

15.354 Housing project application and agreement.**1. Application.**

a. A housing business seeking workforce housing tax incentives provided in [section 15.355](#) shall make application to the authority in the manner prescribed by the authority. The authority may accept applications during one or more annual application periods to be determined by the authority by rule.

b. The application shall include all of the following:

(1) The following information establishing local participation for the housing project:

(a) A resolution in support of the housing project by the community where the housing project will be located.

(b) Documentation of local matching funds pledged for the housing project in an amount equal to at least one thousand dollars per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents, or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of [section 15.330, subsection 9](#).

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the program.

c. In addition to complying with all applicable requirements in paragraph “b”, a housing business that chooses to be considered as an applicant for tax credits reserved pursuant to [section 15.119, subsection 5](#), shall also submit a certification that the applicant’s housing project is located in a county that has been declared a major disaster by the president of the United States on or after March 12, 2019, and is also a county in which individuals are eligible for federal individual assistance. The housing business must also submit documentation that provides evidence that the qualified housing project is needed due to impact of the disaster that is the subject of the presidential major disaster declaration.

2. Application review — tax incentive award.

a. All completed applications shall be reviewed and scored on a competitive basis by the authority pursuant to rules adopted by the authority.

b. Upon review and scoring of all applications received during an application period, the authority may make a tax incentive award to a housing project, which tax incentive award shall represent the maximum amount of tax incentives the housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application of the housing business. Tax incentive awards shall be approved by the director of the authority.

c. After making a tax incentive award, the authority shall notify the housing business of its tax incentive award. The notification shall include the amount of tax incentives under [section 15.355](#) for which the housing business has received an award and a statement that the housing business has no right to receive a tax incentive certificate or claim a tax incentive until all requirements of the program, including all requirements imposed by the agreement entered into pursuant to [subsection 3](#), are satisfied. The amount of tax credits included on a tax credit certificate issued pursuant to [this section](#), or a claim for refund of sales and use taxes, shall be contingent upon completion of all requirements in [subsection 3](#).

d. An applicant that does not receive a tax incentive award during an application period may make additional applications during subsequent application periods. Such applicant shall be required to submit a new application and shall be competitively reviewed and scored in the same manner as other applicants in that application period.

3. Agreement and fees.

a. Upon receipt of a tax incentive award by the housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of

the program. The agreement shall identify the tax incentive award amount, the tax incentive award date, the project completion deadline, and the total costs of the housing project.

b. The compliance cost fees imposed in [section 15.330, subsection 12](#), shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that subsection.

c. (1) Except as provided in subparagraph (2), a housing business shall complete its housing project within three years from the date the housing project is registered by the authority.

(2) The authority may for good cause within the discretion of the authority extend a housing project's completion deadline once by up to twelve months upon application by the housing business, which application shall be made prior to the expiration of the three-year completion deadline in subparagraph (1) in the manner and form prescribed by the authority.

d. Upon completion of a housing project, an examination of the project in accordance with the American institute of certified public accountants' statements on standards for attestation engagements, completed by a certified public accountant authorized to practice in this state, shall be submitted to the authority.

e. (1) Upon review of the examination and verification of the amount of the qualifying new investment, the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use tax under [section 15.355, subsection 2](#), and may issue a tax credit certificate to the housing business stating the amount of workforce housing investment tax credits under [section 15.355, subsection 3](#), the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

(2) If upon review of the examination in subparagraph (1) the authority determines that a housing project has incurred project costs in excess of the amount submitted in the application made pursuant to [subsection 1](#) and identified in the agreement, the authority shall do one of the following:

(a) If the project costs do not cause the housing project's average dwelling unit cost to exceed the applicable maximum amount authorized in [section 15.353, subsection 3](#), the authority may consider the agreement fulfilled and may issue a tax credit certificate.

(b) If the project costs cause the housing project's average dwelling unit cost to exceed the applicable maximum amount authorized in [section 15.353, subsection 3](#), but does not cause the average dwelling unit cost to exceed one hundred ten percent of such applicable maximum amount, the authority may consider the agreement fulfilled and may issue a tax credit certificate. In such case, the authority shall reduce the tax incentive award and the corresponding amount of tax incentives the eligible housing project may claim under [section 15.355, subsections 2 and 3](#), by the same percentage that the housing project's average dwelling unit cost exceeds the applicable maximum amount under [section 15.353, subsection 3](#), and such tax incentive reduction shall be reflected on the tax credit certificate. If the authority issues a certificate pursuant to this subparagraph division, the department of revenue shall accept the certificate notwithstanding that the housing project's average dwelling unit costs exceeds the maximum amount specified in [section 15.353, subsection 3](#).

(c) If the project costs cause the housing project's average dwelling unit cost to exceed one hundred ten percent of the applicable maximum amount authorized in [section 15.353, subsection 3](#), the authority shall determine the eligible housing business to be in default under the agreement, shall revoke the tax incentive award, and shall not issue a tax credit certificate. The housing business shall not be allowed a refund of sales and use tax under [section 15.355, subsection 2](#).

4. *Maximum tax incentives amount.*

a. (1) For fiscal years beginning on or after July 1, 2019, the authority shall not award in any fiscal year an amount of tax incentives for housing projects located in small cities, or for other housing projects, in excess of the amounts allocated for each category in [section 15.119, subsection 2](#), paragraph "g". This paragraph "a" applies to housing projects awarded tax incentives pursuant to [subsection 2](#) on or after July 1, 2019, and to housing projects registered prior to July 1, 2019, under [section 15.354, subsection 2](#), Code 2019.

(2) Notwithstanding subparagraph (1), and [section 15.119, subsection 2](#), paragraph “g”, if the sum of the amount of tax incentives applied for in valid applications submitted in a given fiscal year beginning on or after July 1, 2019, for housing projects located in small cities, plus the amount of tax incentives eligible for issuance to housing projects located in small cities that were registered prior to July 1, 2019, under [section 15.354, subsection 2](#), Code 2019, does not exceed the amount reserved for housing projects located in small cities pursuant to [section 15.119, subsection 2](#), paragraph “g”, the authority may award the remaining amount of tax incentives reserved for housing projects located in small cities to other housing projects during that same fiscal year.

(3) Notwithstanding subparagraph (1), and [section 15.119, subsection 2](#), paragraph “g”, the authority may award during a fiscal year an aggregate amount of tax incentives to housing projects located in small cities that is less than the amount reserved for allocation to small cities under [section 15.119, subsection 2](#), paragraph “g”, provided the difference between the amount of the small city reservation and the aggregate amount actually awarded to small cities during that fiscal year is awarded during that same fiscal year to housing projects registered prior to July 1, 2018.

b. With regard to a housing project registered prior to July 1, 2019, a tax incentive shall be considered awarded for purposes of paragraph “a” when the authority enters into an agreement with the housing business for that housing project as provided under [section 15.354, subsection 3](#), Code 2019. Notwithstanding any provision of law to the contrary, a housing business shall have no right to enter into an agreement with the authority for a housing project registered prior to July 1, 2019, until the authority allocates an amount of tax incentives to the housing project and notifies the housing business that the authority is prepared to execute the agreement and make a tax incentive award for the housing project. A housing business shall have no right to receive a tax credit certificate or claim a tax incentive for a housing project registered prior to July 1, 2019, until the housing business enters into an agreement with the authority.

c. In making tax incentive awards during any fiscal year in which there are housing projects registered prior to July 1, 2019, which are eligible to receive tax incentives under the program, the authority shall give priority in making tax incentive awards to housing projects registered prior to July 1, 2019. The authority shall create and maintain a wait list of housing projects registered prior to July 1, 2019, and such housing projects shall be placed on the wait list in the order the housing projects were registered.

d. The maximum aggregate amount of tax incentives that may be awarded and issued under [section 15.355](#) to a housing business for a housing project shall not exceed one million dollars.

e. If a housing business qualifies for a higher amount of tax incentives under [section 15.355](#) than is allowed by the limitation imposed in paragraph “d”, the authority and the housing business may negotiate an apportionment of the reduction in tax incentives between the sales tax refund provided in [section 15.355, subsection 2](#), and the workforce housing investment tax credits provided in [section 15.355, subsection 3](#), provided the total aggregate amount of tax incentives after the apportioned reduction does not exceed the amount in paragraph “d”.

f. The authority shall issue tax incentives under the program on a first-come, first-served basis until the maximum amount of tax incentives allocated under [section 15.119, subsection 2](#), paragraph “g”, is reached. The authority shall maintain a list of housing projects registered prior to July 1, 2019, and of housing projects awarded tax incentives on or after July 1, 2019, so that if the maximum aggregate amount of tax incentives is reached in a given fiscal year, such registered housing projects that were completed but for which tax incentives were not issued, and such housing projects that were completed and are awarded tax incentives but for which tax incentives have not been issued, shall be placed on a wait list in the order the housing projects were registered or awarded tax incentives and shall be given priority for receiving tax incentives in succeeding fiscal years.

5. *Termination and repayment.* The failure by a housing business in completing a housing project to comply with any requirement of this program or any of the terms and obligations of an agreement entered into pursuant to [this section](#) may result in the

revocation, reduction, termination, or rescission of the tax incentive award or the approved tax incentives and may subject the housing business to the repayment or recapture of tax incentives claimed under [section 15.355](#). The repayment or recapture of tax incentives pursuant to [this section](#) shall be accomplished in the same manner as provided in [section 15.330, subsection 2](#).

6. *Disaster recovery housing projects.*

a. For purposes of [this subsection](#), “disaster recovery housing project” means a qualified housing project located in a county that has been declared a major disaster by the president of the United States on or after March 12, 2019, and that is also a county in which individuals are eligible for federal individual assistance.

b. Notwithstanding [subsection 1](#), the authority may accept applications for disaster recovery housing projects on a continuous basis.

c. Notwithstanding [subsection 2](#), paragraphs “a”, “b”, and “d”, upon review of a housing business’s application, the authority may make a tax incentive award to a disaster recovery housing project. The tax incentive award shall represent the maximum amount of tax incentives that the disaster recovery housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application of the housing business. Tax incentive awards shall be approved by the director of the authority.

d. The authority shall administer tax credit allocations for disaster recovery housing projects separately from the general allocation and separately from the allocation reserved for small cities in [section 15.119, subsection 2](#), paragraph “g”. The authority shall issue tax incentives under the program for disaster recovery housing projects on a first-come, first-served basis until the maximum amount of tax incentives allocated under [section 15.119, subsection 5](#), is reached. The authority shall maintain a list of disaster recovery housing projects awarded tax incentives under the program, so that if the maximum aggregate amount of tax incentives allocated for disaster recovery housing projects under the program is reached in a given fiscal year, such disaster recovery housing projects that were completed but for which tax incentives were not issued shall be placed on a wait list in the order the disaster recovery housing projects were awarded tax incentives pursuant to paragraph “c”, and shall be given priority for receiving tax incentives in succeeding fiscal years.

[2014 Acts, ch 1130, §16, 24 – 26; 2015 Acts, ch 138, §129, 131, 132; 2017 Acts, ch 54, §76; 2017 Acts, ch 134, §7; 2018 Acts, ch 1157, §1, 3; 2019 Acts, ch 159, §19 – 25, 31, 32](#)

Referred to in [§15.106B, 15.119, 15.355](#)

2015 amendment to subsection 3, paragraph e, takes effect July 2, 2015, and applies retroactively to May 30, 2014, for agreements entered into pursuant to this section on or after that date; [2015 Acts, ch 138, §131, 132](#)

2019 amendments to subsections 1 – 3, 5, and 6 apply to housing projects awarded tax incentives by the authority under the program on or after July 1, 2019, and housing projects registered by the authority under the program prior to July 1, 2019, shall be governed by sections [15.352, 15.354, and 15.355, Code 2019; 2019 Acts, ch 159, §32](#)

2019 amendment to subsection 4 applies to housing projects registered by the authority under the program prior to July 1, 2019, and to housing projects awarded tax incentives by the authority under the program on or after July 1, 2019; [2019 Acts, ch 159, §32](#)

Subsection 1, paragraph a amended

Subsection 1, NEW paragraph c

Subsections 2 and 5 amended

Subsection 3, paragraphs a and e amended

Subsection 4 stricken and rewritten

NEW subsection 6