



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H.5075 Introduced on March 3, 2022
Author: G.M. Smith
Subject: Housing Tax Credit
Requestor: House Ways and Means
RFA Analyst(s): Jolliff
Impact Date: March 29, 2022

Fiscal Impact Summary

This bill amends the South Carolina housing income tax credit in Section 12-6-3795 to include restrictions on the amount of credits that may be issued and to require the State Housing Finance and Development Authority (SC Housing) to establish uniform criteria for allocating the credits to eligible projects in a competitive process that promotes the highest value and greatest public benefit. The bill also makes changes to Article 2 of Chapter 11 of Title 1 relating to the allocation of state ceiling on issuance of private activity bonds. The Joint Bond Review Committee is to provide oversight, review, and comment on the criteria for allocation of the tax credits and administration of the credits as well as the State Ceiling Allocation plan for private activity bond allocations.

SC Housing anticipates a need for an additional staff person at an expenditure of \$70,000. The agency indicates additional underwriting will need to be performed to meet the proposed requirement that the “South Carolina Housing tax credit allowed for any project must supplement but not supplant the federal housing tax credit and must be limited to an amount necessary only to achieve financial feasibility of the project.” This position will be funded from fees generated by the federal and state tax credit programs.

The State Fiscal Accountability Authority (SFAA) and the Joint Bond Review Committee report that the bill will not impact expenditures for either agency. They will be able to accomplish the new responsibilities with existing appropriations.

The bill is expected to reduce the estimated General Fund revenue impact of the tax credit developed in October 2021, and included in the FY 2021-22 and FY 2022-23 forecasts, by capping the allocation of credits at \$15,000,000 per fiscal year and disallowing any state credit for 9 percent projects beginning in 2022. The estimated revenue impact was revised in 2021 as participation in the development of affordable housing has significantly exceeded expectations during 2019 and 2020 when the General Assembly considered H. 3998. The table below summarizes the current and new impact and net change based on the details provided in the State Revenue section:

Total and Net General Fund Impact from Proposed Changes to State Housing Tax Credit

Fiscal Year	Total General Fund Impact – CURRENT LAW AS OF 10/2021	Total General Fund Impact – PROPOSED ALLOCATION	Net General Fund Impact
FY 2021-22	(\$25,035,041)	(\$24,288,000)	\$747,000
FY 2022-23	(\$84,308,895)	(\$68,761,000)	\$15,548,000
FY 2023-24	(\$144,908,895)	(\$83,761,000)	\$61,148,000
FY 2024-25	(\$205,508,895)	(\$98,761,000)	\$106,748,000
FY 2025-26	(\$266,108,895)	(\$113,761,000)	\$152,348,000
FY 2026-27	(\$326,708,895)	(\$128,761,000)	\$197,948,000
FY 2027-28	(\$387,308,895)	(\$143,761,000)	\$243,548,000
FY 2028-29	(\$447,908,895)	(\$158,761,000)	\$289,148,000
FY 2029-30	(\$508,508,895)	(\$173,761,000)	\$334,748,000
FY 2030-31	(\$516,068,895)	(\$178,321,000)	\$337,748,000
FY 2031-32	(\$491,033,854)	(\$154,033,000)	\$337,001,000
FY 2032-33	(\$431,760,000)	(\$109,560,000)	\$322,200,000
FY 2033-34	(\$371,160,000)	(\$94,560,000)	\$276,600,000
FY 2034-35	(\$310,560,000)	(\$79,560,000)	\$231,000,000
FY 2035-36	(\$249,960,000)	(\$64,560,000)	\$185,400,000
FY 2036-37	(\$189,360,000)	(\$49,560,000)	\$139,800,000
FY 2037-38	(\$128,760,000)	(\$34,560,000)	\$94,200,000
FY 2038-39	(\$68,160,000)	(\$19,560,000)	\$48,600,000
FY 2039-40	(\$7,560,000)	(\$4,560,000)	\$3,000,000
Total	(\$5,160,688,952)	(\$1,783,210,000)	\$3,377,479,000

Over the full period of the tax credits through FY 2039-40, the changes in the bill will lower the General Fund revenue impact from \$5,160,688,952 to \$1,783,210,000.

Explanation of Fiscal Impact

Introduced on March 3, 2022

State Expenditure

This bill amends the state housing tax credit in Section 12-6-3795 to include restrictions on the amount of credits that may be issued and to require SC Housing to establish uniform criteria for allocating the credits to eligible projects in a competitive process that promotes the highest value and greatest public benefit. Further, SC Housing must provide a report annually by July 31 of the tax credits allocated pursuant to this section including the amount, project name and location, project ownership, number of units, and public benefit achieved by the project. The bill also

specifies that the provisions of the tax credit section and administration are subject to the oversight and review of the Joint Bond Review Committee.

The bill also makes changes to Article 2 of Chapter 11 of Title 1 relating to the allocation of state ceiling on issuance of private activity bonds. In the bill, SFAA is required to publish a State Ceiling Allocation Plan that assigns percentages of the state ceiling to categories of any of the permitted purposes prescribed by the Internal Revenue Code. Categories of permitted purposes may include industrial and economic development bonds, single family housing bonds, multifamily housing bonds, student loan bonds, and any other bonds eligible for tax exemption as a private activity bond pursuant to the Internal Revenue Code. No assignment to any single category may exceed 40 percent of the state ceiling, and no minimum assignment is required for any category.

South Carolina Housing and Finance Development Authority. SC Housing anticipates a need for an additional staff person at an expenditure of \$70,000. The agency indicates additional underwriting will need to be performed to meet the proposed requirement that the “South Carolina Housing tax credit allowed for any project must supplement but not supplant the federal housing tax credit and must be limited to an amount necessary only to achieve financial feasibility of the project. This position will be funded from fees generated by the federal and state tax credit programs.

State Fiscal Accountability Authority. SFAA indicates that the agency can accomplish the new responsibilities relating to the allocation of the state ceiling for private activity bonds with existing staff and resources. Therefore, there is no expenditure impact for the agency.

Joint Bond Review Committee. The Senate responded that the bill will not impact expenditures for the Joint Bond Review Committee to provide oversight of the tax credits and bond allocation.

State Revenue

This bill amends Section 12-6-3795 relating to the South Carolina housing tax credit enacted in 2020. The current credit is based on the federal low-income housing tax credit in Section 42 of the Internal Revenue Code (IRC). The tax credit is available for any qualified project placed in service in South Carolina after January 1, 2020, and before December 31, 2030. Qualified projects may involve SC Housing or a local housing authority. All credits for these projects will be subject to the limitations in the bill. The credit may be taken against individual income tax, corporate income tax, bank tax, or insurance premium tax. 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. Further, 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.

Two types of federal credits are available under IRC Section 42 depending on the nature of the construction project and financing structure. The bill provides new definitions to define these credits as:

- New construction tax credit- the federal housing tax credit applicable to new construction and intended to deliver up to a seventy percent federal subsidy, sometimes referred to as the nine percent low-income housing tax credit.
- Rehabilitation tax credit- the federal housing tax credit applicable to rehabilitation projects utilizing federally tax-exempt bond financing and intended to deliver up to a thirty percent subsidy, sometimes referred to as the four percent low-income housing tax credit.

Each state receives a federal allocation for ‘new constructions tax credits,’ referred to as 9 percent tax credits, on an annual basis, and SC Housing has allocated the federal maximum of these tax credits annually. The federal allocation limits do not apply to the ‘rehabilitation tax credit,’ referred to as 4 percent credits, but these credits must include tax-exempt financing, approved either through SFAA or through carryforward allocation from the SC Housing Authority.

Currently, taxpayers may be allocated credits by SC Housing for qualified projects that are eligible for either of the federal credits, 9 percent or 4 percent. The bill amends this to only allow state tax credits for projects eligible for the rehabilitation tax credit, or 4 percent credits. The bill also caps the amount of the credits that may be allocated in a fiscal year to \$15,000,000 beginning in 2022.

During a SFAA meeting on October 12, 2021, it was noted that the potential impact of the state housing tax credit is likely to greatly exceed the original impact expected by SC Housing and included in the fiscal impact statement for H. 3998 of 2020, the enacting legislation. Our original fiscal impact estimated an annual impact of \$2,057,000 based upon historical tax credit allocations and discussions with SC Housing, which was expected to increase annually to \$15,969,000 by FY 2029-30. Based on the information available, the impact assumed no increase in use of the 4 percent credits.

Following the October SFAA meeting, SC Housing noted that participation in the development of affordable housing has exceeded expectations during 2019 and 2020 when the General Assembly considered H. 3998. The availability of the state tax credit coupled with a change to the 4 percent federal low-income housing tax credit financing enacted by Congress later in 2020 significantly increased participation in qualifying housing developments beyond original expectations.

As such, at the request of SFAA and Revenue and Fiscal Affairs, SC Housing re-evaluated the expectations for tax credit utilization and provided an update of the maximum potential credits. SC Housing provided an analysis based upon their expectations for when projects will be placed in service and start claiming tax credits. In order to provide the analysis, they made the following assumptions:

- The state tax exempt bond volume cap is held at the current level of approximately \$570 million.

- All future cap is assumed allocated to 4 percent multifamily tax-exempt bond developments.
- All future projects are assumed to be utilizing a straight 50 percent tax exempt bond allocation, and it is further assumed that 100 percent of total development costs are included in aggregate basis.

The October estimates for 2020 and 2021 allocation figures are based on actual projects, and include 9 percent low income housing tax credit deals for 2018, 2019, 2020, and 2021 placed in service after January 1, 2020. In addition, SC Housing also assumed a reduced allocation for 2029 since the tax credit is currently set to expire on December 31, 2030. Their analysis reflects only rehabilitation deals in 2029, which are the only deals realistically expected to be able to qualify for the state tax credit by the sunset date. Based upon these assumptions, the table below outlines the maximum potential credit allocations per year.

Please note: SC housing has provided corrections to the October 2021 figures for 9 percent credits in 2020 and 2021. Figures are shown as originally reported in October 2021 as these figures were used to adjust revenue forecasts.

CURRENT LAW – Figures as of October 2021
Table 1. Projected Potential Credit Allocation by Year

(Annual Allocations for Projects before Adjustments for Placed in Service Timing)

Allocation Year	4 Percent Credits	9 Percent Credits	All Projects
*2020	\$10,720,650	\$14,314,391***	\$25,035,041
*2021	\$23,788,234	\$35,485,620***	\$59,273,854
2022	\$45,600,000	\$15,000,000	\$60,600,000
2023	\$45,600,000	\$15,000,000	\$60,600,000
2024	\$45,600,000	\$15,000,000	\$60,600,000
2025	\$45,600,000	\$15,000,000	\$60,600,000
2026	\$45,600,000	\$15,000,000	\$60,600,000
2027	\$45,600,000	\$15,000,000	\$60,600,000
2028	\$45,600,000	\$15,000,000	\$60,600,000
**2029	\$4,560,000	\$3,000,000	\$7,560,000

*Includes 2018, 2019, 2020, and 2021 9 percent deals that will be placed in service after January 1, 2020

**Estimate limited due to sunset date

Source: SC Housing Authority

***PLEASE NOTE: Figures as of October 2021; SC housing has provided corrections to these figures for 9 percent credits in 2020 and 2021 that are used in the Proposed Allocations

The annual credit allocations are taken each year for ten years starting when the project is placed in service. Based upon these maximum allocations, SC Housing provided an analysis of the expected placed in-service dates for the projects and the corresponding timing of the state tax credits. These estimates and the resulting potential impact on the General Fund under current law are outlined below:

CURRENT LAW - as of October 2021

Table 2. Estimated General Fund Impact for Maximum Tax Credit Allocation

Tax Year	Fiscal Year	4 Percent Credits	9 Percent Credits	Total General Fund Impact
2021	FY 2021-22	\$10,720,650	\$14,314,391	(\$25,035,041)
2022	FY 2022-23	\$34,508,884	\$49,800,011	(\$84,308,895)
2023	FY 2023-24	\$80,108,884	\$64,800,011	(\$144,908,895)
2024	FY 2024-25	\$125,708,884	\$79,800,011	(\$205,508,895)
2025	FY 2025-26	\$171,308,884	\$94,800,011	(\$266,108,895)
2026	FY 2026-27	\$216,908,884	\$109,800,011	(\$326,708,895)
2027	FY 2027-28	\$262,508,884	\$124,800,011	(\$387,308,895)
2028	FY 2028-29	\$308,108,884	\$139,800,011	(\$447,908,895)
2029	FY 2029-30	\$353,708,884	\$154,800,011	(\$508,508,895)
2030	FY 2030-31	\$358,268,884	\$157,800,011	(\$516,068,895)
2031	FY 2031-32	\$347,548,234	\$143,485,620	(\$491,033,854)
2032	FY 2032-33	\$323,760,000	\$108,000,000	(\$431,760,000)
2033	FY 2033-34	\$278,160,000	\$93,000,000	(\$371,160,000)
2034	FY 2034-35	\$232,560,000	\$78,000,000	(\$310,560,000)
2035	FY 2035-36	\$186,960,000	\$63,000,000	(\$249,960,000)
2036	FY 2036-37	\$141,360,000	\$48,000,000	(\$189,360,000)
2037	FY 2037-38	\$95,760,000	\$33,000,000	(\$128,760,000)
2038	FY 2038-39	\$50,160,000	\$18,000,000	(\$68,160,000)
2039	FY 2039-40	\$4,560,000	\$3,000,000	(\$7,560,000)
Total		\$3,582,688,845	\$1,578,000,107	(\$5,160,688,952)

Because these estimates assume that the maximum current allocation of bond volume cap is utilized for housing bonds and the highest tax credits levels allowable, these figures present the upper bound of present expectations. If the bond volume cap is increased, the amount of potential credits would increase as well. Based upon discussions with professionals in the housing development industry, developments are likely to reach these levels at least for the upcoming five years without any actions to reduce the allocations. These revised estimates were incorporated into the revenue forecast by the BEA beginning on November 10, 2021, and are currently included in the General Fund forecast for FY 2021-22 and FY 2022-23.

Capping the allocation of credits at \$15,000,000 per fiscal year and disallowing any state credit for 9 percent projects will limit the impact in future years. Based on the changes in the bill, the following table provides updated projections of the potential credit allocations:

PROPOSED ALLOCATION IN THE BILL - as of March 29, 2022

**Table 3. Projected Potential Credit Allocation by Year
(Annual Allocations for Projects before Adjustments for Placed in Service Timing)**

Allocation Year	4%	9%	All Projects
*2020	\$10,720,650	\$13,566,600	\$24,287,250
*2021	\$23,788,234	\$20,685,294	\$44,473,528
Estimated Total Prior to Law Change	\$34,508,884	\$34,251,894	\$68,760,779
2022	\$15,000,000	\$0	\$15,000,000
2023	\$15,000,000	\$0	\$15,000,000
2024	\$15,000,000	\$0	\$15,000,000
2025	\$15,000,000	\$0	\$15,000,000
2026	\$15,000,000	\$0	\$15,000,000
2027	\$15,000,000	\$0	\$15,000,000
2028	\$15,000,000	\$0	\$15,000,000
**2029	\$4,560,000	\$0	\$4,560,000

Source: S.C. Housing (Preliminary)

*Based on estimates by SC Housing; includes 2018, 2019, 2020, and 2021 9 percent deals that will be placed in service after January 1, 2020

**Estimate limited due to sunset date

(Please note: figures include updates to October 2021 data.

Based on the expected timing for when projects will be placed in service, the table below provides the estimated annual impact on a fiscal year basis:

PROPOSED ALLOCATION IN THE BILL - as of March 29, 2022
Table 4. Estimated General Fund Impact for Tax Credit Allocation

Tax Year	Fiscal Year	4 Percent Credits	9 Percent Credits	Total General Fund Impact
2021	FY 2021-22	\$10,721,000	\$13,567,000	(\$24,288,000)
2022	FY 2022-23	\$34,509,000	\$34,252,000	(\$68,761,000)
2023	FY 2023-24	\$49,509,000	\$34,252,000	(\$83,761,000)
2024	FY 2024-25	\$64,509,000	\$34,252,000	(\$98,761,000)
2025	FY 2025-26	\$79,509,000	\$34,252,000	(\$113,761,000)
2026	FY 2026-27	\$94,509,000	\$34,252,000	(\$128,761,000)
2027	FY 2027-28	\$109,509,000	\$34,252,000	(\$143,761,000)
2028	FY 2028-29	\$124,509,000	\$34,252,000	(\$158,761,000)
2029	FY 2029-30	\$139,509,000	\$34,252,000	(\$173,761,000)
2030	FY 2030-31	\$144,069,000	\$34,252,000	(\$178,321,000)
2031	FY 2031-32	\$133,348,000	\$20,685,000	(\$154,033,000)
2032	FY 2032-33	\$109,560,000	\$0	(\$109,560,000)
2033	FY 2033-34	\$94,560,000	\$0	(\$94,560,000)
2034	FY 2034-35	\$79,560,000	\$0	(\$79,560,000)
2035	FY 2035-36	\$64,560,000	\$0	(\$64,560,000)
2036	FY 2036-37	\$49,560,000	\$0	(\$49,560,000)
2037	FY 2037-38	\$34,560,000	\$0	(\$34,560,000)
2038	FY 2038-39	\$19,560,000	\$0	(\$19,560,000)
2039	FY 2039-40	\$4,560,000	\$0	(\$4,560,000)
Total		\$1,440,690,000	\$342,520,000	(\$1,783,210,000)

Source: S.C. Revenue and Fiscal Affairs

Limiting the credits will begin to reduce the estimated impact in FY 2023-24 when projects that are allocated credits under the new limits for 2022 begin to claim those credits. The table below shows the change in the impact as currently estimated compared to the impact under this bill:

Table 5. Net General Fund Impact from Proposed Changes to State Housing Tax Credit

Fiscal Year	Total General Fund Impact – CURRENT LAW AS OF 10/2021	Total General Fund Impact – PROPOSED ALLOCATION	Net General Fund Impact
FY 2021-22	(\$25,035,041)	(\$24,288,000)	\$747,000
FY 2022-23	(\$84,308,895)	(\$68,761,000)	\$15,548,000
FY 2023-24	(\$144,908,895)	(\$83,761,000)	\$61,148,000
FY 2024-25	(\$205,508,895)	(\$98,761,000)	\$106,748,000
FY 2025-26	(\$266,108,895)	(\$113,761,000)	\$152,348,000
FY 2026-27	(\$326,708,895)	(\$128,761,000)	\$197,948,000
FY 2027-28	(\$387,308,895)	(\$143,761,000)	\$243,548,000
FY 2028-29	(\$447,908,895)	(\$158,761,000)	\$289,148,000
FY 2029-30	(\$508,508,895)	(\$173,761,000)	\$334,748,000
FY 2030-31	(\$516,068,895)	(\$178,321,000)	\$337,748,000
FY 2031-32	(\$491,033,854)	(\$154,033,000)	\$337,001,000
FY 2032-33	(\$431,760,000)	(\$109,560,000)	\$322,200,000
FY 2033-34	(\$371,160,000)	(\$94,560,000)	\$276,600,000
FY 2034-35	(\$310,560,000)	(\$79,560,000)	\$231,000,000
FY 2035-36	(\$249,960,000)	(\$64,560,000)	\$185,400,000
FY 2036-37	(\$189,360,000)	(\$49,560,000)	\$139,800,000
FY 2037-38	(\$128,760,000)	(\$34,560,000)	\$94,200,000
FY 2038-39	(\$68,160,000)	(\$19,560,000)	\$48,600,000
FY 2039-40	(\$7,560,000)	(\$4,560,000)	\$3,000,000
Total	(\$5,160,688,952)	(\$1,783,210,000)	\$3,377,479,000

Source: S.C. Revenue and Fiscal Affairs; figures may not add to totals due to rounding

Using the revised figures for FY 2021-22 and FY 2022-23, the General Fund revenue impact for these years will be \$747,000 and \$15,548,000 less than previously estimated in October 2021, respectively. Based on the timing of when projects are expected to be placed in service, the changes in the bill to limit the impact will reduce the General Fund revenue impact beginning in FY 2023-24 from \$144,908,985 to \$83,761,000, for a net increase in General Fund revenue of \$61,148,000. Over the full period of the tax credits through FY 2039-40, the changes in the bill will lower the General Fund revenue impact from \$5,160,688,952 to \$1,783,210,000.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director