

1 A bill to be entitled
2 An act relating to a state workforce housing tax
3 credit program; creating s. 220.1855, F.S.; providing
4 definitions; providing a credit, within a specified
5 timeframe, against the corporate income tax for
6 certain taxpayers owning interests in eligible
7 workforce housing developments; requiring the Florida
8 Housing Finance Corporation to make agency awards of
9 the credit; specifying requirements for claiming and
10 awarding awards; limiting the amount of awards;
11 providing for the allocation of annual credit amounts
12 among specified parties and requiring certification of
13 such amounts; authorizing recipients of the credit to
14 carry forward a portion of the credit for a specified
15 timeframe; 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
 30 state workforce housing tax credits to be allowed
 31 against the insurance premium tax and retaliatory tax
 32 after applying certain deductions and credits;
 33 providing applicability and construction; providing an
 34 effective date.

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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
 43 stream of state workforce housing tax credits to an eligible
 44 workforce housing development by the Florida Housing Finance
 45 Corporation 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 calendar 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) "Area median income" means the most recent calculation
56 of Median Family Income for the relevant geographic area as
57 published by the United States Department of Housing and Urban
58 Development.

59 (e) "Compliance period" means, with respect to any
60 building that is, or is part of, an eligible workforce housing
61 development, 10 calendar years beginning with the first calendar
62 year of the credit period.

63 (f) "Credit period" means, with respect to any building
64 that is, or is part of, an eligible workforce housing
65 development, 10 calendar years beginning with the calendar year
66 in which the last residential building in the eligible workforce
67 housing development is placed in service.

68 (g) "Eligibility statement" means a statement issued by
69 the Florida Housing Finance Corporation which certifies that a
70 development is an eligible workforce housing development and
71 identifies:

72 1. The calendar year in which the last residential
73 building in the eligible workforce housing development was
74 placed in service;

75 2. The dollar amount of the agency award under paragraph

76 | (2) (d) to the eligible workforce housing development;

77 | 3. The maximum qualified basis taken into account in
78 | determining the dollar amount;

79 | 4. Sufficient information to identify the eligible
80 | workforce housing development and the owner of the eligible
81 | workforce housing development; and

82 | 5. Such other information as the Florida Housing Finance
83 | Corporation, in consultation with the director of the
84 | department, prescribes by rule.

85 | (h) "Eligible basis" means the adjusted basis of an
86 | eligible workforce housing development as of the close of the
87 | first calendar year of the credit period.

88 | (i) "Eligible workforce housing development" means a
89 | building or group of buildings located in this state in which at
90 | least 60 percent of the residential units in the building are
91 | rent-restricted and are workforce housing units.

92 | (j) "Imputed income limitation applicable to the unit"
93 | means the income limit that would apply to natural persons or
94 | families occupying the unit as follows:

95 | 1. In the case of a unit that does not have a separate
96 | bedroom, 90 percent of the area median income for one
97 | individual; or

98 | 2. In all other cases, 90 percent of the area median
99 | income for the imputed family size. The imputed family size is
100 | equal to 1.5 multiplied by the number of bedrooms.

101 (k) "Qualified basis" of an eligible workforce housing
 102 development means the eligible basis multiplied by the
 103 applicable fraction.

104 (l) "Rent-restricted" means the gross rent for a
 105 residential unit that does not exceed 30 percent of the imputed
 106 income limitation applicable to the unit.

107 (m) "Workforce housing unit" means a residential unit in
 108 an eligible workforce housing development that is rent-
 109 restricted so as to be affordable to natural persons or families
 110 whose total annual household income does not exceed 90 percent
 111 of the area median income, adjusted for household size, or does
 112 not exceed 110 percent of the area median income, adjusted for
 113 household size, in:

114 1. Areas of critical state concern designated under s.
 115 380.05 for which the Legislature has declared its intent to
 116 provide affordable housing; and

117 2. Areas that were designated as areas of critical state
 118 concern for at least 20 consecutive calendar years before the
 119 designation was removed.

120 (2) AUTHORIZATION TO GRANT STATE WORKFORCE HOUSING TAX
 121 CREDITS; LIMITATIONS.-

122 (a) A taxpayer owning an interest in one or more eligible
 123 workforce housing developments may claim a tax credit against
 124 any tax due under this chapter if the owner of the eligible
 125 workforce housing development receives an agency award. The tax

126 credits awarded pursuant to the agency award must be claimed in
127 each calendar year of the credit period in an amount equal to
128 the annual credit amount unless carried forward pursuant to
129 paragraph (g). The amount of the agency award and each annual
130 credit amount must be stated on the eligibility statement.

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

134 (c) The Florida Housing Finance Corporation shall make
135 agency awards in calendar year 2020, calendar year 2021, or
136 calendar year 2022 as set forth in this paragraph. An agency
137 award may not be made after calendar year 2022. The maximum
138 aggregate dollar amount of agency awards to eligible workforce
139 housing developments under this section, combined with the
140 credit under s. 624.51056, is \$50 million in calendar year 2020,
141 \$50 million in calendar year 2021, and \$50 million in calendar
142 year 2022. The limitation in this paragraph on agency awards
143 does not apply to the annual credit amount claimed with respect
144 to an eligible workforce housing development for each calendar
145 year of the credit period.

146 (d) The dollar amount of the agency award to any eligible
147 workforce housing development may not exceed the amount that the
148 Florida Housing Finance Corporation determines is necessary for
149 the eligible workforce housing development's financial
150 feasibility and its viability as an eligible workforce housing

151 development throughout the credit period. In determining the
152 agency award to any eligible workforce housing development, the
153 Florida Housing Finance Corporation shall specify the maximum
154 qualified basis that may be taken into account under this
155 section with respect to that eligible workforce housing
156 development. The maximum qualified basis with respect to an
157 eligible workforce housing development may not exceed the dollar
158 amounts determined in paragraph (1) (g).

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

167 (f) If an owner of an eligible workforce housing
168 development who receives an agency award is a partnership,
169 limited liability company, S corporation, or other "pass-
170 through" entity, the owner may allocate the annual credit amount
171 among its partners, shareholders, members, or other constituent
172 taxpayers in any manner agreed to by such partners,
173 shareholders, members, or taxpayers. Each year of the credit
174 period, the owner shall certify to the Florida Housing Finance
175 Corporation the portion of the annual credit amount allocated to

176 each partner, shareholder, member, or taxpayer. Each partner,
177 shareholder, member, or taxpayer is allowed to claim such
178 portion of the annual credit amount subject to the restrictions
179 in this section.

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

187 (3) PROJECT MONITORING.—The Florida Housing Finance
188 Corporation shall establish the procedures it deems necessary
189 for monitoring an eligible workforce housing development's
190 compliance with this section and for notifying the director of
191 the department of any noncompliance.

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

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201 wrongfully claimed. Such adjustment must be made in the year in
202 which the reduction in qualified basis is identified.

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

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

206 (b) Section 42 of the Internal Revenue Code applies to the
207 credit awarded under this section.

208 Section 2. Section 420.5096, Florida Statutes, is created
209 to read:

210 420.5096 State Workforce Housing Tax Credit Program.—

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

216 (2) The Florida Housing Finance Corporation shall
217 determine which workforce housing developments are eligible for
218 the state workforce housing tax credit available under s.
219 220.1855 or the insurance premium tax credit available under s.
220 624.51056, or both. The corporation may exercise all powers
221 necessary to administer the awarding of an agency award, as
222 defined in s. 220.1855, and the distribution of the tax credits.
223 The corporation shall ensure that at least 50 percent of annual
224 credits under this section are awarded to projects that will
225 produce workforce housing units affordable to natural persons or

226 families whose total annual household income exceeds 60 percent
227 of the area median income. The board of directors of the
228 corporation shall administer the procedures for agency awards
229 and determine agency awards on behalf of the corporation. The
230 corporation shall prepare an annual plan containing general
231 guidelines for agency awards to eligible workforce housing
232 developments.

233 (3) The corporation shall adopt procedures for agency
234 awards consistent with s. 220.1855 and this section to ensure
235 the maximum use of available tax credits and encouragement of
236 the development of workforce housing. The procedures must
237 require consideration of the timeliness of the applications, the
238 location of the proposed projects, the relative need and the
239 availability of such housing, the economic feasibility of the
240 projects, and the ability of the applicants to complete the
241 projects in the calendar year for which the credits are sought.
242 To the extent permitted under 42 U.S.C. ss. 3601-3619 and
243 regulations adopted thereunder, the corporation shall ensure
244 that projects awarded credits under this section set aside at
245 least 30 percent of their units to be rented by families with
246 essential services personnel as defined in s. 420.5095.

247 (4) The corporation may not grant an agency award to an
248 eligible workforce housing development unless the applicant
249 demonstrates to the satisfaction of the corporation that for
250 every \$1 in tax credits granted to the applicant, this state

251 will benefit at least \$1 in total development costs with respect
252 to the rent-restricted units within such eligible workforce
253 housing development.

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

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

267 (c) The corporation shall establish procedures for the
268 owner of an eligible workforce housing development to provide a
269 cost certification demonstrating that the agency award does not
270 exceed 9 percent of the qualified basis of the eligible
271 workforce housing development. Once such cost certification is
272 accepted and approved by the corporation, the corporation shall
273 issue to the owner of the eligible workforce housing development
274 an eligibility statement as defined in s. 220.1855. A copy of
275 the eligibility statement must be transmitted to the executive

276 director of the Department of Revenue who shall apply the annual
277 credit amount to the tax liability of the owner of the eligible
278 workforce housing development or its constituent taxpayers as
279 specified in s. 220.1855(2) (g) .

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

282 624.51056 State workforce housing tax credit.—

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

291 (2) All requirements of the tax credit under s. 220.1855
292 apply to insurers claiming a tax credit under this section.

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

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