



GOVERNMENT AFFAIRS

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The Honorable Max Baucus
Chairman
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Grassley,

On behalf of the 200,000 members of the National Association of Home Builders (NAHB), including private sector developers of affordable housing, I am writing to express our views on stimulus proposals regarding the Low-Income Housing Tax Credit (LIHTC), the nation's most important program for the production of affordable housing. As you know, last week the House Ways and Means Committee released H.R. 598, the *American Recovery and Reinvestment Act of 2009*, an economic stimulus bill that includes an "exchange" proposal to facilitate additional resources for LIHTC housing production. NAHB supports this proposal as one short-term measure to facilitate the currently stalled market for affordable housing production. However, we regard solutions that bring back private-sector LIHTC investment as the only way to restore the vitality of the program in the long-term.

The provision in H.R. 598 allows states to elect to "exchange" up to 40 percent of their LIHTC allocation for 2009 as well as 100 percent of certain allocations carried forward from 2008 for direct funding at 85 cents on the dollar. These funds would in-turn be awarded to LIHTC project sponsors in the same manner as is currently used by state allocating agencies and with the same program requirements and restrictions (income, rents, compliance monitoring, etc). For the stalled LIHTC investment market, this approach would ensure that at least some funding resources were available to close the financing gap for stalled projects and help finance some new projects. Ultimately, however, this would only help affordable housing in the short-term.

The reduction in LIHTC production because of the weakness in the investor market has a significant, negative and direct impact on the overall economy. According to NAHB estimates, the typical LIHTC project creates 151 jobs and provides over \$7 million to the local economy. Loss of these jobs compounds the overall decline in home building that is devastating builders and their workers whose livelihood depends on construction activity. According to Bureau of Labor Statistics data, since the peak in industry employment in February of 2006, home builders and associated trades have experienced a loss of more than 718,000 jobs, with more expected as the slump continues.

To improve the financial health and efficient operation of this important program, NAHB recommends the following proposals:

1. Additional Short-term Subsidy Resources for Gap Financing of LIHTC Projects

As noted above, NAHB supports the goal of the "exchange" proposal contained in H.R. 598 that enables funding for LIHTC projects to get into the hands of state housing finance agencies and project sponsors immediately. We also strongly support an additional \$5 billion in direct funding outside of this proposal to the states for gap financing of these projects. These dollars are critical for taking viable projects to completion and ensuring a net gain in the production of affordable housing units. This gap financing should be focused on the LIHTC program specifically under the same rules and guidelines.

2. *Bring individual investors back into the LIHTC investment market.*

Historically, corporate investment in the LIHTC program was reliable and more than adequately filled any loss in the individual investor pool. However, it has been difficult to attract corporate investor interest to small and rural deals, since corporate investors look for larger deals with higher amounts of tax credits to offset their federal tax liability. The problem for the rural and small project is compounded by the current problems in the LIHTC investment market. As part of the *Housing and Economic Recovery Act*, Congress enacted changes allowing individuals to offset their alternative minimum tax (AMT) liability with low-income housing tax credits. This provision is one important step toward bringing individual taxpayers back into the LIHTC program. The second logical step is to change the passive loss rules, established as part of the Tax Reform Act of 1986 but not revisited since that time. These rules are the most significant hurdle to individual investment with respect to the LIHTC program.

3. *Make the LIHTC a refundable tax credit*

Investors increasingly find it difficult to predict their tax liability over the term of the LIHTC claim period. Without predictable tax liability, the value of the credit itself is reduced. Making the LIHTC a refundable tax credit would provide a tax refund for LIHTCs regardless of taxpaying status. This would help the current situation by stimulating investment and ensuring that existing credits are not resold in the syndication market, thus checking the decline in LIHTC prices.

4. *Expand the LIHTC carry back rule from one-year to five-years*

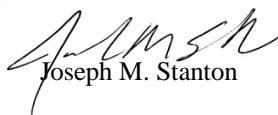
The carry back rule for LIHTCs is currently limited to one-year under the Section 38 General Business Credit rules. Expanding this carry back to five-years will ease the downward pressure on LIHTC prices by allowing credits to be claimed by investors that may not have federal tax liability in the present year. This will reduce the incentive for some LIHTC investors to sell their credits. For those investors subject to the alternative minimum tax (AMT) in previous years, this proposal would require an expansion of AMT relief that was included in HERA for projects placed in service prior to December 31, 2007.

5. *Enhance and diversify the pool of future LIHTC investors*

NAHB supports changes to the LIHTC that will enhance its attractiveness to new and existing investors. In 1990, Congress enacted legislation allowing investors to claim an accelerated percentage of the otherwise allowable first year credit amount, with reductions in the remaining credit claim years by an equal amount of the enhanced credit. This temporary change was intended as a means of attracting new investors into the program. We believe a similar approach today could work again.

Again, we appreciate and support the goals of the exchange proposal contained in H.R. 598 as a way of moving critical funding resources into the hands of states and project sponsors immediately and helping stalled LIHTC projects get to the finish line. However, this approach cannot be relied upon as the only solution to the crisis in the affordable housing sector; additional proposals like those above must be implemented as well. Thank you for your consideration of our views.

Sincerely,



Joseph M. Stanton

Cc: Senate Finance Committee