COMMITTEE REPORT

March 27, 2019

**H. 3998**

Introduced by 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

S. Printed 3/27/19--H.

Read the first time February 19, 2019.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3998) 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, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

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 department, in consultation with the South Carolina State Housing Finance and Development Authority, may adopt rules and policies 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.

G. MURRELL SMITH, JR. for Committee.

**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.

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

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

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.

(B)(1) A state tax credit against the tax imposed by this chapter or insurance premium and retaliatory taxes imposed pursuant to Chapter 7, Title 38, to be termed the South Carolina housing tax credit, 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.

(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 department may promulgate regulations necessary to implement and administer the provisions of this section.”

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

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