

POLICY INNOVATION

LENDING

DEVELOPMENT

ENERGY SOLUTIONS

Qualified Contracts: A Threat to Preservation

Ellen Lurie Hoffman,
National Housing Trust



About NHT

The National Housing Trust protects, improves and maintains existing affordable housing so that low-income families can live in quality neighborhoods with access to opportunities.

Policy Innovation

Lending

Real Estate Development

Energy Solutions



Qualified Contracts: National Impact

- As of the end of 2018, **65,500 affordable units** had been lost to the Housing Credit inventory due to early terminations through qualified contracts.
- Since we have been collecting data on qualified contract losses, **more than 10,000 units have been lost every year**, despite many states establishing policies to mitigate qualified contract losses.
- In 2018, **24** states reported to have received at least one request for a qualified contract.
- Over the years, affordable units have been lost to qualified contracts in **32** states.

Source: NCSHA



Qualified Contracts: Existential Threat

- **Qualified contracts pose an existential threat to the Housing Credit program itself – not just to individual properties or states.**
- **NCSHA Recommended Practices:** HFAs should...
 - Require applicants for 9 & 4% Housing Credits to waive their right to a qualified contract.
 - Establish disincentives for owners to undertake the qualified contract process for existing developments.
 - Formulate other policies to curtail the use of qualified contracts by owners of existing developments, e.g. requiring owners to waive right for transfers.



State Qualified Contract Policies

QC Policies in the 9% Housing Credit Program			QC Policies in the 4% Housing Credit Program		
Requirement to waive right to QC	Incentive to waive right to QC	For how many years beyond the initial 15 year compliance period is the right waived?	Requirement to waive right to QC	Incentive to waive right to QC*	For how many years beyond the initial 15 year compliance period is the right waived?
28 states	20 states	3-35 years	27 states	7 states	5-25



State Qualified Contract Policies

- States are changing their QAPs & other policies to discourage qualified contracts.
- VHDA's 2019-2020 QAP:
 - Requires applicants to waive their right to a qualified contract.
 - Will reject any application containing a principal that has previously requested a qualified contract, on/after 1/1/19.
- NCHFA's 2020 QAP:
 - May disqualify any owner/principal who previously requested a qualified contract in NC.



State Qualified Contract Practices

To deter loss of units, some state HFAs are taking approaches outside the QAP:

- Require any owners requests or modifications to property's financial/rent structure to be contingent on waiving the right to a qualified contract;
- Charging an application fee for work associated with qualified contract processing;
- Require a 3rd party CNA to verify the qualified contract price – paid for by owner;



State Qualified Contract Practices

State approaches outside the QAP (continued):

- Require a pre-application for qualified contract requests, to determine owner eligibility;
- Require a comprehensive application package, including audits, tax returns, rent rolls, operating statements, partnership agreements/ownership documents, and qualified contract price calculations; and/or
- Use qualified brokers to find buyers to purchase properties at qualified contract price.



Save Affordable Housing Act (S. 1956/H.R. 3479)

- Lead sponsors: Senators Wyden & Young, Representatives Beyer, Walorski & Neguse
- Would repeal the qualified contract option in Section 42 for future developments; &
- Would correct the statutory price for purchase of existing properties so that it is based on the fair market value of the property as affordable housing.





Ellen Lurie Hoffman

Federal Policy Director

Email: eluriehoffman@nhtinc.org

Phone: 202-333-8931*130

POLICY INNOVATION

LENDING

DEVELOPMENT

ENERGY SOLUTIONS

 @NatIHsingTrust

 www.nhtinc.org