

The Housing and Economic Recovery Act of 2008
Low Income Housing Tax Credit/Tax-exempt Bond/HUD Coordination Provisions

Provision	Feature	Description
Low Income Housing Tax Credit/Bond Modernization		
	Increase in Credit Cap	Increases LIHTC cap by 20 cents in 2008 and 2009 per capita.
	Alternative Minimum Tax	Allows corporations and individuals to offset AMT liability with tax credits; makes interest on tax-exempt housing bonds not subject to AMT
	General Public Use Rule	Clarifies that a building meets the general public use requirement if occupancy of the building is limited to individuals who have special needs, or are members of a specified group under a Federal or State program or policy that supports housing for such a specified group, or are involved in artistic or literary activities.
	Treatment of Basic Allowance for Housing	Excludes military housing allowances from the definition of income for certain "qualified buildings" located in any county in which is located a qualified military installation where the number of members of the armed forces as of 6/1/08 has increased by 20 percent as compared to the number on 12/31/05.
	Fixing the credit percentages	Temporary 9 percent flat credit rate for non-federally subsidized buildings placed-in-service by 12/31/13.
	Acquisition Credit	Allows developers to receive the 9 percent credit for acquisition of an existing property.
	Income Limits	Revises method for calculating LIHTC in areas held harmless in 2007 or 2008. Codifies held harmless policy for LIHTC program.
	Treatment of rural projects	Allows properties located in rural areas to use the greater of area median income or national non-metropolitan median income for purposes of measuring income limitations
	State designated DDAs and QCTs	States can provide up to 30% basis boost for state-designated buildings as requiring the increase in credit in order for the building to be financially feasible.
	Federally subsidized properties	Projects receiving federal grants are eligible to receive the 9% credit
	Recapture bond	Repeals recapture bond rule.
	Tax-Exempt Bond Recycling	Clarifies that where a state issues a series of short-term bonds for LIHTC projects, these bonds will be counted only once against the limitation on the annual amount of tax-exempt housing bonds that each state may issue
	Section 8 Mod-Rehab	Repeals prohibition against using tax credits in Section 8 Moderate Rehabilitation developments
	10 Percent Test	The time limit for meeting the 10% test would be extended to one year.
	Conforming tax credit and tax-exempt bond rules	For projects financed with tax credits and tax-exempt bonds, the next-available unit rule would apply to the project, the tax-exempt bond student and single room occupancy rules would conform with the tax credit definitions.
	QAP Requirements	Provides a preference in the QAP for energy efficiency and historic nature of the project.

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	Rehabilitation Requirements	The minimum threshold would be increased to the greater of \$6,000 per unit or 20% of adjusted basis. The minimum amount shall be increased by an inflation factor for projects placed-in-service after 2009.
	Expansion of allowable basis for community services facilities	Increases the allowable basis for community service facilities to the sum of 25% of the first \$15 Million plus 10% of additional costs.
	Related person rule	Reduces related party test from 50 percent to 10 percent of common ownership control.
	10-year Acquisition Rule for LIHTCs	Waives 10-year acquisition rule for specific building types - (1) buildings acquired from an insured depository institution in default or from a receiver or conservator of such an institution; (2) Federally assisted building (substantially assisted, financed or operated under section 8, section 221(d)(3), (d)(4), section 236, section 515); (3) state-assisted (any building substantially assisted, financed or operated under any state law similar in purposes to any of the laws referred to above).
	Continued Eligibility for Students who Received Foster Care Assistance	Allows students who were previously in foster care to be eligible for tax credit units.
	Tenant Recertification	Waives annual tenant income certification in 100% low-income properties.
	GAO Study	GAO report by 12/31/12 analyzing the implementation of the modifications made by this subtitle to the LIHTC. Report shall include analysis of the distribution of credit allocations before and after the effective date of such modifications.
Coordination of Federal Housing Programs and Tax Incentives for Housing		
	Approvals by Department of Housing and Urban Development	Requires HUD, within six months, to implement administrative and procedural changes to expedite approval of HUD multifamily projects funded in conjunction with housing tax credits or tax-exempt housing bonds. Lists types of actions that HUD may take to do so.
		Requires HUD to consult with the IRS and to take actions as appropriate to simplify coordination of rules, regs, forms and approval requirements for combined funding.
		Requires HUD to solicit recommendations from stakeholders to carry out these duties.
		Requires HUD to submit a report, no later than 9 months from bill enactment, identifying actions taken and stakeholder recommendations, & making legislative recommendations.
	Project Approvals by Rural Housing Service	Requires Agriculture Secretary to (a) take action to facilitate timely approval of requests to transfer ownership or control of Section 515 projects for the purpose of rehabilitation or preservation, and (b) consult with IRS and take actions to simplify coordination of rules, regs, forms and approval requirements for projects combining 515 assistance and tax credits or bonds.

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	Use of FHA Loans with LIHTCs	Eliminates need for HUD subsidy layering review of FHA-financed projects involving low income housing tax credits which undergo a tax credit subsidy layering review.
		Eliminates HUD cost certification requirement for FHA multifamily housing loans which also use housing tax credits in cases where the loan-to-cost ratio is less than 80%.
		Bars HUD from requiring escrowing of tax credit proceeds or posting of a letter of credit for FHA loans involving tax credits.
		Exempts LIHTC properties from HUD physical inspection requirements if the tax credit allocating agency already performs them. Permits HUD to rely on tax credit allocating agency for other compliance monitoring requirements.
		Requires HUD to establish a pilot program for streamlined review of FHA multifamily mortgage insurance loan approvals, through appointment of designated underwriters.
	Other HUD Programs	<i>Section 8 Project-based Voucher Assistance</i> . Increases maximum Section 8 project-based voucher contract from 10 years to 15 years. Permits tax credit rents, if lower than the voucher rents, to be set at the higher voucher rent, at the discretion of the PHA, and subject to the rent reasonableness test.
		Authorizes project-based vouchers in coops and buildings with elevators.
		Eliminates need for HUD subsidy layering review for project-based vouchers if a state or locality has performed such review for tax credit purposes.
		Provides that PHAs shall not be required to undertake any environmental review before entering into a housing assistance payments contracts for existing properties unless otherwise required in law or reg.
		Establishes clearer standards for voucher rent reasonableness for projects using housing tax credits.
Data Collection	Requires state agencies administering housing tax credits to submit information to HUD annually regarding characteristics of projects financed through such tax credits.	
	Authorizes \$2.5 million in FY09 and \$900,000 in FY 2010 through 2013 for the costs of the data collection.	