

Housing Credit FAQs 2021

What is the Housing Credit?

The Low Income Housing Tax Credit (Housing Credit) is a federal tax credit created by the Tax Reform Act of 1986 and designed to encourage private-sector investment in the new construction, acquisition, and rehabilitation of rental housing affordable to low-income households. Over the last three decades, the Housing Credit has become the most successful affordable rental housing production program in history.

The Housing Credit offers a dollar-for-dollar reduction in a taxpayer's income tax liability in return for making a long-term investment in affordable rental housing. State agencies award Housing Credits to developers, who engage private investors in the property's ownership partnership. The investors provide upfront equity capital to fund the construction and rehabilitation of affordable housing, allowing developers to borrow less money and pass through the savings in lower rents for low-income tenants. Investors, in turn, receive a 10-year stream of tax credits based on the cost of constructing or rehabilitating apartments that must be rented to low-income households.

The program allows states to allocate Housing Credits to developments they select pursuant to qualified allocation plans (QAPs) they develop that identify the type, location, and other characteristics of affordable housing needed throughout the state. The QAPs must describe the criteria agencies will apply in allocating the Credit and are subject to review after a public hearing and comment process. In this way, the Housing Credit empowers states to respond to the housing needs, priorities, and challenges they consider most important.

The Housing Credit program has two components: the "9 percent" Credit and the "4 percent" Credit. The annual amount of 9 percent Housing Credit authority in each state is limited by a volume cap based on the state's population. In 2021, the state Credit cap is \$2.81 times the state's population, with a state minimum of \$3,245,625.¹ Volume cap figures are published by the IRS on an annual basis and subject to an inflation adjustment.

The 4 percent component of the program can be triggered only by the use of **tax-exempt private activity multifamily Housing Bonds**. Housing Bonds and the 4 percent Housing Credit finance approximately 50 percent of Housing Credit rental homes every year. Because multifamily Housing Bonds are limited by the Private Activity Bond volume cap, the 4 percent Credit is not subject to the Housing Credit volume cap. Not only do Housing Bonds make possible the production of substantial numbers of new Housing Credit properties, they are essential to state efforts to preserve affordable housing.

¹ U.S. Department of Treasury, Internal Revenue Service, Notice 2020-45

Whom does the Housing Credit serve?

The Housing Credit program generally serves low-income working households earning 60 percent of area median income (AMI) or less, with congressional direction to serve the lowest income households possible. In practice, states well exceed this statutory requirement, reaching families with incomes much lower than the program's income limits. According to HUD data on Housing Credit resident demographics, nearly 45 percent of all households living in Housing Credit apartments are extremely low income, meaning they earn 30 percent of AMI or less.² Another 34 percent were very low income, earning between 30 and 50 percent of AMI, and the remaining 21.5 percent earn more than 50 percent of AMI.³

In 2018, Congress amended the Housing Credit statute to allow owners to opt to *income average* in any individual property. Under the new Average Income Test, a household could qualify to live in a Housing Credit property if their income is no greater than 80 percent of AMI *as long as* the average income limit in the property is at or below 60 percent of AMI. This means, if an owner allows households between 60 and 80 percent of AMI to rent units in the property, they must also set aside units in that property for households at lower income levels in order to maintain an average of no more than 60 percent of AMI. Income averaging preserves rigorous targeting to low-income households, while providing more flexibility to the program and greater income-mixing potential.

The flexibility of the Housing Credit has made it an attractive tool for meeting housing needs across rural, urban, and suburban areas. It finances housing for low-income families with children, seniors, veterans, members of Native American tribes, and people with disabilities. The Housing Credit has been instrumental in the production of permanent supportive housing for persons experiencing homelessness, those recovering from opioid addictions, and other special needs populations.

Why is the Housing Credit necessary?

The Housing Credit is necessary because our nation faces an affordable housing crisis, which is growing more and more critical. The U.S. rental market remains extremely tight, and increased demand for rental housing in recent years has caused rents to rise drastically. Renter households have been especially vulnerable to the economic disruption caused by COVID-19. Data from the Household Pulse Survey from late September found that 28 percent of renters used their onetime federal stimulus checks to cover basic needs, including rent, and 17 percent used unemployment insurance benefits. But many households have simply fallen behind on rent payments, making them vulnerable to eviction.⁴ Housing costs are rapidly rising, with rents rising at twice the pace of inflation on average nationwide.⁵

² HUD: Understanding Whom the LIHTC Serves: Data on Tenants in LIHTC Units as of December 31, 2017

³ HUD: Understanding Whom the LIHTC Serves: Data on Tenants in LIHTC Units as of December 31, 2017

⁴ Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing 2020*

⁵ Joint Center for Housing Studies of Harvard University, *America's Rental Housing 2020*

According to HUD's *Worst-Case Housing Needs* report, 7.72 million very low-income renter households had worst-case housing needs in 2017, meaning they did not receive government housing assistance and paid more than half of their incomes for rent, lived in severely inadequate conditions, or both — a 7.1 percent decrease in just two years.⁶

Currently, there is a shortage of more than 7 million affordable rental units for extremely low-income (ELI) renters, with only 37 affordable and available units for every 100 ELI renter households nationwide, and 70 percent of ELI renters are spending more than half of their incomes on housing.⁷ Low-income renters who are unable to find affordable apartments are forced to pay a significant portion of their incomes for housing — leaving little money left over for other necessities like food, transportation, childcare, healthcare, and utilities.

The Housing Credit is an efficient and effective tool for providing affordable housing to the people who need it most. The Credit accounts for the vast majority of the country's new rental housing affordable to low-income people, creating affordable housing opportunities for the millions of families in our country today who otherwise pay an excessive portion of their incomes for housing, live in substandard and overcrowded conditions, or face homelessness. Our nation also relies on this program more and more to preserve the existing affordable housing stock that is often desperately in need of recapitalization.

How much housing has been developed because of the Housing Credit?

By providing an incentive for private-sector investment, the Housing Credit has financed nearly 3.5 million apartments for low-income households, adding more than 100,000 units to the inventory each year.⁸

What does the Housing Credit cost?

According to the Joint Committee on Taxation, the Housing Credit will cost approximately \$54.6 billion over the five-year period from 2020 to 2024. For FY 2020, its estimated cost was \$9.9 billion.⁹

Who administers the Housing Credit?

The Housing Credit is typically administered by state housing finance agencies (HFAs), state-chartered authorities established to help meet the affordable housing needs of the residents of their states. Although they vary widely in characteristics, such as their relationship to state government, most HFAs are independent entities operating under the direction of a board of

⁶ U.S. Department of Housing and Urban Development, *Worst Case Housing Needs 2019*

⁷ National Low Income Housing Coalition, *The Gap: A Shortage of Affordable Homes 2021*

⁸ National Council of State Housing Agencies, *State HFA Factbook: NCSHA Annual Survey Results 2019*

⁹ Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2020-2024*

directors appointed by the state's governor. The Housing Credit, in addition to tax-exempt Housing Bonds and the HOME program, is at the center of HFA affordable housing activity.

Who oversees the Housing Credit's administration?

The U.S. Treasury through the Internal Revenue Service (IRS) oversees the Housing Credit program at the federal level and issues program guidance and regulations. In addition to IRS oversight, state-level administration and private-sector due diligence — under threat of severe tax penalty for noncompliance — are hallmarks of the Housing Credit program and have eliminated the need for extensive federal involvement and bureaucratic regulations. This oversight system represents an unprecedented departure from previous federal housing programs and is an essential element of the program's success.

What is the Housing Credit's economic impact?

The Housing Credit is a vital tool for local economic growth. The National Association of Home Builders estimates that, in a typical year, the program supports approximately \$3.5 billion in federal, state, and local taxes; \$9.1 billion in economic income from wages and business income; and 95,700 jobs across various U.S. industries.¹⁰

Does the Housing Credit leverage other funding?

A unique feature of the Housing Credit is its ability to leverage private equity, which investors contribute upfront in exchange for credits against their future tax liability. In addition, virtually every state combines the Housing Credit with other federal and state housing subsidies to make housing affordable to ELI families, the elderly, and special needs populations. Approximately 50 percent of Housing Credit apartments are financed using tax-exempt multifamily Housing Bonds annually, allowing them to achieve lower interest rates on project debt than would otherwise be available.

Would the private sector finance affordable housing without an incentive like the Housing Credit?

No. Unlike many other tax expenditures, which subsidize activity that would occur at some level without a tax benefit, virtually no affordable rental housing development would occur without the Housing Credit. It simply costs too much to build housing to rent it at rates low-income people can afford absent an incentive such as the Credit. In addition to attracting private-sector equity, the Housing Credit encourages lenders to finance affordable housing developments when they may be otherwise disinclined to do so.

¹⁰ National Association of Home Builders, *Eye on Housing, The Economic Impact of the Affordable Housing Credit*, 2014

Doesn't the Housing Credit just enable corporate investors to reduce their tax liability?

Investors only receive Housing Credit benefits for making investments they would not otherwise make absent the Credit. Substantially all the net economic benefit of the program goes to low-income families, not corporations. In contrast to other corporate tax expenditures, Housing Credit investors are only the intermediaries that enable private resources to be used to deliver affordable rental housing to low-income and special needs populations, housing which would not be built without the Credit.

How well do Housing Credit properties perform?

With strong state agency underwriting, strict compliance enforcement, and due diligence from the private sector, the inventory of Housing Credit properties overall has an outstanding performance track record according to all commonly used real estate metrics. Only 0.65 percent of Housing Credit developments have ever resulted in foreclosure, an unparalleled record compared to market-rate multifamily properties and other real estate assets.¹¹ States underwrite Housing Credit properties with a slim profit margin, careful not to over-subsidize any particular project.

In addition to affordable housing, what other benefits does the program provide?

In addition to providing shelter, safe, sustainable, and affordable rental housing opportunities lead to improved child well-being, enhanced educational achievement, improved health outcomes, increased employment access, proximity to transportation options, community revitalization, and reduced dependence on emergency services and institutional care.

How can Congress strengthen the Housing Credit program?

Despite the Housing Credit's successes, the unmet need for affordable rental housing continues to far outstrip the available resources. This imbalance between demand and supply has become even more pronounced in recent years as the overall number of renters has increased and incomes have stagnated. Moreover, as the federally subsidized affordable stock ages, we have become more and more dependent on the Housing Credit to meet preservation needs in addition to financing new construction.

Congress has the opportunity to build on what works by expanding the Housing Credit and providing states more flexibility so they can maximize their resources. NCSHA recommends that Congress increase Housing Credit authority by at least 50 percent. Increased programmatic flexibility to target existing resources to those properties that need them most for financial feasibility, common-sense program simplifications, and other changes to further fortify state oversight would also make this strong program even more effective. Lastly, it is essential

¹¹ CohnReznick, *Housing Tax Credit Investments: Investment and Operational Performance, 2019*



Congress ensure that owners of and investors in Housing Credit properties maintain their commitment to project affordability restrictions by closing the Qualified Contract loophole and protecting the nonprofit right of first refusal. For more information on how Congress can further strengthen the Housing Credit, contact NCSHA's Jennifer Schwartz at jschwartz@ncsha.org.