

Low-income Housing Tax Credit Provisions
American Recovery and Reinvestment Act of 2009
(the "Act")

Below is a basic description of the provisions of the Act related to the financing of low-income housing tax credit developments. Regulations are in the process of being established by federal agencies in order for MHDC to access the funds and implement the programs created by the Act.

HOME Investment Partnerships Gap Financing

- \$2.25 billion is being made available to HUD to allocate to each state housing credit agency ("Agency") according to the HOME allocation formula.
- Agencies must distribute the funds competitively to owners of developments who have received or receive simultaneously an award of low-income housing tax credits ("LIHTC").
- Projects awarded LIHTC in federal fiscal years 2007, 2008, or 2009 are eligible to apply. Funding may be approved for developments structured with either 9% credits or tax-exempt bonds/4% credits.
- Agencies must give priority to projects expected to be completed within three years of enactment.
- Funding deadlines:
 - Agencies must commit no less than 75% of their allotment within one year of the date of enactment.
 - Owners receiving the gap funds must expend 75% of the funds within two years and 100% of the funds within three years of the date of enactment.
 - The Agency must redistribute funds from owners who fail to meet the deadlines for expenditure of the funds to a more deserving project in the state.
- Projects awarded gap financing are subject to the same restrictions as required by the Agency for an award of LIHTC, including rent, income, and use restrictions.
- The eligible basis of a development is not reduced by the amount of gap funding allocated through this program.
- The Agency must perform asset management functions to ensure compliance with Section 42 guidelines.
- Gap financing awards shall be posted on an internet site established by HUD.
- HOME restrictions related to fair housing, non-discrimination, labor standards, and the environment apply to developments receiving gap financing.

Low-income Housing Tax Credit Exchange Program

- An Agency may exchange a portion of its unused housing credit ceiling from 2008 and 2009 for a grant worth \$0.85 per annual credit.
- Exchanged funds are subawarded by the Agency to finance either the construction or rehabilitation of qualified low-income buildings.
- An Agency may subaward the funds to projects with or without an allocation of federal LIHTC.
- Subawards to developments without an allocation of federal LIHTC are subject to the following requirements:

- The Agency must determine that such use increases the total funds available to the state to construct or rehabilitate affordable housing.
 - The Agency must establish a process in which applicants for such subaward must demonstrate good faith efforts to obtain investment commitments in order to be approved for a subaward.
- Projects receiving a subaward are subject to the same restrictions as required by the Agency for an award of LIHTC, including rent, income, and use restrictions.
- The Agency must perform asset management functions to ensure compliance with Section 42 guidelines and the long-term viability of the properties benefitting from a subaward.
- The Agency shall impose conditions or restrictions, including a recapture provision, in order to enforce compliance with Section 42 requirements during the 15-year compliance period.
- Recaptured funds are payable to the Secretary of the Treasury and may be enforced by liens.