

HOUSE BILL 691

By Fincher

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 13; Title 50 and Title 67, relative to enacting  
the Tennessee Employer Assisted Housing  
Development Program and Fund.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 23, is amended by adding the following new part thereto:

§ 13-23-601. This part shall be known and may be cited as the "Tennessee Employer Assisted Housing Development Program and Fund".

§ 13-23-602. Notwithstanding any law to the contrary, the Tennessee housing development agency shall establish a program to help employers develop an employer assisted housing development program and an employer assisted housing fund.

§ 13-23-603. As used in this part, unless the context otherwise requires:

- (1) "Agency" means the Tennessee housing development agency;
- (2) "Employee" means any person, including a seasonal employee, who works for salary, wages or other remuneration for an employer;
- (3) "Employer" means any person or entity that employs one (1) or more employees and is required to pay franchise or excise tax, or both franchise and excise tax, pursuant to title 67, chapter 4, parts 20 and 21;
- (4) "Employer assisted housing development program" means a state assisted residential development program for employers to provide real property located in this state to be used for residential housing currently owned or leased by an employer in districts zoned as commercial or nonresidential;and

(5) "Employer assisted housing fund" means a program to provide grants or loans for employer assisted housing.

§ 13-23-604. All employees of an employer whose annual household income is equal to or less than one hundred twenty percent (120%) of the area median income as determined by the federal department of housing and urban development shall be eligible to participate in the employer assisted housing development program or receive grants or funds from the employer assisted housing fund; provided, that at least twenty-five percent (25%) of the employer's assisted housing development program or employer assisted housing fund shall go to employees whose annual household income is equal to or less than eighty percent (80%) of the area median income as determined by the federal department of housing and urban development.

§ 13-23-605.

(a) Employers offering an employer assisted housing development program or employer assisted housing fund, or both, may establish requirements for employee participation that are not inconsistent with this part or rules promulgated by the Tennessee housing development agency.

(b) Employers participating in the employer assisted housing development program or employer assisted housing fund shall comply with all state and federal affirmative marketing laws and regulations.

(c) Eligible employees of an employer must be given preference to purchase or rent housing units of the employer; however, if the number of housing units exceeds the number of eligible employees willing to purchase or rent such housing units, the housing units may be rented or sold to non-employees whose household incomes do not exceed the income requirement as set forth in § 13-23-604. A housing unit that is resold or rerented shall be

first offered to eligible employees as set forth in this part.

(d) No more than thirty percent (30%) of an employer's real property zoned as commercial or nonresidential may be used for this program.

(e) Real property used in accordance with this part as a single family residence that is located in a district zoned for commercial or nonresidential use shall be reclassified as residential property. Property used in accordance with this part as residential property containing two (2) or more rental units shall be taxed in accordance with Article II, Section 28 of the Tennessee constitution.

(f) Real property in this state sold, leased or donated by the employer for the employer assisted housing development program shall be used to be sold or rented to employees who meet the income requirements set forth in this part and meet any further requirements set forth by the agency.

§ 13-2-606.

(a)

(1) The agency shall, subject to appropriations, contribute to each employer's assisted housing development program established by the employer one dollar (\$1.00) for every two dollars (\$2.00) of assessed value of real property used for the purposes of the employer assisted housing development program as provided in this part.

(2) The assistance granted by the agency to each employer shall not exceed two hundred thousand dollars (\$200,000) annually.

(3) The total amount of assistance offered to all employers by the agency under this subsection (a) shall not exceed five million dollars (\$5,000,000) annually.

(b)

(1) The agency shall, subject to appropriations, contribute to each employer's assisted housing fund one dollar (\$1.00) for every two dollars (\$2.00) expended by the employer from the employer assisted housing fund as provided in this part.

(2) The assistance granted by the agency to each employer shall not exceed one hundred thousand dollars (\$100,000) annually.

(3) The total amount of assistance offered to all employers by the agency under this subsection (b) shall not exceed five million dollars (\$5,000,000) annually.

(c) Grants and loans from the employer's assisted housing fund to eligible employees participating in the employers assisted housing development program shall be spent in this state and may be used for:

(1) The cost to purchase housing that is to be the principal residence of the employee and falls within price guidelines established by the agency, including costs for down payments, mortgage interest rate buy-downs, closing costs and other costs determined to be eligible by the agency;

(2) Payments for security deposits and advance payments for rental housing; and

(3) To contribute to the production of housing units that fall within price guidelines and that meet other requirements that may be established by the agency.

(d) No assistance shall be granted to any banking organization or financial organization as these terms are defined in § 66-29-102 or any other corporate entity for activities that are a part of its normal course of business;

provided, that such entities may receive assistance pursuant to this part for their own employees.

§ 13-23-607. Employers participating in the employer assisted housing development program shall designate through the sale, lease, donation or other agreement of real property, a private for-profit or not-for-profit developer that is not an affiliate, subsidiary, or other entity of such employer that shall be responsible for the sale, rental, day-to-day management and operation of the housing units in accordance with this part.

§ 13-23-608.

(a) The agency shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the establishment and operation of employer assisted housing development programs and employer assisted housing funds eligible for the assistance provided in this part.

(b) Such regulations shall include:

- (1) Provisions for employee eligibility;
- (2) Specifications of the development activities and assistance that may take place;
- (3) The documentation and procedures necessary for employers to qualify for the assistance; and
- (4) documentation and accountability to insure that grants and loans are made only in accordance with this part, including the manner in which reports must be filed with the agency concerning the operation of the employer assisted housing funds sufficient for the agency to meet the requirements of § 13-23-609.

§ 13-23-609.

(a) Employers participating in the employer assisted housing development program shall be allowed a credit from the taxpayer's franchise tax liability pursuant to § 67-4-2109 of one dollar (\$1.00) for the current or any fiscal year for every one dollar (\$1.00) of the assessed value of real property contributed to or used in accordance with this part in any such fiscal year. In no event shall the total amount of all tax credits allowed to all taxpayers under this subsection (a) exceed five million dollars (\$5,000,000) annually.

(b)

(1) Employers offering an employer assisted housing fund to provide grants and loans for housing shall be allowed a credit from the taxpayer's excise tax liability pursuant to § 67-4-2009 of seventy-five percent (75%) of the amount paid during a tax year by an employer into such fund. No tax credit shall be allowed until the employer has participated in the program for one (1) full year. The sum of the tax credits granted under this subsection (b) shall not exceed one hundred thousand dollars (\$100,000) annually per taxpayer. In no event shall the total amount of all tax credits allowed to all taxpayers under this subsection (b) exceed two million dollars (\$2,000,000) in any one (1) fiscal year.

(2) Any taxpayer claiming the credit allowed by this subsection (b) shall submit documentation to the commissioner of revenue that the employer's fund complies with written procedures for employer assisted housing funds established by the agency.

(c) Any taxpayer who applies for the credit allowed by subsection (a) or

(b), or both (a) and (b), shall submit the documentation to the department of revenue on or before a date established by the department for the fiscal year in which the tax credit is requested. The department of revenue shall review applications in the order received and award credits to those taxpayers whose employer assisted housing development program or employer assisted housing fund comply with the written procedures established by this part.

(d) No tax credit shall be granted to any banking organization or financial organization as these terms are defined in § 66-29-102 or any other corporate entity for activities that are a part of its normal course of business; provided, that such entities may receive tax credits pursuant to this section for employer assisted housing development programs or employer assisted housing funds for their own employees.

(e) Any tax credit not used in the tax year during which the investment was made may be carried forward for the five (5) immediately succeeding tax years until the full credit has been allowed. For tax years commencing on or after January 1, 2010, if the agency determines that sixty percent (60%) or more of an employer assisted housing fund has not been spent as provided in this part by a taxpayer on or before the date that is three (3) years after the date that an employer assisted housing fund is established by such taxpayer, the agency shall notify such taxpayer and the commissioner of revenue that the agency has determined that sixty percent (60%) or more of the fund has not been loaned as provided in this part, and such taxpayer shall be required to recapture the credits previously granted under this section, to the extent provided for in written procedures of the department of revenue, on the first tax return required to be filed on or after the date of such notice for a tax imposed

by this part. If any amount of such recaptured credit has not been paid to the department of revenue on or before the due date of such return, such amount shall bear interest at the rate of one per cent (1%) per month or fraction thereof from such due date to the date of payment.

(f) Credits pursuant to this section shall be available in tax years beginning on or after January 1, 2010.

§ 13-23-610. The Tennessee housing development agency in conjunction with the department of revenue shall adopt rules and procedures, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the establishment and operation of employer assisted housing development programs and employer assisted housing funds eligible for the credit provided § 13-23-609. Such rules and procedures shall include the documentation and procedures necessary for taxpayers to submit and qualify for the tax credit.

§ 13-23-611. Nothing in this part shall be construed to prevent two (2) or more taxpayers from participating jointly in one (1) or more programs under this part. Such joint programs shall be submitted, and acted upon, as a single program by the taxpayers involved.

SECTION 2. Tennessee Code Annotated, Section 67-4-2009, is amended by adding the following new appropriately designated subdivision:

( ) In accordance with § 13-23-609(b), there shall be allowed a credit upon the tax imposed by this part for any employer offering an employer assisted housing fund pursuant to title 13, chapter 23, part 6 to provide grants and loans for housing units located in this state. The amount of the credit shall be seventy-five percent (75%) of the amount paid during a tax year by an employer into the employer assisted housing fund. No tax credit shall be allowed until the employer has participated in the program

for one (1) full year. The sum of the tax credits granted under this subsection shall not exceed one hundred thousand dollars (\$100,000) annually per taxpayer. In no event shall the total amount of all tax credits allowed to all taxpayers under this subsection exceed two million dollars (\$2,000,000) in any one (1) fiscal year.

SECTION 3. Tennessee Code Annotated, Section 67-4-2109, is amended by adding the following new, appropriately designated subsection thereto:

( ) In accordance with § 13-23-609(a), there shall be allowed a credit upon the tax imposed by this part for any employer participating in the employer assisted housing development program. Such credit shall be equal to one dollar (\$1.00) for every one dollar (\$1.00) of the assessed value of real property contributed to or used in an employer's assisted housing development program in accordance with title 13, chapter 23, part 6. In no event shall the total amount of all tax credits allowed to all taxpayers under this subsection exceed five million dollars (\$5,000,000) annually.

SECTION 4. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2010, the public welfare requiring it.