Why Congress Should Enact Housing Credit Program Enhancements Related to the COVID-19 Pandemic

Last Updated: 5.5.2020

Summary

The Low Income Housing Tax Credit (Housing Credit) is our nation's most successful tool for encouraging private investment in the production and preservation of affordable rental housing. The importance of having a safe, affordable place to call home has never been more evident than it is now, with the coronavirus forcing millions to shelter in place.

The economic turmoil resulting from the pandemic is causing significant challenges for Housing Credit development—resulting in financial feasibility risks to properties currently in the production pipeline. NCSHA supports setting a minimum 4 percent credit rate for multifamily bond-financed Housing Credit properties and lowering the "50 percent test" threshold related to bond financing. Further, it is critical that the Internal Revenue Service (IRS) publish guidance allowing greater flexibility for program administration during and after the pandemic, as outlined in a March 23 letter NCSHA sent to IRS.

Questions and Answers

Why do we need a 4 percent minimum credit rate for bond-financed properties?

- The credit rate—which determines the amount of Housing Credit equity an individual property can generate—for bond-financed developments changes each month in accordance with federal borrowing rates. The Federal Reserve recently slashed borrowing rates to near zero levels in response to the economic fallout from the pandemic. This has caused the credit rate for bond-financed Housing Credit developments to fall to 3.08 percent in May, 2020—the lowest level in the program's over three-decade history.

- Many properties currently in the pipeline were underwritten assuming a higher credit rate, as there was no way to predict the credit rate would plummet as it has. That means these properties suddenly will be eligible to receive far less equity from the Housing Credit program than developers anticipated they would be able to achieve, creating a funding gap that will be insurmountable for many of the projects underway.

- In response to the Great Recession beginning in 2008, Congress enacted a minimum 9 percent rate for the non-bond-financed component of the Housing Credit program for the same reasons we are now seeking a minimum 4 percent rate. Enacting a minimum rate for bond-financed properties would provide parity for both components of the Housing Credit program.

- Unfortunately, it is unlikely that the floating rate will regain its value any time soon. According to a survey of economists, most expect the Fed to keep rates where they are at least through the end of 2022, if not longer. This means that unless Congress sets a minimum 4 percent rate, bond-financed Housing Credit properties will have viability problems for years to come.

- According to recent research by the accounting and consulting firm Novogradac, nearly 126,000 additional rental homes could be financed between 2020 and 2029 with a minimum 4 percent credit rate compared to the status quo. The National Association of Homebuilders estimates that for every 1,000 rental apartments developed, approximately 1,130 jobs are supported for a year. Thus, on average, increased production due to the 4 percent minimum rate would support 14,238 jobs each year.

Why do we need to lower the 50 percent test?

- In order for a bond-financed property to qualify for Housing Credits for all eligible basis, at least 50 percent of total financing costs must be financed with tax-exempt multifamily bonds. However, state or local requirements to halt construction, social distancing recommendations and resulting labor shortages, and disruptions in the supply chain are causing construction delays, which result in increased costs for developers.

- Because of these unanticipated cost increases, some developments may fail to meet the 50 percent test, and thus lose Housing Credit equity they expected for projects' financing.

- Lowering the 50 percent test would also "free up" bond cap so that states could address other pressing priorities. According to research by Novogradac, lowering the threshold to 40 percent would free over $37 billion in bond authority. If it were lowered to 33 percent, it would free nearly $64 billion in authority. And, if lowered to 25 percent, it would free nearly $94 billion in bond authority. If states were to devote the freed authority to multifamily housing, they could finance over 1.4 million additional rental homes by 2030 at the 25 percent level.

How can members of Congress help to get Housing Credit COVID-19 Guidance from IRS?

- NCSHA sent the U.S. Department of the Treasury and IRS recommendations for Housing Credit accommodations the industry needs because of the pandemic, but IRS is yet to issue guidance related to the current situation. Developers will be unable to meet various program deadlines because of pandemic-caused delays to construction; state agencies are unable to adhere to physical inspection requirements because they cannot visit existing properties; and property management agents aren't able to get the documents they need to perform tenant income certifications and employment verifications.

- IRS is the only federal entity yet to provide housing guidance related to COVID-19. The Departments of Housing and Urban Development, Veterans Affairs, and Agriculture have all issued guidance related to the housing programs and other mortgage and loan assistance and guarantee programs under their jurisdiction. IRS simply needs the Treasury Department to direct it to begin working on the guidance, but that has yet to happen.

- Members of Congress can put pressure on Treasury and IRS to issue the guidance the Housing Credit industry needs. Some, including the Chairman of the Ways and Means Committee, have already made this outreach. However, more congressional pressure from both sides of the aisle would help to make Housing Credit COVID-19 guidance a priority for IRS.

- Members of Congress can reach out directly to Secretary Mnuchin to underscore the need for Housing Credit COVID-19 guidance.