SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number:	H. 3998 Signed by Governor on May 14, 2020
Author:	Bannister
Subject:	Workforce and Senior Affordable Housing Act
Requestor:	House of Representatives
RFA Analyst(s):	Jolliff
Impact Date:	August 10, 2020

Fiscal Impact Summary

This bill will not impact state expenditures as the South Carolina State Housing Finance and Development Authority (S.C. Housing) currently provides support to the Internal Revenue Service in administering the federal low-income housing tax credits for South Carolina, and this state tax credit will mirror the federal credit. We anticipate that since the Department of Revenue and Department of Insurance are tasked with administering income tax, corporate license fees, bank tax, and insurance tax, these agencies will provide the necessary coordination with S.C. Housing to implement the credits in the normal course of agency business.

This bill is expected to reduce General Fund individual income tax, corporate income tax or license fees, bank tax, or insurance premium taxes by a total of approximately $2,057,000 in FY 2020-21. As additional projects are placed in service, the tax credits will continue to grow by an additional $1,597,000 per year on average for ten years until FY 2029-30, when the full cycle of tax credits is in place, for a cumulative General Fund reduction of approximately $15,969,000 in FY 2029-30. Any unused credits may be carried forward for five tax years, and the timing of the impact may vary if taxpayers do not have sufficient tax liability to claim the credit in the initial year allowed. Credits are available for projects placed in service until December 31, 2030. As such, the annual credit amount will begin to decline in FY 2031-32 by one-tenth of the total annually until all projects have expired, excepting any carryforward credits.

Explanation of Fiscal Impact

Signed by Governor on May 14, 2020
State Expenditure
This bill establishes the Workforce and Senior Affordable Housing Act to create a tax credit for qualified low-income housing projects. The tax credit is based upon the federal housing tax credit provided in Internal Revenue Code (IRC) §42. The bill specifies that S.C. Housing may promulgate regulations necessary to implement and administer the provisions of the section. S.C. Housing currently provides support to the Internal Revenue Service in administering the federal tax credits for South Carolina. As the specifications for a qualified project are defined in IRC §42, and the tax credit amount is based upon the federal credit, this bill will not impact expenditures for S.C. Housing. Further, we anticipate that since the Department of Revenue and Department of Insurance are tasked with administering income tax, corporate license fees, bank tax, and insurance tax, these agencies will provide the necessary coordination with S.C. Housing

to implement the credits in the normal course of agency business. Therefore, the bill is not expected to impact State expenditures.

State Revenue

This bill establishes the Workforce and Senior Affordable Housing Act to create a tax credit for qualified low-income housing projects. The tax credit is based upon the federal housing tax credit as provided in IRC §42 and is available for any qualified project, as defined in §42, placed in service in South Carolina after January 1, 2020, and before December 31, 2030. The amount of the credit is equal to the federal housing tax credit allowed for the qualified project.

A qualifying taxpayer must be 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 §12-6- 510 (individual income tax), §12-6-530 (corporate income tax), Chapter 11 of Title 12 (bank tax), or Chapter 7 of Title 38 (insurance premium tax). The credit may be claimed against income tax, corporate income tax or license fees, bank taxes, or insurance premium taxes. The total amount of the credit may not exceed the taxpayer's income tax liability. Any unused credits may be carried forward for five tax years. The bill also requires that if any portion of a federal housing tax credit is required to be recaptured, the corresponding portion of the state credit related to the project is also subject to recapture.

The IRC §42 Low Income Housing Tax Credit (LIHTC) Program was enacted by Congress as part of the Tax Reform Act of 1986 to encourage new construction and rehabilitation of existing buildings as low-income rental housing for households with income at or below specified income levels. The program is jointly administered by the IRS and state-authorized tax credit allocating agencies.

Under IRC §42, the taxpayer agrees to provide low-income housing for at least thirty years.

- In exchange for the investment in low-income housing, the taxpayer will receive tax credits for each of ten years, which is known as the "credit period."
- To keep the credit, the taxpayer must provide low-income housing for fifteen years, which is known as the "compliance period." Failure to maintain the housing in compliance with IRC §42 requirements for the entire compliance period can result in the recapture of a portion of the credit allowable in prior years.
- After IRS jurisdiction ends, the state agency has sole jurisdiction and the taxpayer must continue to provide low-income housing for at least another fifteen years. The "extended use period" is at least 30 years, beginning with the first year of the credit period.

All three time periods begin on the same day; i.e., the first day of the tax year in which the building is placed in service, or if the taxpayer elects, the beginning of the following tax year.

Two types of LIHTCs are available depending on the nature of the construction project. The 9 percent credit is generally reserved for new construction, while the 4 percent credit is typically used for rehabilitation projects and new construction that is financed with tax-exempt bonds. Each year, for 10 years, a tax credit equal to roughly 4 percent or 9 percent of a project's qualified basis (cost of construction) is claimed. Each state receives an allocation for 9 percent tax credits on an annual basis. Under IRC §42(h)(3), the amount of credit available to the state for allocation to taxpayers for any calendar year is the "credit ceiling." According to a report by the Congressional Research Service, in 2019, states received an allocation of $2.75625 per person, with a minimum small population state allocation of $3,166,875. These amounts reflect a temporary increase in the amount of credits each state received as a result of the 2018 Consolidated Appropriations Act (P.L. 115-141). The increase is equal to 12.5 percent above what states would have received absent P.L. 115-141, and is in effect through 2021. The state allocation limits do not apply to the 4 percent credits, which are automatically packaged with tax-exempt bond-financed projects.

S.C. Housing provided data regarding awards for LIHTCs for 2016 to 2019 as shown below. Based upon these values, we anticipate that credit awards will average approximately $15,969,000, although this amount may vary depending on the state allocation. These credits must be claimed in equal installments over the ten-year credit period, for an average of $1,597,000 in tax credits added annually.

S.C. Housing Tax Credit Awards

	Tax Credit Amount		
Year	9% LIHTC	4% LIHTC	Total
2016	$ 12,271,707	$ 1,665,635	$ 13,937,342
2017	$ 11,443,396	$ 3,524,086	$ 14,967,482
2018	$ 13,637,217	$ 6,930,816	$ 20,568,033
2019	$ 14,402,630	$0	$ 14,402,630
Average	$ 12,938,738	$ 3,030,134	$ 15,968,872

The bill specifies that the project must be placed in service after January 1, 2020 and before December 31, 2030 to qualify for the state tax credit. Further, the taxpayer must receive an eligibility statement from S.C. Housing to claim the credit. S.C. Housing is authorized to develop and promulgate criteria upon which the eligibility statements are issued and may not issue a statement until the taxpayer provides a report to the authority detailing how the state tax credit will benefit the tenants of the project, including but not limited to reduced rent, or why the state tax credit is necessary to undertake the project.

Based upon conversations with S.C. Housing, construction for projects typically takes one to two years after approval of the credits, so credits awarded during the 2018 process are expected to be in service one to two years after approval. Therefore, we would expect that the projects placed in service beginning January 1, 2020, will be claiming approximately one-tenth of the credits approved for 2018. This timing would result in tax credits of approximately $2,057,000 in tax year 2020. This estimate assumes that all projects will apply to S.C. Housing and meet the eligibility requirements for the state tax credit.

Based upon this analysis, the bill will reduce General Fund individual income tax, corporate income tax or license fees, bank tax, or insurance premium taxes by approximately $2,057,000 in FY 2020-21. As additional projects are placed in service, the tax credits will continue to grow annually by an additional $1,597,000 per year on average for ten years until FY 2029-30 when the full cycle of tax credits is in place, for a cumulative General Fund reduction of approximately $15,969,000 in FY 2029-30. Further, any unused credits may be carried forward for five tax years, and the timing of the impact may vary if taxpayers do not have sufficient tax liability to claim the credit in the initial year allowed.

Credits are available for projects placed in service until December 31, 2030. Subsequently, the annual credit amount will begin to decline in FY 2031-32 by approximately one-tenth of the total per year until all projects have expired, excepting any carryforward credits.

Local Expenditure
N/A

Local Revenue
N/A

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