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HOUSE BILL NO. 402

Offered January 12, 2022

Prefiled January 11, 2022

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

Patron—Willett

Referred to Committee on Finance

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 census tract" means a (i) *census tract in (a) the Richmond Metropolitan Statistical Area, (b) the Washington-Arlington-Alexandria Metropolitan Statistical Area, or (c) the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area of Virginia 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 or (ii) census tract in Virginia 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.*

~~"Eligible housing area" means an eligible census tract in (i) the Richmond Metropolitan Statistical Area, (ii) the Washington-Arlington-Alexandria Metropolitan Statistical Area, or (iii) the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area.~~

"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.

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

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

"Qualified housing unit" means a dwelling unit that is located in an eligible ~~housing area~~ *census tract* for which a portion of the rent is paid by a housing authority, which payment is pursuant to a housing choice voucher program.

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

C. The Department of Housing and Community Development shall issue tax credits under this section on a fiscal year basis. The maximum amount of tax credits that may be issued under this section in each fiscal year shall be \$250,000.

D. Participating landlords shall apply to the Department of Housing and Community Development for tax credits under this section. The Department of Housing and Community Development shall determine the credit amount allowable to the participating landlord for the taxable year and shall also determine the fair market value of the rent for the qualified housing unit based on the fair market rent approved by the United States Department of Housing and Urban Development as the basis for the

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59 tenant-based assistance provided through the housing choice voucher program for the qualified housing
60 unit. In issuing tax credits under this section, the Department of Housing and Community Development
61 shall provide a written certification to the participating landlord, which certification shall report the
62 amount of the tax credit approved by the Department. The participating landlord shall attach the
63 certification to the applicable income tax return.

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

68 F. In no case shall the amount of credit taken by a participating landlord for any taxable year exceed
69 the total amount of tax imposed by this chapter for the taxable year. If the amount of credit issued by
70 the Department of Housing and Community Development for a taxable year exceeds the landlord's tax
71 liability imposed by this chapter for such taxable year, then the amount that exceeds the tax liability
72 may be carried over for credit against the income taxes of the participating landlord in the next five
73 taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner.
74 Credits granted to a partnership, limited liability company, or electing small business corporation (S
75 corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in
76 proportion to their ownership or interest in such business entities.

77 G. In the event that the amount of the qualified requests for tax credits for participating landlords in
78 the fiscal year exceeds \$250,000, the Department of Housing and Community Development shall pro
79 rate the tax credits among the qualified applicants.