

The undersigned organizations urge Congress to enact the Low Income Housing Tax Credit (Housing Credit) proposals described below in upcoming tax legislation. These proposals will stimulate affordable rental housing production while creating and saving tens of thousands of jobs. They represent a consensus approach resulting from a months-long process convened by the Center for American Progress Action Fund and Living Cities, which brought together a broad cross-section of the stakeholders in the field of quality affordable rental housing and Housing Credit investment.

As the nation's largest and most successful affordable rental housing production program, the Housing Credit 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 Housing Credit. According to the National Association of Home Builders, until recently the program supported about 180,000 jobs annually, and benefitted local economies from the addition of \$1.5 billion in taxes and other revenues. Housing Credit properties are also managed very well, with an extremely low annual foreclosure rate below 0.1%, according to Ernst & Young.

Not only has it produced quality, well-managed apartments, and well-paying jobs, the Housing Credit brings well-designed rental housing to a wide variety of communities—from inner cities to rapidly growing suburbs to rural towns. It builds new affordable apartments and saves valuable at-risk existing affordable housing. It provides affordable homes to working families and vulnerable populations with special needs—the elderly, people with disabilities, and people who are homeless. It addresses the housing needs of acutely underserved communities, such as farmworkers and Native Americans, and it is the key housing resource for transformative community redevelopment and revitalization efforts nationwide.

However, the recession and the financial crisis have drastically reduced investment in the Housing Credit program over the past 18 months, 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 \$9 billion in 2006-2007 to about \$5.5 billion in 2008, and is expected to drop even further in 2009. If no action is taken, this 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 promptly, through the American Recovery and Reinvestment Act of 2009 (Recovery Act), by providing \$2.25 billion in the HUD-administered Tax Credit Assistance Program (TCAP) to help jumpstart stalled development. It also gave state housing agencies the ability to exchange a portion of their Housing Credit allocations for direct spending funds that can be used to maintain the affordable housing development pipeline.

But TCAP and the exchange programs are temporary programs meant to deal with the *immediate* affordable housing crisis. Investment markets will not fully recover in 2010, and further action is needed to ensure America's affordable housing development's *long-term success*. The TCAP and exchange programs were not intended to be and should not be viewed as substitutes for private investment in the Housing Credit program which, because of the public-private partnerships between for-profit and nonprofit developers, private investors, and state housing credit agencies, has created for over twenty years the most successful federal affordable rental housing production program in history.

The undersigned include many coalition partners in The Affordable Rental Housing A.C.T.I.O.N. (A Call To Invest in Our Neighborhoods) — a national, grassroots coalition focused on stimulating investment in affordable rental housing — and represent a broad cross-section of organizations dedicated to the creation of affordable rental homes for lower-income families throughout the country. We support the following legislative proposals that will help restore investment in affordable rental housing, produce and preserve

needed affordable apartments, and employ tens of thousands of working Americans. These proposals, *in no order of priority* and designed to work together, represent the consensus of a broad cross-section of the affordable housing community and other organizations.

## Campaign Legislative Proposals

1. **Extend the Exchange Program to Maintain the Development Pipeline in 2010.** Congress should extend for another year the Section 1602 Housing Credit exchange program as established in the Recovery Act and modify it to include the four percent Housing Credits that accompany tax-exempt multifamily housing bonds. This extension and modification will give each state the ability and resources to continue to fund needed affordable rental housing in 2010 based on the Housing Credit model while the investment market recovers. While extending it, Congress should also address exchange program implementation issues to ensure that program assistance is most effectively used.
2. **Immediately Stimulate, Broaden the Investor Base for, and Maintain Housing Credit Investment Demand by Increasing the Housing Credit Carryback Period.** Congress should enact investment incentives to immediately stimulate and help restore longer term Housing Credit investment demand. To do so, Congress should enact a two-part proposal that would increase the current law Housing Credit carryback from one to five years:
  - A. To immediately stimulate investment demand, investors with existing Housing Credit-financed housing should be permitted to carryback for up to five years Housing Credits from their returns they file in the 2008-10 tax years, but only to the extent they immediately reinvest credit amounts carried back in new affordable rental housing. In order to be fully effective in stimulating additional investment, the alternative minimum tax relief Congress provided under the Housing and Economic Recovery Act of 2008 should be extended to credits carried back under this part.
  - B. In addition, in order to broaden and maintain steady investor demand, Congress should permit taxpayers to carryback credits generated by new Housing Credit-financed housing up to five years as they arise during the ten-year credit period. This part would apply only to investments in buildings for which credits are first claimed after 2008. This will enable participation by investors for whom a significant barrier to program participation is the uncertain prospect of ten straight years of reliably positive taxable income. Allowing investors in new housing to carry back Housing Credits up to five years also helps put the Housing Credit on a more equal footing with other tax credit programs, which have shorter compliance and investment holding periods.
3. **Further Broaden the Investor Base.** Under present law, the tax code's passive loss rules restrict the pool of potential Housing Credit investors. The undersigned organizations support providing parity with widely held C Corporations by allowing some S Corporations, Limited Liability Companies, and closely-held C Corporations to offset revenue with Housing Credit tax benefits that would otherwise be taxable when passed through to the owners of these businesses. To ensure the high standards of oversight associated with the program are maintained, we support limiting this ability to such entities that satisfy the following tests: (1) have at least \$10 million in annual gross receipts; (2) the principal purpose of forming the entity is not the avoidance or evasion of Federal income tax; and (3) there is an expectation of reasonable asset management. Such a policy change will broaden investor demand and prove particularly beneficial in rural areas where many community banks and other potential investors are currently prevented from participating in the program.



(LIST IN FORMATION)

Affordable Housing Investors Council  
Affordable Housing Tax Credit Coalition  
American Association for Homes and Services for the Aging  
California Housing Partnership Corporation  
Citizens' Housing and Planning Association  
Center for American Progress Action Fund  
Community Capital Corporation (Colorado)  
Community Economics, Inc.  
Connecticut Housing Coalition  
Council for Affordable and Rural Housing  
Enterprise Community Partners  
HOUSING ACTION Coalition-Rhode Island  
Housing Advisory Group  
Housing Partnership Network  
Institute for Responsible Housing Preservation  
Living Cities  
Low Income Investment Fund  
Massachusetts Housing Investment Corporation  
Mercy Housing Inc.  
Minnesota Housing Partnership  
National Affordable Housing Management Association  
National Affordable Housing Preservation Associates, Inc.  
National Affordable Housing Trust  
National Alliance of Community Economic Development Associations  
National Alliance to End Homelessness  
National Apartment Association  
National Association of Affordable Housing Lenders  
National Association of Home Builders  
National Association of State and Local Equity Funds  
National Housing Conference  
National Housing & Rehabilitation Association  
National Housing Trust  
National Leased Housing Association  
National Low Income Housing Coalition  
National Multi Housing Council  
National NeighborWorks Association  
Network for Oregon Affordable Housing  
Stewards of Affordable Housing for the Future  
Volunteers of America