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Low Income Housing Tax Credit (LIHTC)

Urge Congress to:

- **Extend the Exchange Program to Maintain the Development Pipeline in 2010.** Congress should extend 9% exchange program established in the American Recovery and Reinvestment Act for another year and modify it to include the four percent LIHTCs that accompany tax-exempt multifamily housing bonds.
- **Increase LIHTC Carryback Period.** Congress should enact investment incentives to immediately stimulate and help restore investments over the longer term by increasing the ability of investors to carryback, use credits against prior year income, from one to five years.
- **Broaden the Investor Base by Permitting Additional Entities to Invest in LIHTCs.** Congress should allow some S Corporations and Limited Liability Companies and closely held C Corporations to use the LIHTC on the same basis as other corporations to diversify the investment base beyond commercial banking.
- **Cosponsor H.R. 4687.** This bill would extend the 9% exchange program and expand it to include the exchange of unusable 4% credits.

Background

The LIHTC, the nation's largest and most successful affordable rental housing production program, has financed more than two million apartment homes since 1987 and about 120,000 annually in recent years. According to the National Council of State Housing Agencies, approximately 90 percent of all affordable rental housing is financed annually through the LIHTC. The LIHTC builds new affordable apartments and saves valuable at-risk existing affordable housing in all communities and all parts of the country and for all populations including the elderly, people with disabilities, and people who are homeless.

However, the recession and the financial crisis have drastically reduced investment in the LIHTC preventing the production of needed affordable housing and eliminating tens of thousands of jobs. Private investment in the Housing Credit has fallen from a high of about \$8.9 billion in 2006-2007 to about \$5.5 billion in 2008 and remains low. If no action is taken, such reduced investment will result in as many as 60,000 fewer affordable apartments built and 90,000 lost jobs annually in coming years.

Congress responded to the need to fill the gaps left by the lack of investor interest when it adopted two programs in the American Recovery and Reinvestment Act of 2009 (Recovery Act): One was \$2.25 billion in the HUD-administered Tax Credit Assistance Program (TCAP), and the second was the tax credit exchange program which permits state tax credit allocating agencies to exchange a portion of their 9% tax credit allocation for cash to be used to finance eligible properties (TCEP).

(over)



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The ARRA programs were helpful but more needs to be done to assist projects to move forward quickly and encourage investment in LIHTCs. In particular Congress needs to extend the 9% TCEP program for one year, enable projects which use LIHTCs and housing bonds to finance preservation and rehabilitation activities to move forward by creating an exchange program for the 4% LIHTC, and expand the investor base by extending the ability of investors to carryback losses and encourage non-financial institutions to invest in LIHTCs.

The extension of the 9% exchange was included in both the House and Senate passed versions of H.R. 4213, called the "Tax Extenders Act of 2009" in the House and the "American Workers, State, and Business Relief Act of 2010" in the Senate, and is likely to be included in the final bill.

A provision to provide some limited relief in connection with the 4% credit was included in H.R. 4849, the Small Business and Infrastructure Jobs Tax Act of 2010, which passed the House March 24. However, the provisions of H.R. 4849 are of limited use. The bill does not provide an exchange program as is needed but instead provides for a tax refund, which is only available to for-profit developers, and the bill requires that projects be placed in service as of December 31, 2010, severely restricting the number of projects that can use the limited refund.

A more complete refund proposal is included in H.R. 4687, introduced by Representative Linda Sanchez (D-CA), would extend the 9% TCEP and expand TCEP to include the exchange of unusable 4% credits. This bill would also allow the return of tax-exempt bond authority so that it can be reallocated and replaced by taxable financing.

Two other bills, S. 3141 and H.R. 4109, would provide the changes needed to allow for the carryback of the tax credits. No action has been taken on these bills yet. The proposal to expand the investor base has not been introduced.

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