

# THE HFA INSTITUTE 2024

## Multifamily Preservation Strategies



National Council of  
State Housing Agencies



**MRBs and  
Other Federal  
Homeownership  
Programs**  
JANUARY 10 – 12



**Housing Credit**  
JANUARY 9 – 11



**Section 8 and  
Other Federal  
Multifamily  
Programs**  
JANUARY 10 – 12



**HOME and  
Housing Trust  
Fund**  
JANUARY 7 – 9



**DISCUSSION LEADER**

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# Multifamily Preservation Strategies

LAURA ABERNATHY | HFA INSTITUTE, JANUARY 2024



Residents from Hazel Hill Apartments Fredericksburg, VA

# Why Preserve?

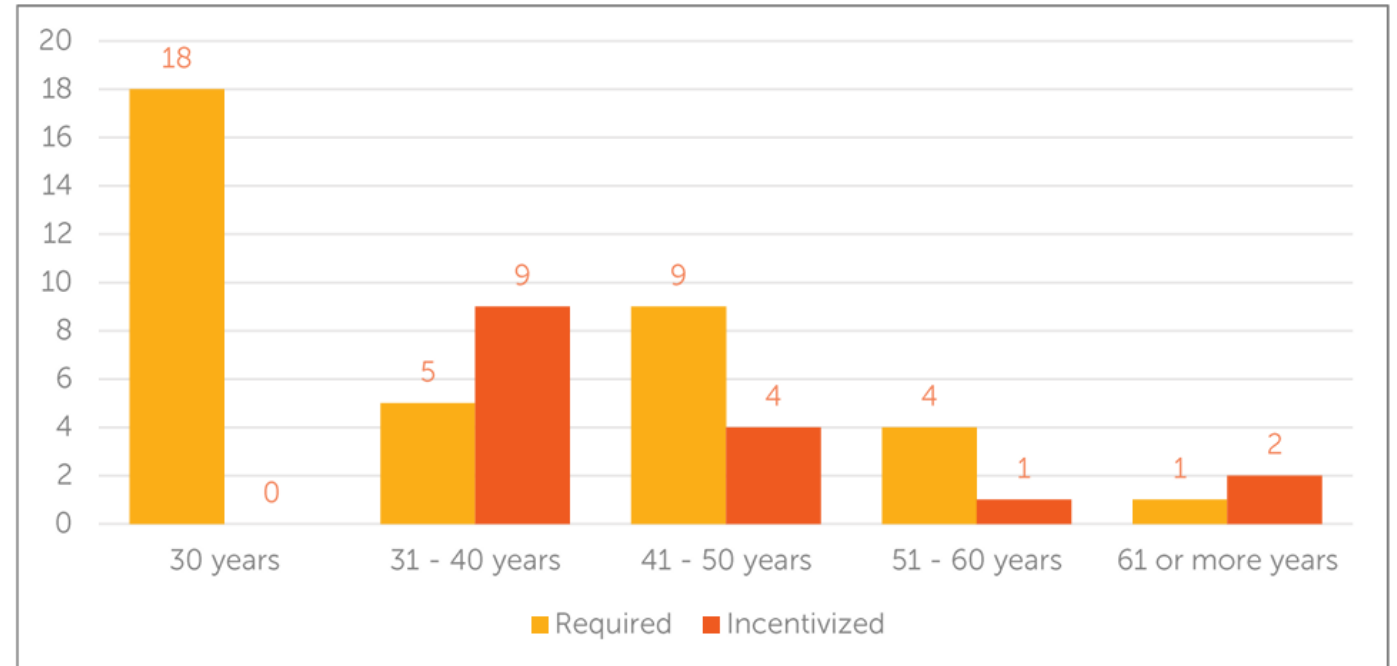
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We face a shortfall of nearly 7 million housing units available to the lowest-income households in the US. We can only address this crisis by both preserving existing affordable housing while also building new housing that is more affordable to lower-income households.

# Length of Affordability

- 35 agencies require or incentivize affordability beyond 30 years
- On average, agencies require or incentivize 42 years of affordability

FIGURE 1: Number of States Incentivizing or Requiring Years of Affordability



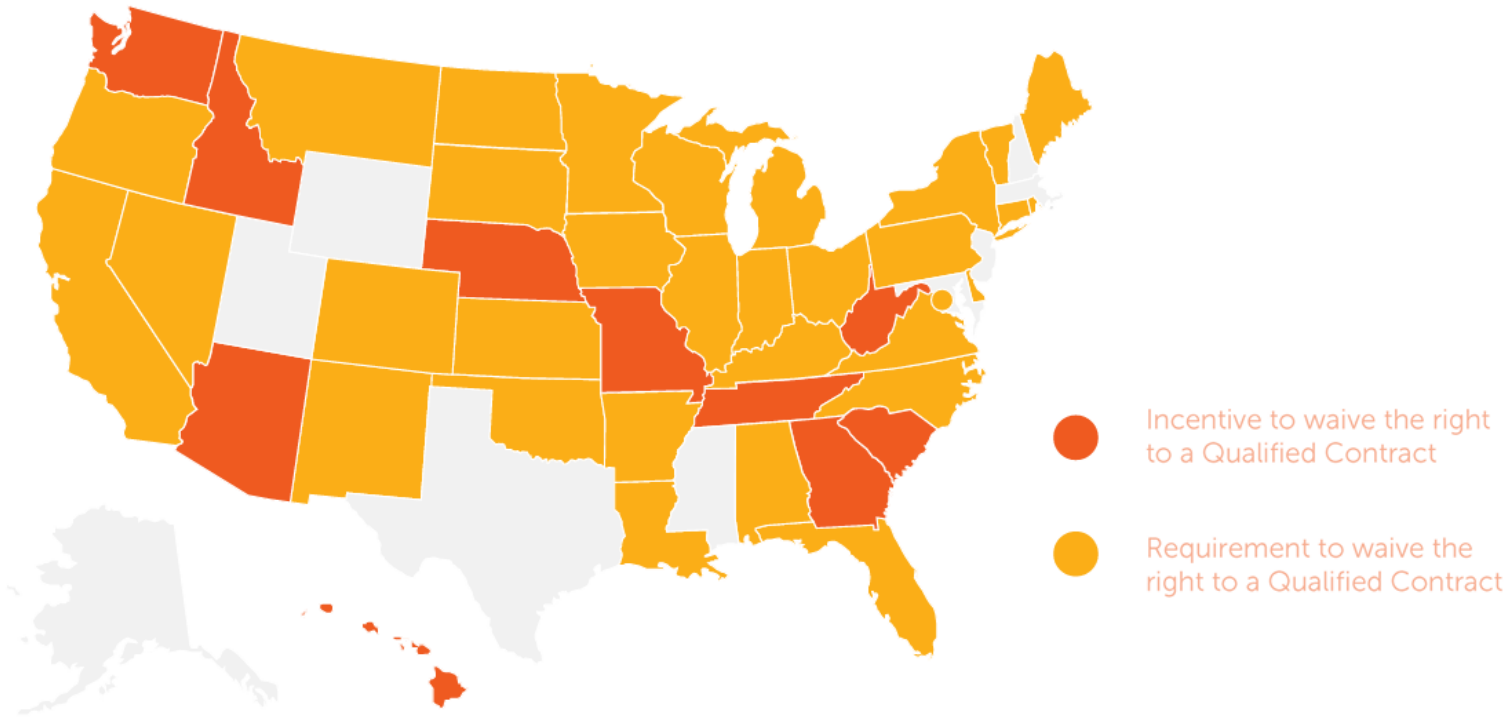
# Resyndication

- 45 agencies explicitly allow developers to request additional HCs through resyndication
- Of those, 11 actively encourage resyndication by awarding points.
- NM and RI require developers to demonstrate a need for a substantial rehabilitation in order to qualify for resyndication, while KY awards points to those requesting resyndication based on the number of years since the last substantial rehab.
- DE, NJ, NYC, PA and DC base the need for resyndication on how close a property is to the affordability expiration date. AR encourages developers to only consider resyndication after 20 years by deducting points for projects that request additional HCs between Y15 and 20.
- WV awards points for Housing Credit properties that are either within two years before the end of the extended use period or up to three years after the end of the extended use period.



Courtyard Apartments, Cincinnati, OH

FIGURE 2: HFAS that Require or Incentivize a Qualified Contract Waiver



# Qualified Contracts

- 32 agencies require an owner to waive their right to a QC
- 12 agencies incentivize a waiver



Hazel Hill Apartments, Fredericksburg, VA

# Qualified Contracts

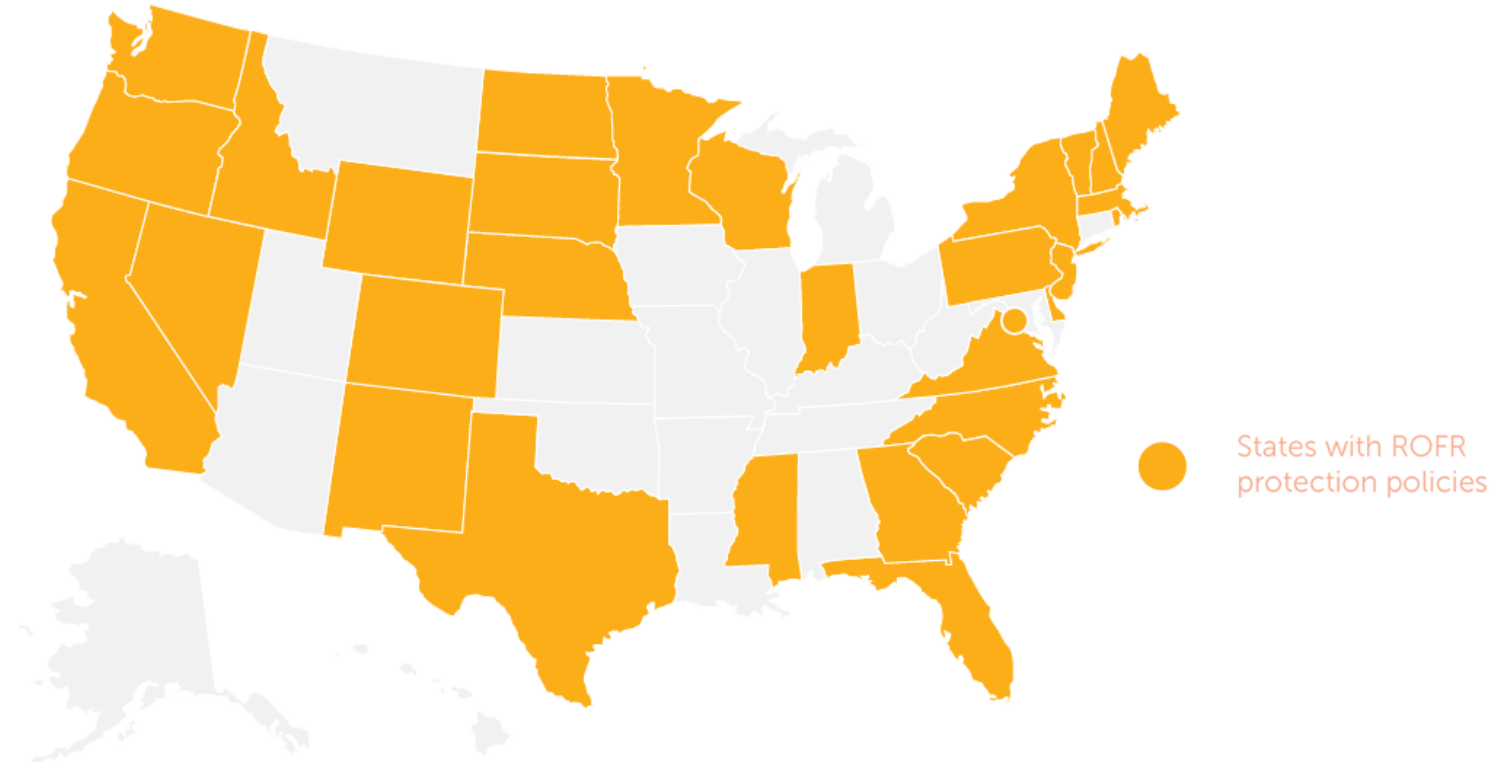
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- IN, KS, and NH each award negative points to applicants who have previously requested a QC after a specified date;
- ME and NC disqualify applicants for new awards who have previously requested a QC after a specific date;
- VA both disqualifies applications from anyone participating in an active QC request and also holds the right to disqualify an applicant who, prior to a specified date, has previously made a QC request;
- MT and VT maintain the right to disqualify applicants who have previously requested a QC; and
- SC awards additional points to project teams that have not previously requested a QC.

# Right of First Refusal (ROFR)

- 32 agencies have implemented and/or updated existing language to strengthen the nonprofit ROFR

FIGURE 3: HFAs That Have Implemented ROFR Protection Policies



# ROFR

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- Seven agencies prohibit certain investors who have previously interfered with ROFR from participating in the Housing Credit program. Additionally, 14 agencies directly target potential profit-motivated investor parties by requiring HFA approval of the transfer of investor interests and/or requiring a Letter of Intent to vet investor eligibility.
- 15 agencies are protecting new Housing Credit homes by updating their policy and program documentation to clarify how the ROFR is interpreted, how the ROFR purchase price is calculated, and how the ROFR can be triggered.
- 10 agencies explicitly state the uses for property reserves and/or require reserves to remain with the property for the full affordability period.



Castlewood Apartments, Davenport, IA



Robust tenant protections—laws and other measures that preserve renters’ rights—are an essential part of ensuring housing stability for residents of low-income rental units. Without them, low-income households are at greater risk of facing high rent burdens, evictions and/or housing discrimination, all of which contribute to involuntary moves. Even when affordable housing is well constructed, well located, and equipped with modern amenities, tenant protections can ensure that low-income households can better afford to live there for the long-term. Such provisions can be integrated into Low Income Housing Tax Credit (LIHTC) properties and other types of affordable housing to ensure long-term retention and stability for existing residents, and also to improve opportunities for prospective resident applicants in accessing housing. State and local housing finance agencies (HFAs) play a pivotal role in ensuring that both existing and new Housing Credit properties are protected by:

- Minimizing housing discrimination through Affirmative Fair Housing Practices
- Expanding access to housing through low-barrier tenant screening
- Reducing evictions through well defined “good cause” protections and eviction prevention services.
- Enhancing stability through limits on year-to-year rent increases, and
- Requiring robust relocation plans with attention to permanent displacement.

HFAs can play a particularly pivotal role where federal, state, and local support residents and applicants of Housing Credit properties, given their priorities for their development through Qualified Allocation Plans (QAPs). Tenant protections specifically govern federally subsidized housing, but only with Housing Credits do not trigger a few of those protections by the Credit program is often classified as an indirect federal housing subsidy. While it remains the largest federal investment in the development of housing, the Housing Credit program is not directly funded through the Housing and Urban Development (HUD) as many other subsidized housing programs. Housing Choice Vouchers and Section 8 Project-Based Rental Assistance Uniform Relocation Assistance (URA) Act, for example, is not triggered

www.nationalhousingtrust.org



We face a shortfall of nearly 7 million housing units available to the lowest-income households in the United States. We can only address this crisis by both preserving existing affordable housing while also building new housing that is more affordable to lower-income households. Housing Finance Agencies (HFAs) utilize Low Income Housing Tax Credits (LIHTCs) to create new housing stock, but also have a critical role to play in both preserving existing housing and working to close loopholes that threaten the preservation of such units. Specifically, HFAs can establish set-asides and incentive points specific to preservation, while also encouraging developers to keep properties affordable for an extended period of time, and supporting the re-qualification of existing housing with additional Housing Credits. HFAs also play an important role in establishing policies that combat threats to the preservation of Housing Credit properties, such as qualified contracts and the ambiguity in the nonprofit right of first refusal statute.

Preserving existing Housing Credit properties not only ensures that units remain affordable for residents, but also provide a stable home for low-income households – an essential precondition for their economic, physical, and mental well-being. Preservation of affordable housing is also an important policy objective because it is:

- Much less expensive than new construction.
- Generates fewer carbon emissions than new buildings.
- A faster way to provide affordable housing available to families in need compared to building new.
- An effective way to maintain existing homes for existing families and limit the displacement of residents.

The following analysis, which is the result of NHT’s examination of 53<sup>2</sup> Qualified Allocation Plans (QAPs) released before March 2023, provides insight into how HFAs encourage preservation in their QAPs beyond set-asides, and the actions HFAs are taking to prevent threats to preservation.

<sup>2</sup>All 50 states, plus DC, New York City and Chicago

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To reduce carbon emissions to achieve their climate goals, transitioning from fossil fuel energy sources to electricity— known as electrification – is a critical part of the solution. Given that affordable housing is in short supply and it is increasingly important to ensure that existing units provide safe, healthy, and comfortable homes for low-income residents. Electrification is a key part of this strategy. Modern systems and appliances with highly efficient electric-powered alternatives – powered by renewable energy – greatly improves the sustainability, health, and quality of life for residents.

Reducing emissions that cause climate change, eliminating gas from the home improves indoor air quality for residents: children living in a home with a gas stove are more likely to develop asthma symptoms and 24% more likely to receive an asthma diagnosis by a doctor.<sup>1</sup> Additionally, when coupled with renewable energy, electrification can relieve the utility cost burden for low-income households and housing agencies, making housing more affordable overall.

This analysis, which examined 53<sup>2</sup> Qualified Allocation Plans (QAPs) released before March 2023, provides insight into how state and local housing finance agencies (HFAs) are encouraging electrification and creating climate-friendly, healthy homes for residents of Low Income Housing Tax Credit properties.

**Trends Across States**

One of the primary goals of the Housing Credit program is to expand the supply of affordable housing. HFAs must weigh this priority against advancing project characteristics that could increase construction costs and limit the number of units preserved or built. The upfront construction and operating costs of all-electric multifamily buildings can cost more than gas buildings, especially when rehabilitating existing buildings.

<sup>1</sup>U.S. Environmental Protection Agency (EPA) and U.S. Department of Justice (DOJ) We Act. <https://www.weact.gov/wp-content/uploads/2023/02/Out-of-Gas-Report.pdf>, released before March 2023. <sup>2</sup>All 50 states, plus DC, New York City and Chicago

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Ensuring that everyone, everywhere can benefit from digital technology is a key element to any thriving community. It is essential for all to fully participate in the current economy, receive education from quality institutions, and ensure access to quality-of-life services like healthcare and job opportunities. Against the backdrop of an increasingly acute digital divide, state and local housing finance agencies (HFAs) have a significant opportunity to ensure that existing and new Housing Credit properties have access to digital services, and can do so by incentivizing or requiring

digital infrastructure capable of high internet speeds, broadband, and community internet service, smart-enabled devices, and digital skill-building.

This analysis examined 53<sup>2</sup> Qualified Allocation Plans (QAPs) released before March 2023, to understand how HFAs consider these components of digital equity, the role of developers, and the extent to which Housing Credit residents benefit from digital services.

The following analysis provides insight into the role of HFA strategies to promote digital equity in Housing Credit properties.

**Infrastructure**

Ensuring that everyone, everywhere can benefit from digital technology is a critical first step to internet access. Broadband is an essential component of the digital economy, and is integral to the structure of many services. As of early 2023, 34 HFAs have allocated broadband infrastructure in substantial rehabilitation properties using Housing Credits. Internet speed is also an important factor in digital equity.

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**34** OUT OF 53 HFAs

require or incentivize the installation of broadband infrastructure in both new construction & substantial rehabilitation properties receiving an allocation of Housing Credits

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Read and download the complete set of analyses at <https://nationalhousingtrust.org/strengthening-low-income-housing-tax-credit-allocations>



Channel Square Apartments, Washington, DC

# Energy Upgrades as a Preservation Tool

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- Resources from NHT's HFA IRA Bootcamp: <https://nationalhousingtrust.org/ira-bootcamps>
- NHT's IRA Toolkit, including details on IRA funding opportunities, case studies, reports, resident engagement tools, and more: <https://nationalhousingtrust.org/ira-toolkit>
- NHT's QAP Infobriefs on electrification, third party green building standards, whole building energy performance, and renewable energy: <https://nationalhousingtrust.org/strengthening-low-income-housing-tax-credit-allocations>



# THANK YOU



# EXIT RISK

- 2021 National Low Income Housing Preservation Report
  - Preservation Risks:
    - Exit Risk - Expiration or termination of affordability restrictions
    - Depreciation Risk - Declining financial or physical condition of properties
    - Appropriations Risk - Insufficient Congressional Funding
- Affordability Restrictions to expire in over 300k units next 5 years / aprx. 750k in 10 years
- Overall 60% demonstrate 2 or more preservation risks

# RIGHT of FIRST REFUSAL

- ROFR Issues:
  - Is a bona-fide 3rd party offer required?
  - Cash and Reserves not included
  - Transaction costs
  - Formula Price may exceed fair market value
  - Is ROFR Entity in good standing
  - Aggregators Challenging ROFR
- ROFR Solutions:
  - Revise QAPS to mitigate Aggregator behavior
    - ROFR Protection
    - Mandated ROFR Terms
      - Price per IRC
      - Require automatic amendments to partnership agreements to recognize future changes to federal law governing ROFR
  - Streamline transfers to existing partners preserving affordability

## Preservation Equity



### **Purposeful Investing Keeping Good Homes Affordable**

Learn how investments in our Preservation Funds were used to keep the rents of 120 homes affordable while lowering energy costs by 30 percent, making critical repairs, and continuing resident services for the seniors who live at Huntington Towers in New London, Connecticut

## To Support The Acquisition & Rehabilitation Of Multifamily Properties

<b>Eligible Sponsors</b>	<p>For-profit or not-for-profit housing developers or subsidiaries thereof (the "Sponsor") with substantial prior experience and a demonstrated track record of successfully owning and operating multifamily properties. Sponsors must be financially strong, with a minimum of \$1 million in liquidity and \$5 million in net worth. Waivers may be considered for BIPOC-led and other historically marginalized groups.</p>
<b>Eligible Projects</b>	<ul style="list-style-type: none"> <li>- Existing stabilized multifamily residential rental properties with 100 or more units, a minimum current occupancy rate of 80%, and potential for improvement through strategic renovations and attentive and efficient operations.</li> <li>- Properties may be restricted affordable housing (LIHTC, Section 8, etc.) or may be unrestricted workforce housing.</li> <li>- Projects will have greater than 50% of their their units occupied by and affordable to households with incomes at or less than 80% of the area median income. Sponsor to verify through tenant income certifications, with exceptions for properties with programmatic affordability restrictions (LIHTC, Section 8, etc.).</li> <li>- Projects may include third-party acquisitions or recapitalizations of existing ownership positions.</li> <li>- Multiple property assets and portfolios will be considered.</li> </ul>
<b>Social Impact</b>	<ul style="list-style-type: none"> <li>- Preserve existing affordable and workforce housing properties through long-term stewardship and thoughtful business plans.</li> <li>- Stabilize, reposition and enhance multifamily properties by completing capital improvements and implementing quality property management.</li> <li>- Green eligible projects through low-cost/high-impact strategies.</li> <li>- Promote resident success and upward mobility through social services.</li> </ul>
<b>Eligible Uses of Proceeds</b>	<ul style="list-style-type: none"> <li>- Acquisition contract price.</li> <li>- Immediate capital improvements.</li> <li>- Financing costs, soft costs and capitalized reserves.</li> </ul>
<b>Investment Size</b>	<ul style="list-style-type: none"> <li>- Minimum investment of \$3 million and maximum investment of \$25 million per project. Exceptions evaluated on a case-by-case basis.</li> <li>- Enterprise Preservation Equity investment may be used in conjunction with Enterprise loan products, which would not be included in these maximum and average amounts.</li> </ul>
<b>Terms of Investment</b>	<p>5-10 years; or shorter business plans will be considered on a case-by-case basis.</p>
<b>Target Return</b>	<p>Please contact Enterprise for information regarding target returns. Enterprise seeks investments where a portion of the return is delivered on a current basis (cash-on-cash), with the balance as part of sale or refinancing.</p>