

HOUSE BILL NO. 1203

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance

on January 29, 2024)

(Patron Prior to Substitute--Delegate Willett)

A BILL to amend and reenact § 58.1-439.12:04 of the Code of Virginia, relating to tax credit for participating landlords.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-439.12:04 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-439.12:04. Tax credit for participating landlords.

A. As used in this section, unless the context clearly shows otherwise, the term or phrase:

"Dwelling unit" means an individual housing unit in an apartment building, an individual housing unit in multifamily residential housing, a single-family residence, or any similar individual housing unit.

"Eligible metropolitan census tract" means a census tract in Virginia in the Richmond Metropolitan Statistical Area, the Washington–Arlington–Alexandria Metropolitan Statistical Area, or the Virginia Beach-Norfolk-Newport News Metropolitan Area in which less than 10 percent of the residents live below the poverty level, as defined by the United States government and determined by the most recent United States census.

"Eligible non-metropolitan census tract" means a census tract in Virginia that is not an eligible metropolitan census tract and in which less than 40 percent of the residents live below the poverty level, as defined by the United States government and determined by the most recent United States census.

"Housing authority" means a housing authority created under Article 1 (§ 36-1 et seq.) of Chapter 1 of Title 36 or other government agency that is authorized by the United States government under the United States Housing Act of 1937 (42 U.S.C. § 1437 et seq.) to administer a housing choice voucher program, or the authorized agent of such a housing authority that is authorized to act upon that authority's behalf. The term shall also include the Virginia Housing Development Authority.

27 "Housing choice voucher" means tenant-based assistance by a housing authority pursuant to 42
28 U.S.C. § 1437f et seq.

29 "Participating landlord" means any person engaged in the business of the rental of dwelling units
30 who is (i) subject to the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and (ii)
31 performing obligations under a contract with a housing authority relating to the rental of qualified housing
32 units.

33 "Qualified housing unit" means a dwelling unit that is located in either an eligible metropolitan
34 census tract or an eligible non-metropolitan census tract for which a portion of the rent is paid by a housing
35 authority, which payment is pursuant to a housing choice voucher program.

36 B. 1. For taxable years beginning on or after January 1, 2010, but before January 1, ~~2025~~ 2026, a
37 participating landlord renting a qualified housing unit shall be eligible for a credit against the tax levied
38 pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10 percent of the fair market value of the rent
39 for the unit, computed for that portion of the taxable year in which the unit was rented by such landlord to
40 a tenant participating in a housing choice voucher program. The Department of Housing and Community
41 Development shall administer and issue the tax credit under this section. If (i) the same parcel of real
42 property contains four or more dwelling units and (ii) the total number of qualified housing units on the
43 parcel in the relevant taxable year exceeds 25 percent of the total dwelling units on the parcel, then the tax
44 credit under this section shall apply only to a limited number of qualified housing units with regard to
45 such parcel of real property, with the limited number being equal to 25 percent of the total dwelling units
46 on such parcel of real property in the taxable year.

47 2. For taxable years beginning on or after January 1, 2024, but before January 1, 2026, a
48 participating landlord renting a qualified housing unit in an eligible non-metropolitan census tract shall be
49 eligible for a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10
50 percent of the fair market value of the rent for the unit, computed for that portion of the taxable year in
51 which the unit was rented by such landlord to a tenant participating in a housing choice voucher program.
52 The Department of Housing and Community Development shall administer and issue the tax credit under
53 this section. If (i) the same parcel of real property contains four or more dwelling units and (ii) the total

54 number of qualified housing units on the parcel in the relevant taxable year exceeds 25 percent of the total
55 dwelling units on the parcel, then the tax credit under this section shall apply only to a limited number of
56 qualified housing units with regard to such parcel of real property, with the limited number being equal to
57 25 percent of the total dwelling units on such parcel of real property in the taxable year.

58 C. The Department of Housing and Community Development shall issue tax credits under this
59 section on a fiscal year basis. ~~The~~ For fiscal years beginning before July 1, 2024, the maximum amount
60 of tax credits that may be issued under this section in each fiscal year shall be \$250,000. For fiscal years
61 beginning on and after July 1, 2024, (i) the maximum amount of tax credits that may be issued under
62 subdivision B 1 in each fiscal year shall be \$900,000 and (ii) the maximum amount of tax credits that may
63 be issued under subdivision B 2 in each fiscal year shall be \$100,000.

64 D. Participating landlords shall apply to the Department of Housing and Community Development
65 for tax credits under this section. The Department of Housing and Community Development shall
66 determine the credit amount allowable to the participating landlord for the taxable year and shall also
67 determine the fair market value of the rent for the qualified housing unit based on the fair market rent
68 approved by the United States Department of Housing and Urban Development as the basis for the tenant-
69 based assistance provided through the housing choice voucher program for the qualified housing unit. In
70 issuing tax credits under this section, the Department of Housing and Community Development shall
71 provide a written certification to the participating landlord, which certification shall report the amount of
72 the tax credit approved by the Department. The participating landlord shall attach the certification to the
73 applicable income tax return.

74 E. The Board of Housing and Community Development shall establish and issue guidelines for
75 purposes of implementing the provisions of this section. The guidelines shall provide for the allocation of
76 tax credits among participating landlords requesting credits. The guidelines shall be exempt from the
77 Administrative Process Act (§ 2.2-4000 et seq.).

78 F. In no case shall the amount of credit taken by a participating landlord for any taxable year
79 exceed the total amount of tax imposed by this chapter for the taxable year. If the amount of credit issued
80 by the Department of Housing and Community Development for a taxable year exceeds the landlord's tax

81 liability imposed by this chapter for such taxable year, then the amount that exceeds the tax liability may
82 be carried over for credit against the income taxes of the participating landlord in the next five taxable
83 years or until the total amount of the tax credit issued has been taken, whichever is sooner. Credits granted
84 to a partnership, limited liability company, or electing small business corporation (S corporation) shall be
85 allocated to the individual partners, members, or shareholders, respectively, in proportion to their
86 ownership or interest in such business entities.

87 G. ~~In~~ 1. For fiscal years beginning before July 1, 2024, in the event that the amount of the qualified
88 requests for tax credits for participating landlords in the fiscal year exceeds \$250,000, the Department of
89 Housing and Community Development shall ~~pro-rate~~ prorate the tax credits among the qualified
90 applicants.

91 2. For fiscal years beginning on and after July 1, 2024, in the event that the amount of the qualified
92 requests for tax credits for participating landlords in the fiscal year exceeds \$1 million, the Department of
93 Housing and Community Development shall prorate the tax credits among the qualified applicants.

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