, however, that no single
28 project may receive an allocation of more than the lesser of (1) the actual amount of South Carolina
29 Housing Tax Credits and non-recurring, one-time funding made available pursuant to this joint
30 resolution necessary to achieve financial feasibility of the project based on the independently verified
31 costs exceeding the original estimate for the project; or (2) twenty percent of the South Carolina
32 Housing Tax Credit reflected on the eligibility statement, as defined in Section 12-6-3795(A)(1),
33 previously furnished for the project by the State Housing Finance and Development Authority; further
34 provided, however, that the State Housing Finance and Development Authority may recommend,
35 subject to the review of the Joint Bond Review Committee, a de minimus adjustment not exceeding
36 five percent beyond the limitations of this SECTION to promote financial feasibility of the project in

1 marginal circumstances. Project sponsors must have requested consideration of and provided
2 justification for any costs in excess of original estimates to the State Housing Finance and Development
3 Authority no later than March 31, 2023.

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5 SECTION 4. The plan must conform with such provisions of the Qualified Allocation Plan and the
6 State Ceiling Allocation Plan as the State Housing Finance and Development Authority may
7 recommend to be applicable to any supplemental South Carolina Housing Tax Credits or non-recurring,
8 one-time funding made available pursuant to this joint resolution; provided, however, that priority must
9 be given to projects with highest rates of completion and earliest dates that the projects are expected to
10 be placed in service.

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12 SECTION 5. Nothing in this joint resolution grants any rights to, or in the processes used in, the
13 determination of any South Carolina Housing Tax Credits or non-recurring, one-time funding made
14 available pursuant to this joint resolution.

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16 SECTION 6. The State Housing Finance and Development Authority may require, as a condition of
17 any supplemental South Carolina Housing Tax Credits or non-recurring, one-time funding made
18 available pursuant to the plan required by SECTION 1 and this joint resolution, an agreement from the
19 project sponsor that the South Carolina Housing Tax Credits and any non-recurring, one-time funding
20 allocated to the project are deemed final, without recourse.

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22 SECTION 7. Any unallocated South Carolina Housing Tax Credits and non-recurring, one-time
23 funding made available pursuant to this joint resolution may be carried forward for allocation beyond
24 the current tax year ending December 31, 2023, provided the unallocated South Carolina Housing Tax
25 Credits and non-recurring, one-time funding are limited to the purposes and subject to the provisions
26 of this joint resolution.

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28 SECTION 8. The allocation requirements of Section 12-6-3795(B)(5)(c) are suspended for the tax
29 year ending December 31, 2023.

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31 SECTION 9. The provisions of Article 4 of Chapter 13, Title 31 of the South Carolina Code are
32 suspended in the amount of \$25 million for the tax year ending December 31, 2023, and beyond
33 December 31, 2023, but only to the extent of any amounts carried forward pursuant to SECTION 7 of
34 this joint resolution.

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36 SECTION 10. In addition to the other amounts made available by this joint resolution, the General

1 Assembly hereby authorizes the State Housing Finance and Development Authority to allocate an
2 amount necessary but not exceeding fifty percent of the federal low-income housing tax credit allocated
3 to this State for the tax year ending December 31, 2023, as supplemental financial support to certain
4 multi-family housing projects utilizing federal nine percent tax credits as defined in Section 12-6-
5 3795(A)(7) that had by March 31, 2023, requested consideration of and provided justification for any
6 costs in excess of original estimates to the State Housing Finance and Development Authority. Any
7 allocations of federal tax credits made pursuant to this SECTION must be included and coordinated
8 within the plan required pursuant to SECTION 1, and are subject to, without limitation, the same
9 requirements, determinations, limitations, and other provisions as are applicable to the State Housing
10 Tax Credits included in SECTIONS 1 through 7 of this joint resolution.

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12 SECTION 11. This joint resolution takes effect upon approval by the Governor.

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