

By Senator Flores

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1 A bill to be entitled
2 An act relating to a pilot state workforce housing tax
3 credit; creating s. 220.1855, F.S.; defining terms;
4 providing a credit, within a specified timeframe,
5 against the corporate income tax for certain taxpayers
6 owning interests in eligible workforce housing
7 developments; requiring the Florida Housing Finance
8 Corporation to make agency awards of the credit;
9 specifying requirements for claiming and awarding
10 awards; limiting the amount of awards; providing for
11 the allocation of annual credit amounts among
12 specified parties and requiring certification of such
13 amounts; authorizing recipients of the credit to carry
14 forward a portion of the credit for a specified time
15 period; requiring the corporation to establish
16 procedures to monitor compliance; providing for credit
17 recapture; authorizing the corporation to adopt rules;
18 providing applicability and construction; creating s.
19 420.5096, F.S.; creating the State Workforce Housing
20 Tax Credit Program; providing the purpose of the
21 program; requiring the corporation to administer the
22 program; requiring the corporation to determine which
23 workforce housing developments are eligible for
24 certain tax credits; specifying requirements for the
25 administration of the program; specifying procedures
26 and requirements for taxpayers applying for the
27 program; requiring the executive director of the
28 Department of Revenue to apply credits to tax
29 liability; creating s. 624.51056, F.S.; requiring that

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30 state workforce housing tax credits be allowed against
31 the insurance premium tax and retaliatory tax after
32 applying certain deductions and credits; providing
33 applicability; providing construction; providing an
34 effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

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38 Section 1. Section 220.1855, Florida Statutes, is created
39 to read:

40 220.1855 State workforce housing tax credit.—

41 (1) DEFINITIONS.—As used in this section, the term:

42 (a) "Agency award" means the allocation of a 10-year stream
43 of state workforce housing tax credits to an eligible workforce
44 housing development by the Florida Housing Finance Corporation
45 pursuant to s. 420.5096.

46 (b) "Annual credit amount" means an amount equal to one-
47 tenth of an agency award to an eligible workforce housing
48 development which is claimed by the eligible workforce housing
49 development in each year of the credit period.

50 (c) "Applicable fraction" means a fraction, the numerator
51 of which is the number of workforce housing units in the
52 eligible workforce housing development, and the denominator of
53 which is the number of residential rental units in the eligible
54 workforce housing development.

55 (d) "Compliance period" means the period of 10 calendar
56 years beginning with the first calendar year of the credit
57 period with respect to any building that is, or is part of, an
58 eligible workforce housing development.

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59 (e) "Credit period" means, with respect to any building
60 that is, or is part of, an eligible workforce housing
61 development, the period of 10 calendar years beginning with the
62 calendar year in which the last residential building in the
63 eligible workforce housing development is placed in service.

64 (f) "Eligibility statement" means a statement issued by the
65 Florida Housing Finance Corporation which certifies that a
66 development is an eligible workforce housing development and
67 provides:

68 1. The calendar year in which the last residential building
69 in the eligible workforce housing development was placed in
70 service;

71 2. The dollar amount of the agency award under paragraph
72 (2) (d) to the eligible workforce housing development;

73 3. The maximum qualified basis taken into account in
74 determining the dollar amount;

75 4. Sufficient information to identify the eligible
76 workforce housing development and the owner of the eligible
77 workforce housing development; and

78 5. Such other information as the Florida Housing Finance
79 Corporation, in consultation with the director of the
80 department, prescribes by rule.

81 (g) "Eligible basis" of an eligible workforce housing
82 development means the adjusted basis of such eligible workforce
83 housing development as of the close of the first year of the
84 credit period.

85 (h) "Eligible workforce housing development" means a
86 building or group of buildings located in this state in which at
87 least 60 percent of the residential units in the building are

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88 rent-restricted and are workforce housing units.

89 (i) "Imputed income limitation applicable to the unit"
90 means the income limitation that would apply to individuals
91 occupying the unit if the number of individuals occupying the
92 unit was:

93 1. In the case of a unit that does not have a separate
94 bedroom, one; or

95 2. In the case of a unit that has one or more separate
96 bedrooms, one and one half for each separate bedroom.

97 (j) "Qualified basis" of an eligible workforce housing
98 development means the eligible basis multiplied by the
99 applicable fraction.

100 (k) "Rent-restricted" means that the gross rent for a
101 residential unit may not exceed 30 percent of the imputed income
102 limitation applicable to the unit.

103 (l) "Workforce housing unit" means a residential unit in an
104 eligible workforce housing development which is affordable to
105 natural persons or families whose total annual household income
106 does not exceed 90 percent of the area median income, adjusted
107 for household size; or does not exceed 110 percent of the area
108 median income, adjusted for household size, in:

109 1. Areas of critical state concern designated under s.
110 380.05, for which the Legislature has declared its intent to
111 provide affordable housing; and

112 2. Areas that were designated as areas of critical state
113 concern for at least 20 consecutive years before removal of the
114 designation.

115 (2) AUTHORIZATION TO GRANT STATE WORKFORCE HOUSING TAX
116 CREDITS; LIMITATIONS.-

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117 (a) A taxpayer owning an interest in one or more eligible
118 workforce housing developments may claim a tax credit against
119 any tax due under this chapter if the owner of the eligible
120 workforce housing development receives an agency award. The tax
121 credits awarded pursuant to the agency award must be claimed in
122 each year of the credit period in amounts equal to the annual
123 credit amount unless carried forward pursuant to paragraph (g).
124 The amount of the agency award and each annual credit amount
125 must be stated on the eligibility statement.

126 (b) Except as provided in paragraphs (c) and (d), the
127 agency award under paragraph (a) may not exceed 9 percent of the
128 qualified basis of each eligible workforce housing development.

129 (c) The Florida Housing Finance Corporation shall make
130 agency awards in calendar year 2020, calendar year 2021, or
131 calendar year 2022 as set forth in this paragraph. An agency
132 award may not be made after 2022. The maximum aggregate dollar
133 amount of agency awards to eligible workforce housing
134 developments under this section, combined with the credit under
135 s. 624.50156, is \$50 million in 2020, \$50 million in 2021, and
136 \$50 million in 2022. The limitation in this paragraph on agency
137 awards does not apply to the annual credit amount claimed with
138 respect to an eligible workforce housing development for each
139 year of the credit period.

140 (d) The dollar amount of the agency award to any eligible
141 workforce housing development may not exceed the amount that the
142 Florida Housing Finance Corporation determines is necessary for
143 the eligible workforce housing development's financial
144 feasibility and its viability as an eligible workforce housing
145 development throughout the credit period. In determining the

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146 agency award to any eligible workforce housing development, the
147 Florida Housing Finance Corporation shall specify the maximum
148 qualified basis that may be taken into account under this
149 section with respect to that eligible workforce housing
150 development. The maximum qualified basis with respect to an
151 eligible workforce housing development may not exceed the
152 amounts determined in paragraph (1) (f).

153 (e) A tax credit in the amount of the annual credit amount
154 is not allowed for any year with respect to an eligible
155 workforce housing development unless an extended workforce
156 housing commitment is in effect as of the end of the calendar
157 year. As used in this paragraph, the term "extended workforce
158 housing commitment" means an agreement between the taxpayer and
159 the Florida Housing Finance Corporation which is substantially
160 similar to the agreement specified in 26 U.S.C. s. 42(h)(6)(B).

161 (f) If an owner of an eligible workforce housing
162 development which receives an agency award is a partnership,
163 limited liability company, S corporation, or similar pass-
164 through entity, the owner may allocate the annual credit amount
165 among its partners, shareholders, members, or other constituent
166 taxpayers in any manner agreed to by such partners,
167 shareholders, members, or other constituent taxpayers. Each year
168 of the credit period, the owner shall certify to the Florida
169 Housing Finance Corporation the portion of the annual credit
170 amount allocated to each partner, shareholder, member, or other
171 constituent taxpayer. Each partner, shareholder, member, or
172 other constituent taxpayer is allowed to claim such portion of
173 the annual credit amount subject to the restrictions in this
174 section.

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175 (g) Any amount of credit which exceeds the tax due for any
176 year may be carried forward as a tax credit against subsequent
177 years' income tax liability for up to 11 tax years after the
178 year in which the annual credit amount was made pursuant to
179 paragraph (a). Such credit must be applied first to the earliest
180 years possible. Any amount of the credit which is not used may
181 not be refunded to the taxpayer.

182 (3) PROJECT MONITORING.—The Florida Housing Finance
183 Corporation shall establish such procedures as it deems
184 necessary for monitoring an eligible workforce housing
185 development's compliance with this section and for notifying the
186 director of the department of any noncompliance of which it
187 becomes aware.

188 (4) CREDIT RECAPTURE.—As of the close of any year in the
189 compliance period, if the amount of the qualified basis of any
190 building with respect to the taxpayer is less than the amount of
191 the qualified basis as of the close of the preceding year, the
192 credit allowable with respect to such year must be
193 proportionately reduced by the percentage reduction in the
194 qualified basis. If credit in excess of this reduced amount has
195 been claimed by any taxpayer with respect to such year, the
196 taxpayer's tax must be increased by the amount of any credit
197 wrongfully claimed. Such adjustment must be made in the year in
198 which the reduction in qualified basis is identified.

199 (5) RULES; APPLICABILITY OF FEDERAL LAW; CONSTRUCTION.—

200 (a) The Florida Housing Finance Corporation shall adopt
201 rules necessary to administer this section.

202 (b) Section 42 of the Internal Revenue Code applies to the
203 credit awarded under this section. However, to the extent that

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204 section is inconsistent with this section, this section
205 controls.

206 Section 2. Section 420.5096, Florida Statutes, is created
207 to read:

208 420.5096 State Workforce Housing Tax Credit Program.-

209 (1) The State Workforce Housing Tax Credit Program is
210 created for the purpose of stimulating creative private sector
211 initiatives to increase the supply of workforce housing in the
212 state. The Florida Housing Finance Corporation shall administer
213 the program.

214 (2) The Florida Housing Finance Corporation shall determine
215 which workforce housing developments are eligible for the
216 corporate tax credit available under s. 220.1855 or the
217 insurance premium tax credit available under s. 624.51056, or
218 both. The corporation may exercise all powers necessary to
219 administer the awarding of an agency award, as defined in s.
220 220.1855(1), and the distribution of the tax credits. The
221 corporation shall ensure that at least 50 percent of annual
222 credits under this section are awarded to projects that will
223 produce workforce housing units affordable to natural persons or
224 families whose total annual household income exceeds 60 percent
225 of the area median income. The board of directors of the
226 corporation shall administer the procedures for agency awards
227 and determine agency awards on behalf of the corporation. The
228 corporation shall prepare an annual plan containing general
229 guidelines for agency awards to eligible workforce housing
230 developments.

231 (3) The corporation shall adopt procedures for agency
232 awards consistent with s. 220.1855 and this section which will

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233 ensure the maximum use of available tax credits to encourage
234 development of workforce housing, taking into consideration the
235 timeliness of the application, the location of the proposed
236 project, the relative need and the availability of such housing,
237 the economic feasibility of the project, and the ability of the
238 applicant to complete the project in the calendar year for which
239 the credit is sought. To the extent permitted under 42 U.S.C.
240 ss. 3601-3619 and regulations promulgated thereunder, the
241 corporation shall ensure that projects awarded credits under
242 this section set aside at least 30 percent of their units to be
243 rented by families with essential services personnel as defined
244 in s. 420.5095(3).

245 (4) The corporation may not grant an agency award to an
246 eligible workforce housing development unless the applicant
247 demonstrates to the satisfaction of the corporation that for
248 every \$1 in tax credits granted to the applicant, this state
249 will benefit at least \$1 in total development costs with respect
250 to the rent-restricted units within such eligible workforce
251 housing development.

252 (5) (a) A taxpayer wishing to participate in the State
253 Workforce Housing Tax Credit Program must submit to the
254 corporation an application for the agency award of tax credit.
255 The application must identify the proposed workforce housing
256 development and its location and must include evidence that the
257 proposed development is an eligible workforce housing
258 development as defined in s. 220.1855(1). The corporation may
259 request any information from an applicant which is necessary to
260 allow the corporation to make an agency award under the
261 guidelines under subsection (3).

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262 (b) The corporation's award of an agency award to an
263 eligible workforce housing development must be in writing and
264 must include a statement of the maximum credit allowable to the
265 applicant.

266 (c) The corporation shall establish procedures for the
267 owner of an eligible workforce housing development to provide a
268 cost certification demonstrating that the agency award does not
269 exceed 9 percent of the qualified basis of the eligible
270 workforce housing development. Once such cost certification is
271 accepted and approved by the corporation, the corporation shall
272 issue to the owner of the eligible workforce housing development
273 an eligibility statement, as defined in s. 220.1855(1). A copy
274 of the eligibility statement must be transmitted to the
275 executive director of the Department of Revenue, who shall apply
276 the annual credit amount to the tax liability of the owner of
277 the eligible workforce housing development or its constituent
278 taxpayers as specified in s. 220.1855(2)(g).

279 Section 3. Section 624.51056, Florida Statutes, is created
280 to read:

281 624.51056 State workforce housing tax credit.—

282 (1) The tax credit authorized by s. 220.1855 also must be
283 allowed against any tax due under s. 624.509(1) or s. 624.5091
284 after deducting from the tax the deductions for assessments made
285 pursuant to s. 440.51; the credits for taxes paid under ss.
286 175.101 and 185.08; the credits for income taxes paid under
287 chapter 220; the credit allowed under s. 624.509(5), as such
288 credit is limited by s. 624.509(6); and the credit allowed under
289 s. 624.51055.

290 (2) All requirements of the tax credit under s. 220.1855

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291 apply to insurers claiming a tax credit under this section.

292 (3) An insurer claiming a credit against premium tax
293 liability under this section is not required to pay any
294 additional retaliatory tax levied pursuant to s. 624.5091 as a
295 result of claiming such credit, and that section does not limit
296 such credit.

297 Section 4. This act shall take effect July 1, 2019.