



# HOUSE BILL 1042: Affordable Housing Exemption Mods.

2025-2026 General Assembly

<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	May 13, 2026
<b>Introduced by:</b>	Reps. Paré, Howard, Setzer, Schietzelt	<b>Prepared by:</b>	Trina Griffin
<b>Analysis of:</b>	Second Edition		Staff Attorney

**OVERVIEW:** House Bill 1042 was a recommendation of the House Select Committee on Property Tax Reduction and Reform and would do all of the following:

- Update and preserve the low- and moderate-income housing property tax exemption for 100% nonprofit owners or joint ventures where a government agency has contributed financial support and to the extent there are mechanisms to enforce long-term affordability requirements.
- Prohibit joint ventures that do not finance affordable housing with government support from obtaining the property tax exemption.
- Reduce from 10 years to 5 years, the period of tax deferral for future sites of affordable housing.

These changes would become effective for taxes imposed for taxable years beginning on or after July 1, 2026. Affordable rental properties that are currently exempt under existing law would be required to reapply and establish that they meet the requirements of this act. Moving forward, owners would be required to submit an application on an annual basis to verify continued compliance.

## CURRENT LAW & BACKGROUND:

**Exemption for Charitable Purposes Generally.** – Real and personal property owned by nonprofit entities and operated for a charitable purpose is exempt from property tax. "Charitable purpose" is defined as:

*"one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward..."*

A property owner must file an application for the benefit to receive it, but once an application is approved, the owner need not file an application in subsequent years. The statute does not expressly require the submission of any particular information, but to qualify for the exemption, proof of ownership and use of the property as low- or moderate-income housing should be demonstrated.<sup>1</sup>

**Low- and Moderate-Income Housing.** – G.S. 105-278.6 lists specific nonprofit entities, and categories of entities, that are eligible for this "charitable purpose" exemption, including "a nonprofit organization providing housing for individuals or families with low or moderate incomes." The statute does not define ownership or "low or moderate incomes," nor are there any ongoing compliance requirements related to

<sup>1</sup> As a practical matter, applicants typically provide a description of the ownership structure, the IRS nonprofit certificate, restrictive covenants, if any, and any agreement between the owners; a rent roll may also be included, which would show that rents charged are below 30% of 80% AMI, but does not necessarily show that the renters' incomes are below 80% AMI.

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rent limits, income limits, or long-term affordability. This exemption was enacted in 1975 and has not been substantially modified since that time.

**Affordable Housing.** – While the exemption statute does not define "low or moderate incomes," the U.S. Department of Housing and Urban Development (HUD) defines "housing affordability" as a household paying no more than 30% of their income for housing. Most federal and public resources use 80% of Area Median Income (AMI) and below as the targeted income threshold. The term "affordable housing" has become synonymous with the term "low- and moderate-income housing."

**Safe Harbor under IRS Rev. Proc. 96-32.** – The IRS has established guidance for a 501(c)(3) that provides low-income housing to qualify for tax exemption. If an entity meets the "safe harbor" requirements of Rev. Proc. 96-32, it will be considered charitable. The safe harbor permits a limited number of units to be occupied by residents with incomes above the low-income limits to assist in the social and economic integration of the poorer residents and, thereby, further an organization's charitable purposes.<sup>2</sup> At the same time, to avoid giving undue assistance to those who can otherwise afford safe, decent, sanitary housing, the safe harbor requires occupancy by significant levels of both very low-income and low-income families.<sup>3</sup> These income limits are computed and published annually by HUD. Specifically, Section 3 of the safe harbor<sup>4</sup> requires the following:

Percentage of Units	Occupied by Residents with Incomes of
At least 75%	≤80% AMI
Up to 25%	>80% AMI
Of the 75%, either:	
20%	≤50% AMI
40%	≤60% AMI

**Federal Low-Income Housing Tax Credits.** – Section 42 of the Internal Revenue Code provides a low-income housing tax credit (LIHTC) as an incentive to construct or rehabilitate affordable rental housing to eligible development entities. LIHTC accounts for 98% of all affordable rental housing development in the United States. It was originally enacted by 1986 federal tax reform legislation, strengthened in the 2017 Tax Cuts and Jobs Act, and further expanded and strengthened in 2025 under the One Big Beautiful Bill Act (OBBBA).

Affordable housing developments financed by LIHTC are privately owned and privately managed. Development sponsors can be for-profit or non-profit entities who typically sell the credits to an investor to generate equity, thus reducing the debt payments on the property. The investor becomes the majority owner for 15 years, as prescribed by the IRS, to claim the federal tax credit over a 10-year period. In exchange, the owners agree to keep rents affordable for households making at or below 80% AMI for the next 30 years.

Under the LIHTC program, there are several guardrails in place to ensure that the property is used for long-term affordable housing, including a recorded deed restriction that specifically states the terms of

<sup>2</sup> [Section 2.03 of IRS Rev. Proc. 96-32.](#)

<sup>3</sup> *Id.*

<sup>4</sup> [Section 3.01 of IRS Rev. Proc. 96-32.](#)

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affordability for the property, monitoring by the North Carolina Housing Finance Agency for 30 years, and oversight by the IRS that includes tax credit recapture for noncompliance.

**Blue Ridge Housing.** – *In re Blue Ridge Housing of Bakersville* is a 2013 North Carolina Court of Appeals case, in which the central issue was what constitutes a sufficient degree of ownership for purposes of the low-income housing property tax exemption. Over the last five years, tax administrators have observed a significant increase in the use of this exemption as a direct result of this case. Specifically, this exemption has seen a 75% increase in values excluded in the last two years, and from 2021 to 2025, the number of exemptions increased an average of 93%. In a [January 2026 presentation](#) to the House Select Committee on Property Tax Reduction and Reform, the NC Association of County Commissioners and the Self-Help Credit Union described their observations that the increase is from for-profit private equity investors initiating the creation of joint ventures with passive nonprofits to buy older properties, where rents are naturally well below the statutory requirements, to obtain the exemption while increasing rents, in effect using public funds for private gain. Specifically, they pointed to recent broker and law firm materials marketing the property tax abatement to encourage pursuit of this structure.

The case involved an affordable rental housing development financed with LIHTC. The owner of the property was a two-member LLC: the general partner and managing member was a nonprofit and owned 0.1% of the LLC. The passive investor-member was a partnership comprised of banks, insurance funds, and other private investors, and it owned 99.9% of the LLC. This ownership arrangement is standard among LIHTC projects with the investor interest representing its share of tax credit equity while the nonprofit manages the day-to-day operations of the housing development. To the extent the nonprofit had only a 0.1% ownership interest in the property, the tax assessor challenged the exemption arguing that the nonprofit did not have a sufficient ownership interest to allow the exemption. The Court found that the nonprofit's 0.1% ownership interest justified a property tax exemption based on a number of factors demonstrating that the nonprofit was the true owner, including the fact that it initiated the project, it managed the day-to-day operations, it was ultimately going to own the property outright once the passive investors exhausted their tax credits, and the ownership structure was standard for LIHTC projects. Observers tend to agree the outcome in the case was a reasonable and desirable result given the fact pattern. However, a broad interpretation of the case or a fact pattern that does not involve the guardrails associated with government financing, combined with a lack of statutory guidance and administrability issues, could explain the significant increase in the use of the exemption without assurances of providing long-term affordable housing in exchange for the tax benefit.

**BILL ANALYSIS:** House Bill 1042 would substantially restructure the property tax exemption for nonprofits that provide low- and moderate-income housing income by defining terms, limiting permissible ownership structures, requiring initial and ongoing verification of rent and income limits, and ensuring compliance with long-term affordability requirements through government oversight or a recorded deed restriction, depending on the method of financing.

With respect to the **existing statute**, G.S. 105-278.6, Section 1 of the bill would:

- Make stylistic and readability changes by moving the actual and exclusive use and ownership requirements to the lead-in language since those requirements apply to all of the entities listed in the statute.
- Carve out rental housing from the broader provision and relocate the applicable provisions to a new stand-alone statutory section, G.S. 105-278.7A. As revised, (a)(8) would remain applicable to nonprofit organizations that "provide housing to low- and moderate-income individuals" other than rental housing, such as Habitat for Humanity.

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- Reduce from 10 years to 5 years, the period of deferred taxes for real property held as a future site for low- and moderate-income housing. Ordinarily, property must be in actual use to qualify for the exemption. In 1993, the General Assembly created an exception to this requirement by allowing property held as a future site for affordable housing to qualify for the exemption, with the taxes otherwise due becoming a lien on the property for a period of up to 5 years. If the property is used for affordable housing within that period, the lien is extinguished; if it is not, the taxes become due. In 2011, this period was extended to 10 years.
- Section 3 of the bill is a conforming change.

With respect to the **new statute**, G.S. 105-278.7A, Section 2 of the bill would:

- **Generally.** – Establish a new framework for a nonprofit that provides "affordable rental housing" to qualify for the property tax exemption. The new statute uses the term "affordable" in place of "low- and moderate-income." HUD defines "housing affordability" as a household paying no more than 30% of their income for housing for households earning at or below 80% of the Area Median Income (AMI).
- **Affordability Requirements.** – Define "affordable rental housing" to refer to a rental housing development in which more than 50% of the units are at or below rent and income limits. Those terms are further defined as follows:
  - Income limit – 80% of AMI.
  - Rent limit – Rent, plus utility allowance calculated in accordance with requirements of the NC Housing Finance Agency, that does not exceed 30% of 80% of AMI.

As it relates to this affordability requirement, applicants for the exemption would have to verify the percentage of "qualifying units" by submitting documentation as to the rent amounts received and the total household income for each qualifying unit, which, in turn, would determine the applicable exemption percentage. Alternatively, an applicant may qualify for a 100% exemption if the property meets the IRS safe harbor requirements.

- **Eligible Owners.** – Limit who can be an "eligible owner" based on whether the property is financed with government funds. Under the bill, a joint venture that does not finance the affordable housing with government funds is not eligible for the exemption. The possible eligible owners are as follows:
  - Eligible nonprofit corporation – A 501(c)(3) that has day-to-day control of the operations of and decisions for the affordable rental housing and does not delegate decision-making authority other than to a property manager serving under the direction of the eligible owner. It may include a single-purpose entity wholly owned by an eligible nonprofit corporation.
  - Eligible joint venture – A limited partnership, limited liability company, or a limited liability partnership in which a general partner or a managing member is an eligible nonprofit corporation. This ownership structure, in conjunction with federal low-income housing tax credits (LIHTC) financing, is the same fact pattern as in the *Blue Ridge Housing* case.
- **Government Support.** – Tie the requirements for exemption eligibility to whether the property is financed with government funds, referred to as "government support." The reason for this is that government funding mechanisms have long-term affordability requirements as part of their financing terms and corresponding oversight, which provide assurances that the property will be used for its intended purpose. The term "government support" refers to any of the following:

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- Federal low-income housing tax credits.
- Tax-exempt mortgage revenue bonds, qualified 501(c)(3) bonds, federal direct loans or grants, State loans or grants, or loans or grants provided by a local jurisdiction in which the property is located. To be eligible for the exemption using this type of financing, the terms of the financing must the execution of deed restriction or other enforceable regulatory agreement with a public agency requiring that the property be operated as affordable housing for at least 15 years from the date the financing is provided. The deed restriction or agreement must be recorded with the register of deeds in the county where the property is located. The rights of the applicable public agency are durable for the full term of the agreement and are not defeasible without written agreement of the public agency.
- **Requirements.** – The requirements for the exemption would depend on whether the affordable housing is financed with government support.
  - **Government-Supported.** – If the property is financed with government support, then the owner may be either an "eligible nonprofit corporation" or an "eligible joint venture," and the owner must be in compliance with any applicable deed restriction or regulatory requirements imposed by the financing terms.
  - **Non-Government-Supported.** – If the property is not financed with government support, then it must be 100% owned and operated by an eligible nonprofit corporation that has owned and operated affordable rental housing for at least 5 years and that has recorded a deed restriction requiring the property be operated in accordance with the requirements of this new statute for a period of at least 15 years from the date of application, and is, in fact, in compliance with said restriction. The eligible nonprofit may not lease the affordable housing to another entity and may not receive any funding or financial assistance, other than grants, from a for-profit affiliate. The term "100% percent owned" means (i) the eligible nonprofit corporation is the sole record owner of the property, or (ii) if title to the property is held by a single purpose entity, the eligible nonprofit corporation, either directly or through one or more wholly owned disregarded entities, owns one hundred percent (100%) of the legal and equitable ownership interest in the title holding entity, and no other person or entity holds any membership interest, partnership interest, shareholder interest, economic interest, profits interest, capital interest, beneficial interest, or other direct or indirect ownership interest in that entity.
- **Exemption Amount.** – The exemption amount would be one of two options:
  - A percentage equal to the percentage of qualifying units, which are units for which the rent is at or below 30% (including a utility allowance) of 80% AMI, adjusted for family size. For example, if 60% of the units are qualifying units, then the exemption amount would be 60% of the appraised value of the property.
  - 100% of the appraised value if the affordable rental housing meets the safe harbor requirements of Section 3 of IRS Rev. Proc. 96-32, which is as follows:

Percentage of Units	Occupied by Residents with Incomes of
At least 75%	≤80% AMI
Up to 25%	>80% AMI

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Of the 75%, either:	
20%	≤50% AMI
40%	≤60% AMI

- **Application Requirements.** – An applicant must submit the following information on an application for the exemption:
  - Whether the applicant is applying for government-supported or non-government-supported property and evidence of said support.
  - Documentation supporting that it is an eligible owner.
  - A copy of the applicable deed restriction or regulatory agreement and a statement certifying that the applicant is in compliance with said document as well as the requirements of the statute.
  - Whether the property is subject to a transition period.
  - If the applicant is applying for an exemption amount based on the percentage of qualifying units, the percentage of qualifying units as shown by both of the following, which are to be submitted in an anonymized manner:
    - The rent amount received for each qualifying unit (or evidence of the published rent for a vacant unit).
    - The total household income for each occupied qualifying unit, except during the transition period.
  - If the applicant is applying for an exemption amount based on meeting the Rev. Proc. 96-32 safe harbor requirements, evidence demonstrating those requirements are met.
- **Compliance.** – The new statute would require ongoing compliance. The owner must annually submit an application providing the taxing unit with tenant rent and income verification, or evidence of meeting the safe harbor requirements, as of the previous December 31. Household income for each tenant in a qualified unit must be verified at least every two years following initial verification of the tenant's income.
- **Future Site.** – This provision is identical to the current law with respect to deferred taxes on property that will be a "future site" of affordable housing. Once construction is complete and the property becomes occupied as affordable housing, the lien resulting from the deferral would be extinguished. However, the bill would reduce the deferral period from 10 years to 5 years.
- **Ineligible Property.** – Subsection (i) would prevent an existing LIHTC property that was fully for-profit owned at the outset and is currently appraised, assessed, and taxed from transferring a portion of its ownership to a non-profit and qualifying for the exemption under the new statute unless a new LIHTC allocation and certification has been awarded for newly financed improvements. The rationale for this limitation is that allowing existing properties that were originally developed by a for-profit and are currently taxable to become exempt would not create new affordable housing and would further erode the local government tax base in the same way that "naturally occurring affordable housing" (NOAH) properties owned by for-profits are changing their ownership structure after Blue Ridge Housing to become exempt.

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**EFFECTIVE DATE:** This act would be effective for taxes imposed for taxable years beginning on or after July 1, 2026. With respect to property held as a future site under G.S. 105-278.6(e) or G.S. 105-278.7A(h), as enacted by this act, the 5-year period for deferred taxes would apply to real property classified under those provisions on or after July 1, 2026. Notwithstanding G.S. 105-282.1(a)(2)a., a nonprofit owner of rental housing that is exempt under G.S. 105-278.6(a)(8) as of the effective date of this act must, by December 31, 2026, reapply for the exemption, providing the assessor of the taxing unit with any necessary documentation for compliance consistent with this act. Reapplication under this section is considered an application under subsection (f) of this act.