

## Housing and Economic Recovery Act of 2008, H.R. 3221

### NCSHA Summary

#### Housing Assistance Tax Act of 2008

#### (Housing Bond and Credit Cap Increase and Modernization Provisions)

##### *Housing Credit Modifications*

- Provides a 20-cent per capita Housing Credit cap increase for 2008-2009 and increases the small state minimum by 10 percent for those same years.
- Repeals permanently the Alternative Minimum Tax on Housing Credits for buildings placed in service after December 31, 2007.
- Sets the 70 percent present value ("9 percent") Credit applicable percentage at the greater of current law and 9 percent, with a sunset date of December 31, 2013, effective for buildings placed in service after date of enactment.
- Eliminates below-market federal loans from the definition of federally subsidized properties, allowing the 9 percent Credit on all federally subsidized properties, except for tax-exempt bond financed properties, effective for buildings placed in service after date of enactment.
- Clarifies that the eligible basis of a building shall not include any costs financed with the proceeds of a federally funded grant, effective for buildings placed in service after date of enactment.
- Eliminates the prohibition on the 30 percent basis boost for HOME-assisted properties in qualified census tracts (QCT) or difficult development areas (DDA), effective for buildings placed in service after date of enactment.
- Authorizes allocating agencies to award a 30 percent "basis boost" to buildings that states determine need the boost to be economically feasible, effective for buildings placed in service after date of enactment.
- Clarifies the general public use test to explicitly allow Credit developments that establish tenancy restrictions for persons with special needs, tenants who are involved in artistic or literary activities, and persons who are members of a specified group under a Federal or state program or policy that supports housing for such a specified group, effective for buildings placed in service before, during, and after date of enactment.
- Repeals the Housing Credit ten-year (anti-churning) rule for acquisition of Housing Credits for projects currently subsidized pursuant to certain specified HUD and USDA housing programs and similar state assisted programs, effective for buildings placed in service after date of enactment.
  - Programs included are HUD Section 8, Section 221(d)(3), Section 221(d)(4), Section 236, and USDA Section 515 and any other housing program administered by HUD or the Rural Housing Service of the Department of Agriculture.
- Modifies HUD's income limit methodology for calendar years after 2008 to require HUD to increase applicable area median incomes by the amount area median incomes rise, even if the HUD-determined area median incomes would be frozen under HUD's 2007 and 2008 income limit methodology.
- Adds energy efficiency and historic character to items that must be factored into state QAPs, effective for allocations made after December 31, 2008.
- Modifies the Housing Credit student rule to make children who received foster care assistance eligible for Housing Credit apartments, effective for determinations after date of enactment.
- Defines area median income in rural areas as the greater of the area median income and the national non-metropolitan median income, effective for income determinations made after date of enactment, applicable only to 9 percent Credit developments.

- Increases the minimum rehabilitation threshold for acquisition and rehabilitation Credits to the greater of 20 percent of eligible basis and \$6,000 per unit, effective for Housing Credit allocations made after date of enactment for non-bond-financed developments and effective for bonds allocated after date of enactment for bond-financed developments. Adjusts per unit limit for inflation in future years.
- Expands the allowable basis for community service facilities, effective for buildings placed in service after date of enactment.
- Relaxes the Housing Credit related party rule restricting investment in properties owned by related parties, effective for buildings placed in service after date of enactment. Expands allowable related party interest to 50 percent from 10 percent.
- Allows Housing Credits on properties financed with HUD's Section 8 Moderate Rehabilitation program, effective for buildings placed in service after date of enactment.
- Extends the time developers have to meet the 10 percent carryover allocation test to one year from allocation, effective for buildings placed in service after date of enactment.
- Eliminates the annual income recertification requirement for 100 percent qualified unit developments, applicable for years ending after the date of enactment.
- Repeals the Housing Credit recapture bond rule, effective for future dispositions and past dispositions if: a) it is reasonably expected the building will continue to be operated as a qualified low-income building; and b) the taxpayer elects to be subject to the new longer statute of limitations.
- Excludes military employees' basic allowance for housing from the definition of income if they are housed in a building located in a county with a military base that had its population grow by 20 percent or more between December 31, 2005 and June 1, 2008, or any county adjacent to such a county. Applies to new and existing 9 percent Credit buildings for determinations made after date of enactment and before January 1, 2012.

#### *GAO Study*

- Directs the GAO to complete a report analyzing the implementation of the bill's Housing Credit changes and the distribution of Housing Credit allocations before and after the effective date of such modifications by December 31, 2012.