Low-Income Housing Tax Credits

It is critical to preserve and strengthen the Low-Income Housing Tax Credit.

BACKGROUND

The Tax Reform Act of 1986 established the Low-Income Housing Tax Credit (LIHTC) program to bolster and incentivize public-private partnerships in low-income housing. Since its inception, the program has helped finance millions of affordable rental homes in the United States. The tax credit program remains one of the best tools for creating and preserving affordable housing.

The credits under the program are calculated based on a state’s population, and typically are allocated by state housing finance agencies (HFAs) in accordance with the state’s own affordable housing need priorities outlined in its Qualified Allocation Plan. Developers compete for tax credits by submitting proposals to develop affordable rental housing that meets the state’s priorities and, if selected, they sell credits to investors to generate the equity investment needed to build and operate the LIHTC property with long-term affordability requirements. To foster the growth of affordable housing, LIHTC properties are required to reserve some proportion of units for low-income families, such as (1) reserving 20% of units for persons making no more than 50% of area median income (AMI); or (2) reserving 40% of units for persons making no more than 60% of AMI.

RECOMMENDATIONS

Strengthen the LIHTC program.

The LIHTC program is a critical source of funding for the preservation and development of affordable rental housing for low-income households. MBA, therefore, supports congressional efforts to strengthen the LIHTC program by simplifying and streamlining program requirements, preserving existing affordable housing, and enabling the development of innovative, affordable housing solutions, particularly in underserved and rural low-income markets.

MBA’s Affordable Housing Council has worked alongside MBA Commercial Multifamily team to develop policy positions that support more affordable housing.

To that end, MBA supports the Affordable Housing Credit Improvement Act (AHCIA) of 2021, which is bipartisan and bicameral legislation to expand and strengthen the LIHTC to address the nationwide affordable housing shortage by building more than two million new affordable units over the next decade and ensuring the program better serves a variety of at-risk and underserved communities.

Key provisions of the AHCI include:

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• Increase Housing Credit allocations by 50 percent over current levels to help meet the vast and growing need for affordable housing and make the temporary 12.5 percent increase secured in 2018 permanent.

• Enable the Housing Credit to better serve hard-to-reach communities including rural, Native American, high-poverty, and high-cost communities, as well as extremely low-income and formerly homeless tenants.

• Make the Housing Credit a more effective tool for preserving the nation’s existing affordable housing inventory by simplifying and aligning rules.

• Enable states to maximize affordable housing production and preservation by lowering the threshold of Private Activity Bond financing – from 50 to 25 percent – required to trigger the maximum amount of 4 percent Housing Credits, which is needed for financial feasibility. As a result, projects would have to carry less debt, and more projects would be eligible to receive funding.

• Accelerate implementation of the allocation increase from the previous five years to two years, taking into account the increased and urgent need for affordable housing.

• Improve the Housing Credit student rule provision that was already in the AHCIA to clarify that formerly homeless youth and victims of human trafficking are eligible for affordable housing even if they are full-time students.

• Update the casualty loss provision from the prior AHCIA to allow for a longer rebuilding period after natural disasters, if necessary, as determined by the state housing agency.

Supporters maintain the legislation will result in the production of over 2 million additional affordable homes over the next decade, support the creation of nearly 3 million jobs, and generate more than $346 billion in wages and business income and nearly $120 billion in additional tax revenue – helping to address our country’s affordable housing crisis that has become even more urgent in light of the COVID-19 pandemic.

Address impacts of tax reform on the value of LIHTC program tax credits.
The Tax Cuts and Jobs Act of 2017 preserved the LIHTC program, consistent with MBA’s strong advocacy. Separately, however, the Act also lowered the corporate tax rate, which has affected the value of tax credits under the program. MBA recommends that policymakers address the resulting adverse impacts on the LIHTC program and take actions necessary to maintain and strengthen the continued viability of LIHTC as an effective program for financing for low-income housing.

Permit GSE investments in LIHTC equity on a limited basis.
Before the housing and financial crisis, the Government Sponsored Enterprises (GSEs - Fannie Mae and Freddie Mac) made substantial equity investments in LIHTC properties. However, since then, the GSEs have provided only limited new equity investments in LIHTC funds or properties, with prior FHFA approval. MBA recommends that future GSE LIHTC equity investments should similarly be limited (e.g., limited to targeted markets, such as rural or demonstrably underserved markets, and only for a modest portion of the market), and be subject to prior FHFA approval. We acknowledge that the GSEs also provide important secondary mortgage market support for debt financing of affordable housing, including LIHTC projects, by purchasing and securitizing multifamily mortgages, an activity that we strongly support.

On September 1, 2021, the regulatory body for the GSE’s, the Federal Housing Finance Agency (FHFA) raised the Enterprises’ LIHTC cap to $1.7 billion ($850 million each) and increased the Duty to Serve (DTS) rural and targeted investment requirement from 40% to 50% of each Enterprise’s total LIHTC investment capacity, or $425 million in targeted investment and $425 million in unrestricted investment. MBA supports the FHFA’s decision to raise the LIHTC cap and target investment at affordable rental housing.

**Encourage a level playing field between FHA-approved lenders and government lenders and promote public-private partnership.**

While HFAs play a critically important role in the affordable market, MBA supports adding protections to prevent HFAs from tying allocation of LIHTC tax credits to use of the state HFA’s debt financing (consistent with the role described in Tax Reform Act of 1986 report language).

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