

The Housing and Economic Recovery Act of 2008 - Public Law 100-289

Provision: Division C-Tax-Related Provisions, Section 3000-Housing Assistance Tax Act of 2008. Title I-Housing Tax Incentives, Subtitle A-Multi-Family Housing, Part I-Low-Income Housing Tax Credit; Part II-Modification to Tax-Exempt Housing Bond Rules; Part III-Reforms Related to the Low-Income Housing Credit and Tax-exempt Housing Bonds

Feature	Description	Effective Date
Increase in Credit Cap	Increases LIHTC cap by 20 cents in 2008 and 2009 per capita.	
Alternative Minimum Tax	Allows corporations and individuals to offset AMT liability with tax credits; makes interest on tax-exempt housing bonds not subject to AMT	Effective for buildings placed in service after 2007 for LIHTCs and rehabilitation expenditures incurred after 2007. Regarding interest on tax exempt bonds, it is effective after enactment.
General Public Use Rule	Clarifies that a building meets the general public use requirement if occupancy of the building is limited to individuals who have special needs, or are members of a specified group under a Federal or State program or policy that supports housing for such a specified group, or are involved in artistic or literary activities.	Shall apply to buildings placed in service before, on, or after the date of enactment.
Treatment of Basic Allowance for Housing	Excludes military housing allowances from the definition of income for certain "qualified buildings" located in any county in which is located a qualified military installation where the number of members of the armed forces as of 6/1/08 has increased by 20 percent as compared to the number on 12/31/05.	Income determinations made after the date of enactment and before January 1, 2012 for qualified buildings, which in general includes buildings allocated credits and placed-in-service before January 1, 2012.
Fixing the credit percentages	Temporary 9 percent flat credit rate for non-federally subsidized buildings placed-in-service by 12/31/13.	Effective for buildings placed in service after enactment.
Income Limits	Revises method for calculating LIHTC in areas held harmless in 2007 or 2008. Codifies held harmless policy for LIHTC program.	Effective for determinations of area median gross income for calendar years after 2008.
Treatment of rural projects	Allows properties located in rural areas to use the greater of area median income or national non-metropolitan median income for purposes of measuring income limitations	Effective for income determinations made after enactment.
State designated DDAs and QCTs	States can provide up to 30% basis boost for state-designated buildings as requiring the increase in credit in order for the building to be financially feasible; does not apply to tax-exempt bond deals.	Effective for buildings placed in service after enactment.
Federally subsidized properties	Projects receiving federal grants are eligible to receive the 9% credit	Effective for buildings placed in service after enactment.
Recapture bond	Repeals recapture bond rule.	Effective for buildings placed in service after enactment.
Tax-Exempt Bond Recycling	Clarifies that where a state issues a series of short-term bonds for LIHTC projects, these bonds will be counted only once against the limitation on the annual amount of tax-exempt housing bonds that each state may issue	Effective for repayments of refunded bonds after enactment.
Section 8 Mod-Rehab	Repeals prohibition against using tax credits in Section 8 Moderate Rehabilitation developments	Effective for buildings placed in service after enactment.
10 Percent Test	The time limit for meeting the 10% test would be extended to one year.	Effective for buildings placed in service after enactment.
Conforming tax credit and tax-exempt bond rules	For projects financed with tax credits and tax-exempt bonds, the next-available unit rule would apply to the building, the tax-exempt bond student and single room occupancy rules would conform with the tax credit definitions.	Effective for determinations after enactment with respect to tax-exempt bonds issued before and after enactment.
QAP Requirements	Provides a preference in the QAP for energy efficiency and historic nature of the project.	Effective for project allocations made after December 31, 2008.
Rehabilitation Requirements	The minimum threshold would be increased to the greater of \$6,000 per unit or 20% of adjusted basis. The minimum amount shall be increased by an inflation factor for projects placed-in-service after 2009.	Effective for project allocations after enactment.
Expansion of allowable basis for community services facilities	Increases the allowable basis for community service facilities to the sum of 25% of the first \$15 Million plus 10% of additional costs.	Effective for buildings placed in service after enactment.
Related person rule	Reduces related party test from 50 percent to 10 percent of common ownership control.	Effective for buildings placed in service after enactment.
10-year Acquisition Rule for LIHTCs	Waives 10-year acquisition rule for specific building types - (1) buildings acquired from an insured depository institution in default or from a receiver or conservator of such an institution; (2) Federally assisted building (substantially assisted, financed or operated under section 8, section 221(d)(3), (d)(4), section 236, section 515); (3) state-assisted (any building substantially assisted, financed or operated under any state law similar in purposes to any of the laws referred to above).	Effective for buildings placed in service after enactment.
Continued Eligibility for Students who Received Foster Care Assistance	Allows students who were previously in foster care to be eligible for tax credit units.	Effective for income determinations made after enactment.
Tenant Recertification	Waives annual tenant income certification in 100% low-income properties.	Effective upon enactment for all qualifying projects.
GAO Study	GAO report by 12/31/12 analyzing the implementation of the modifications made by this subtitle to the LIHTC. Report shall include analysis of the distribution of credit allocations before and after the effective date of such modifications.	

Provision: Division B, Title VIII, Subtitle B-Coordination of Federal Housing Programs and Tax Incentives for Housing

Feature	Description	Effective Date
Administrative and Procedural Changes - FHA Multifamily	Requires HUD, within six months, to implement administrative and procedural changes to expedite approval of HUD multifamily projects funded in conjunction with housing tax credits or tax-exempt housing bonds. Lists types of actions that HUD may take to do so. Requires HUD to consult with the IRS and to take actions as appropriate to simplify coordination of rules, regs, forms and approval requirements for combined funding. In implementing changes required under this section, requires HUD to solicit recommendations from stakeholders regarding such changes. Requires HUD to submit a report, no later than 9 months from bill enactment, identifying actions taken and stakeholder recommendations, and making legislative recommendations.	All provisions in Subtitle B are effective upon enactment.
Actions to Expedite Approvals for USDA/Rural Housing Service Projects	Requires Agriculture Secretary to (a) take action to facilitate timely approval of requests to transfer ownership or control of Section 515 projects for the purpose of rehabilitation or preservation, and (b) consult with IRS and take actions to simplify coordination of rules, regs, forms and approval requirements for projects combining 515 assistance and tax credits or bonds. Requires Agriculture Secretary to solicit recommendations regarding changes from project owners, sponsors, investors and stakeholders.	
Use of FHA Loans with LIHTCs	Eliminates need for HUD subsidy layering review of FHA-financed projects involving low income housing tax credits which undergo a tax credit subsidy layering review. Eliminates HUD cost certification requirement for FHA multifamily housing loans which also use housing tax credits in cases where the loan-to-cost ratio is less than 80%. Bars HUD from requiring escrowing of tax credit proceeds or posting of a letter of credit for FHA loans involving tax credits. Exempts LIHTC properties from HUD physical inspection requirements if the tax credit allocating agency already performs them. Permits HUD to rely on tax credit allocating agency for other compliance monitoring requirements. Requires HUD to establish a pilot program to demonstrate the effectiveness of streamlining the review process for FHA-insured LIHTC loans. HUD must appoint designated underwriters, to be responsible for reviewing these applications and determining eligibility for insurance in lieu of the processing functions otherwise performed by other HUD staff.	

The Housing and Economic Recovery Act of 2008 - Public Law 100-289

Provision: Division B, Title VIII, Subtitle B-Coordination of Federal Housing Programs and Tax Incentives for Housing (cont'd)

Feature	Description	Effective Date
Section 8 Project-based Vouchers	<p>Increases maximum Section 8 project-based voucher contract from 10 years to 15 years and allows the PHA to extend the contract for terms up to 15 years each.</p> <p>Permits tax credit rents, if lower than the voucher rents, to be set at the higher voucher rent, at the discretion of the PHA, and subject to the rent reasonableness test.</p> <p>Provides that the maximum rent permitted for a unit cannot be less than the initial rent under the initial housing assistance payment contract.</p> <p>Authorizes project-based vouchers in coops and buildings with elevators.</p> <p>Eliminates need for HUD subsidy layering review in the case of a housing assistance payments contract for an existing structure, or if a subsidy layering review has been conducted by the applicable state or local agency.</p> <p>Provides that PHAs shall not be required to undertake any environmental review before entering into a housing assistance payments contracts for existing properties unless otherwise required in law or reg.</p>	
Section 8 Voucher Program	<p>Establishes clearer standards for voucher rent reasonableness for projects using housing tax credits. If the voucher rent is equal to or less than the rent for other comparable units receiving tax credits or other assistance and are not occupied by families with tenant-based vouchers, the rent is reasonable. If the rent exceeds the greater of the rent charged for other tax credit units not occupied by voucher holders and the payment standard, it is does not meet the reasonableness test.</p>	
Data Collection	<p>Requires state agencies administering housing tax credits to submit information to HUD annually regarding characteristics of projects financed through such tax credits.</p> <p>Authorizes \$2.5 million in FY09 and \$900,000 in FY 2010 through 2013 for the costs of the data collection.</p>	

Provision: Division B, Title III - Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes

Feature	Description	Effective Date
Allocation of Funds	\$4 billion allocated to state and local governments for the redevelopment of abandoned and foreclosed upon homes and residential properties.	All provisions in this Title are effective upon enactment.
Formula for Distribution to States and Localities	<p>Formula must be established within 60 days of date of enactment.</p> <p>HUD must ensure that funds go to states and localities with greatest need. Such need must be based on, at the discretion of the Secretary: the number and percentage of home foreclosures in each state or locality; the number and percentage of homes financed by a subprime mortgage-related loan in each state or locality; and the number and percentage of homes in default or delinquency in each state or locality.</p>	
Minimum Allocation	Each state shall receive not less than 0.5 percent of the funds.	
Timing on Distribution and Use of Funds	Funds must be distributed within 30 days after establishment of the formula. States and localities must use the money within 18 months of receipt.	
Priority Areas for Funding	Any state or locality that receives funds must give priority emphasis to metro areas, metro cities, urban areas, rural areas, low and moderate income areas, and other areas with the greatest need, including those with the greatest percentage of home foreclosures; with the highest percentage of homes financed w/sub-prime loans and identified by the state or locality as likely to face a significant rise in the rate of home foreclosures.	
Eligible Uses	Funds may be used to: (1) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including soft seconds, loan loss reserves, shared-equity loans for low- and moderate-income homebuyers; (2) purchase and rehab homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent or redevelop them; (3) demolish blighted structures; (4) establish land banks for foreclosed homes; (5) redevelop demolished or vacant properties.	
Income Eligibility	All funds must be used for individuals and families with incomes not to exceed 120 percent of AMI; and not less than 25 percent of the funds must be used to purchase and redevelop foreclosed/abandoned homes for households with incomes that do not exceed 50 percent of AMI.	
Affordability Term	HUD must ensure to the maximum extent practicable and for the longest feasible term, that the sale, rental or redevelopment of abandoned/foreclosed homes and residential property remain affordable to low and moderate income households.	
Purchase and Sales Price Limitation	Purchase must be at a discount from the current market appraised value, taking into account its current condition; the discount must ensure that the buyer is paying below-market value for the property. If an abandoned or foreclosed home or residential property is purchased, developed or sold to an individual as a primary residence, the sale must be in an amount equal to or less than the cost to acquire, rehab or redevelop the unit or property up to decent, safe and habitable condition.	
Rehabilitation Cost Limits	Rehab on a foreclosed or abandoned home or residential property must be to the extent necessary to comply with applicable codes, laws and other requirements relating to safety, quality and habitability, in order to sell, rent or redevelop such homes. Rehab may include energy efficiency or conservation improvements or renewable energy sources.	
Reinvestment of Profits	<p>For five years after enactment, any revenue generated by the sale, rental, redevelopment, rehab or any other eligible use shall be provided to the state or locality to further the intent of provisions of this provision. After five years, such revenue goes to the Treasury, unless the HUD Secretary approves a request to use the funds for purposes under this Act.</p> <p>Any revenue generated by financing mechanisms (soft seconds, equity-sharing, etc.), land banks for foreclosed homes or the demolition of structures shall be provided to the state or locality in accordance with the intent of these provisions.</p>	