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# Industry Forges Ahead to Improve the LIHTC

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In September, the Affordable Housing Tax Credit Coalition (AHTCC) responded to the National Council of State Housing Agencies (NCSHA) Working Group on its proposed legislative and regulatory changes to the low-income housing tax credit (LIHTC), endorsing NCSHA's proposals and adding its recommendations for additional revisions. See www.taxcredithousing.com for a copy of AHTCC's letter.

In a letter signed by AHTCC's president Jenny Netzer of MMA Financial LLC, the Coalition lent its support to all seven of NCSHA's proposed improvements that pertained to residential rental housing. Those include: changing the name of the housing credit program to the Affordable Housing Tax Credit; fixing the housing credit at 4 and 9 percent; increasing the maximum housing credit percentage a development can receive; eliminating the housing credit scattered site rule; conforming multifamily bond program rules to housing credit program rules; exempting housing bond and housing credit investments from the AMT; and allowing state allocating agencies to determine utility allowances.

Additionally, AHTCC asked NCSHA to consider in its proposals the elimination of the recapture bond posting requirement; allowing the credits to continue for a property suffering from a casualty loss; enhancing the use of LIHTC with federal grants; allowing projects that were previously involved in the Section 8 Moderate Rehabilitation program to be eligible for credits; making the 10 percent test requirement, once met, incontestable; and repealing the 10-year rule for acquisition credits.

AHTCC argues in its recommendation to eliminate the recapture bond posting requirements that the lack of liquidity of credit investments affects the value of the credits and therefore, prior owners should not be subject to the additional burden of the bond. This change would serve to increase the pool of potential investors, thereby increasing further the value of the credit, which would increase the tax credit equity available with a resultant increase in subsidy dollars available to build affordable housing.

By adopting the recommendation to allow the credits to continue for a property suffering from a casualty loss, AHTCC notes that a major area of uncertainty would be eliminated and investors would perceive reduced risk and require lower rates of return, increasing the value of the credit, and increasing the pool of potential investors.

The Coalition calls for the Internal Revenue Code (IRC) to state that federal grants do not reduce eligible basis if the grant is included in taxpayers' taxable income and that federal grants that can be traced directly to non-eligible basis items should not reduce eligible basis. By changing the IRC and enhancing the use of LIHTC with federal grants, AHTCC makes the case that needier tenant populations and severely distressed areas will be served. Likewise, the AHTCC argues, modifying the IRC and allowing projects that were involved in the Section 8 Moderate Rehabilitation Plan to be eligible for credits would result in needier tenant populations and severely distressed areas to be served.

As it is now, the provisions in the IRC regarding the 10 percent test requirement creates unnecessary risk to investors. The intent of the test, to prevent the banking of credits, is not longer served once the building is placed in service, according to the Coalition. By eliminating the 10 percent risk, the AHTCC says more credit equity will be generated and unnecessary administrative costs will be avoided.

Finally, the AHTCC proposes that the 10-year rule be repealed for acquisition credits because, according to the Coalition, the rule is preventing many existing properties from qualifying for credits. The AHTCC proposal would give each state housing agency the authority to determine which, if any, existing buildings should be allocated acquisition credits. Additionally, the Coalition says, there is no longer a need for the rule because the purpose behind it was to prevent churning of property where favorable depreciation rules were used — there have been no significant depreciation rules changes since the 1986 Tax Reform Act.

There are no more important housing programs than the housing bond and tax credit programs. They provide affordable rental and ownership housing to citizens and in the last 20 years have helped house millions of families in more than one million LIHTC units. But while these programs have been tremendously effective over the years, the effort to identify legislative and regulatory changes that would make them even more effective is central to their continued success. NCSHA's legislative and regulatory effort deserves the participation and wholehearted support and commendation of the affordable housing industry for undertaking the time-consuming, complex and at times arduous effort to strengthen the housing bond and tax credit programs, an effort that will benefit all.