

# Drop It Like It's HOTC

## **Virginia Housing**

Legislative Advocacy: State Advocacy

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VIRGINIA HOUSING

# 2023 NCSHA Award Submission

ENTRY CATEGORY:

**Legislative-State Advocacy**

ENTRY NAME:

**“Drop it Like it’s HOTC”**



*“This state credit is helping us achieve our goal of more quality affordable housing NOW.”*

- Stephanie Flanders, Director of the Tax Credit Program

## Advance the overall mission of the agency

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For 50 years, Virginia Housing’s mission has remained simple — help Virginians attain quality, affordable housing. But the path to get there has never been more complex. Today’s confluence of a global pandemic, shifting financial markets, tightening credit availability, rising interest rates and rising construction costs, only underscores the need for creative ideas and innovative solutions in response to Virginia’s affordable housing crisis.

One such solution was the passage, effective July 1, 2021, of legislation to create the Virginia Housing Opportunity Tax Credit program, or HOTC, SB 1197 (Locke) and the subsequent legislation, effective July 1, 2022, that significantly expanded the program. As is the case for the Low-Income Housing Tax Credits, or LIHTC, the HOTC is an effective program that will spur continued affordable housing development in all areas of Virginia, with a statutory priority for rural areas.

## Why it is meritorious and meets NCSHA judging criteria?

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**What makes this innovative?** Despite the successes of the federal LIHTC program, the funding remains inadequate in effectively fulfilling the depth of need for Virginians of very low incomes to attain affordable rental housing. By passing the HOTC, Virginia is now positioned to expand financing opportunities to fill the gaps in affordable housing projects that otherwise would not be completed. Virginia Housing’s role in collaborating with stakeholders and providing technical assistance to players in the legislative process was a monumental advancement in coalition building and forging lasting legislative relationships.

These lasting legislative relationships led to the General Assembly increasing the amount of credits awarded annually from \$15 million to \$60 million (\$6 million with a 10-year credit period) after the first year of implementation.

**Innovative:** Virginia previously had a state low-income housing credit program administered by the Department of Housing and Community Development, or DHCD, which allowed the Commonwealth to allocate up to \$3.5 million in credits over a five-year credit period. Ultimately, this program was underutilized and, therefore, repealed in 2016. Even if it had been fully utilized, the amount of state tax credits available would not likely have reduced the demand for federal LIHTC or created substantial additional housing units.

The new and improved state HOTC program is an innovative tool that is making deals feasible under the 4% tax credit program so there is less demand on the very limited 9% pool of tax credits. The 9% pool of credits now goes further which allows for more affordable housing production.

The process through which Virginia Housing assisted in the adoption of the legislation was new to Virginia Housing in that our subject matter expertise was leveraged behind the scenes in the form of technical assistance and the establishment of new allies in creating a transparent and easily

administered program. These allies were critical in the implementation of the updated legislation that significantly expanded the program in 2022.

**Replicable:** Virginia is now among more than 20 states that have developed state housing tax credit programs to augment and support the federal LIHTC program, their state Housing Trust Funds, and other state and local housing assistance resources. Virginia Housing’s “lead from behind” approach to facilitating passage of the HOTC is something that can be replicated by additional states in adopting state credit legislation.

**Demonstrates Coalition Building:** The HOTC legislation was introduced in January 2021 in the form of the Key Recommendation of the HB 810 Study, which Virginia Housing completed in 2020. While the bill was not an agency bill or an identified legislative priority of the administration, Virginia Housing provided the expertise and technical assistance needed to assist legislators in passing the bill. We worked closely with: Legislators, the Virginia Department of Taxation, House and Senate Appropriation Committee staff, the Virginia Secretary of Commerce and Trade staff, the Virginia Secretary of Finance staff, the Virginia Department of Legislative Services, a national state credit syndicator, a prominent Virginia lobbying firm that provided representation for the syndicator, the Homebuilders of Virginia Association, the Virginia Housing Alliance, and Virginia Housing’s CEO and Executive Leadership Team. This included multiple rounds of review and comment on draft legislation, multiple meetings with state agency staff to coach them regarding the LIHTC program, our staff legislative liaison being present at the General Assembly to be a resource to legislators and their aides, and the Director of the Tax Credit program testifying at a hearing on the bill in 2021.

When legislation was proposed to amend the program in 2022, Virginia Housing was ready. The legislation proposed changing the program from a \$15 million credit with a one-year credit period to a \$6 million credit with a 10-year credit period, thereby quadrupling the available state credits. The tax credit staff and policy and planning team worked with legislative staff to ensure the language was drafted in a way that accurately outlined how the program would be administered. This allowed an opportunity for inconsistencies to be clarified, as well as restructuring the program in a way that increased the total pool of credits by \$45 million annually. These relationships made it easier to fine-tune the credit when it was needed.

**Forge effective relationships with state and/or federal legislators:** Building on the success of passing HOTC in 2021, Virginia lawmakers introduced state tax credits legislation again in 2022. SB 47 (Locke) was introduced by legislators with whom we have created relationships to incentivize new affordable housing developments that serve low-income residents, correct certain inconsistencies in the 2021 HOTC legislation, and substantially increase the amount of HOTC. As in 2021, Virginia Housing provided technical assistance in the passage of SB 47 (Locke) in 2022.

**Achieve strategic objectives:** The HOTC program helps us meet two of our strategic priorities outlined in our Strategic Plan — Opportunity 2025: (i) Strategic Goal 1: Address state housing needs by partnering with the Housing Delivery Network; and (ii) Strategic Goal 2: Address the unmet rental needs of low-income and critical needs populations.

Virginia has a need for more than 300,000 homes for its very low and low-income residents. Over the past five years, Virginia has allocated approximately \$300 million in annual LIHTC. This allocation went towards projects totaling \$7.2 billion in total development costs. With the addition of the state housing credit program, we project that for every \$1 of HOTC allocated in Virginia, it leverages \$15 in other sources.

In October 2021, staff recommended the use of the total available \$15 million 2021 HOTC to partially fund two deals, Saratoga Place (76 new units) and Old Hundred Trace (54 new units). The total HOTC reserved for each deal was \$7.5 million, adding up to \$15 million in total. With the addition of HOTC credits, the needed annual 9% credits dropped from \$1,095,608 to \$540,384.

In 2022, the HOTC was able to support five projects. These were developments that originally received a forward reservation of 2023 9% credits but decided to return these credits and combine their HOTC awards with a 4% tax credit award. This significantly reduced the amount of 9% credits that were forward allocated from the 2023 round resulting in more deals being able to be funded in 2023. Also, three of the five deals were originally multiphase deals that, with this additional HOTC resource, were able to combine several phases into one project and substantially reduce the development timeline. The success of the 2023 awards was recognized in a press release from Gov. Glenn Youngkin (see attached).

**Anticipate, identify, and prioritize legislative issues:** While SB 1197 (Locke), as initially introduced in 2021, mirrored the federal LIHTC in amount and structure, the final legislation was subject to an annual cap of \$15 million per calendar year, a one-year credit period and a five-year program sunset. Virginia Housing was proactive in identifying shortcomings of the 2021 legislation with stakeholders. SB 47 (Locke) submitted in 2022 by Sen. Mamie E. Locke was an enhancement of the HOTC. The bill more closely conformed the HOTC to the LIHTC, including making the credit period 10 years as with LIHTC. The final SB 47 (Locke) significantly increased the HOTC and also added a first priority for rural areas for up to one-third of the credits.

**Reach Target Audience:** The target audience, with respect to this legislative effort, included legislators and other parties involved in the legislative process identified under “Demonstrates Coalition Building” above. The importance of reaching legislative aides and the career state agency employees in this process cannot be overstated. By providing consistent subject matter expertise, being available nights and weekends to field inquiries, and having a staff presence in the Capitol building, we were able to forge trusted relationships and reach these individuals.

**Employ analytical skills to anticipate and identify the potential ramifications of issues:** Virginia Housing staff was the recognized subject matter experts regarding LIHTC. We were able to leverage that expertise to draft the HB 810 Study for the HOTC, which was visually displayed by legislators as they discussed the intricacies of a potential state program. This subject matter expertise further allowed us to anticipate issues with various drafts of the bills and provide comments to correct before the bills were passed. Several of our proposed “fixes” were incorporated verbatim into the legislation.

**Provide benefits that outweigh costs:** As currently enacted, each award year of new HOTC credits costs the state a total of \$60 million in forgone state tax revenue. However, some of this tax revenue is recouped in the form of new state tax revenues as a result of construction and new housing units. For each year of new tax credits awarded, the state would see additional affordable housing units, new jobs, labor income, state and local tax revenues, and an increase in state Gross Domestic Product.

**Demonstrate effective use of resources:** Aside from a small engagement with a consultant to conduct financial modeling, costs associated with this project were nominal. Virginia Housing existing staff co-facilitated and provided technical assistance to the Task Force. Staff also provided subject matter expertise in 2021 and 2022 at no additional expense.

**Conclusion:** The creation of the Virginia HOTC program is helping to move the needle on addressing Virginia’s affordable housing crisis. We were pleased to provide our expertise and technical assistance to help get this important legislation across the finish line — for all Virginians.

## Visual Aids

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**For Immediate Release:** October 29, 2022

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The screenshot shows the official website of the Governor of Virginia. The header includes the Governor's name, Glenn Youngkin, and the slogan "STRENGTHEN THE SPIRIT OF VIRGINIA TOGETHER". A navigation menu lists various sections like "About the Governor", "Cabinet", "Constituent Services", "Newsroom", "Executive Actions", "COVID-19", "Spirit of Virginia Award", and "Contact".

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### Governor Youngkin Announces \$60M in New State Tax Credits to Help Rental Affordability

**RICHMOND, VA** — The Commonwealth of Virginia has awarded a total of \$60 million in Housing Opportunity Tax Credits (HOTC) to investors developing affordable rental housing throughout Virginia. HOTC allow for affordability and efficiency in the development and building process of rental housing, resulting in more affordable home options for Virginians.

"A priority in the forefront of this Administration is to make housing more affordable for all Virginians. Our partnership with Virginia Housing has enabled us to effectively disperse state tax credits to ensure rental properties are being built that are more affordable for renters," **said Governor Glenn Youngkin.**

The HOTC program originated in 2021 through legislation passed by the Virginia General Assembly; significant revisions were made to the program in 2022 as a result of updated legislation. Virginia Housing, Virginia's Housing Finance Agency, was chosen to award up to \$60 million in HOTC.

"The funds allocated to the state tax credits for rental housing are key in revitalizing our neighborhoods and providing more affordable housing options for our workforce," **said Secretary of Commerce and Trade Caren Merrick.**

<https://www.governor.virginia.gov/newsroom/news-releases/2022/october/name-941761-en.html>