



LIHTC Stimulus – Senate Update

Last night, the Senate Finance Committee adopted a tax stimulus bill by a vote of 14-9. This bill will now go to the Senate floor possibly as early as next week for passage. The current package does include the 5 year carry back for business credits which was one of our priorities but aside from this the bill has nothing relating to the LIHTC or any other direct stimulus for affordable housing.

Senators Cantwell (D-WA), Kerry (D-MA), and Snowe (R-ME) attempted to include an amendment (also cosponsored by Senators Schumer, Hatch, Ensign, Carper, Stabenow and Bingaman) to the Finance Committee bill that would allow an election to accelerate (front load) the flow of LIHTC by doubling the credit in each of the first three years of the ten-year credit period (20%, 20%, 20%). The remaining credits would be taken on a straight-line basis for the last seven years of the credit period. This amendment was not offered during the Committee mark-up because of a procedural objection raised by the Chairman of the Committee. Senator Cantwell is working to address the issue and you may click [here](#) to read a colloquy between Senator Cantwell and Finance Chairman Baucus concerning the accelerator amendment.

We have now turned our attention to the full Senate when the Finance Committee bill goes to the floor for consideration. Senators Cantwell, Snowe and Kerry have told us that they are planning to offer the LIHTC amendment when the bill is on the floor. Once we have specific information on when the amendment will be offered and its title we will let you know. At that time we need all HAG members to immediately contact their Senators and any other Senator with whom they have a relationship asking them to vote for the Cantwell amendment. You may find the Senators phone numbers by clicking the following link:

http://www.senate.gov/general/contact_information/senators_cfm.cfm.

Last week, on January 22, 2009, the House Ways and Means Committee reported by a vote of 24-13 the tax title to this \$825 billion stimulus legislation. The bill, the American Recovery and Reinvestment Tax Act of 2009 (H.R. 598), included a \$3 billion Low Income Housing Tax Credit (LIHTC) “exchange” proposal.

The House LIHTC exchange proposal would allow a state to elect to substitute grant money to be used for low-income housing projects in lieu of a portion of its LIHTC allocation for 2009. In brief, under the proposal, the Secretary of Treasury would make a grant to state housing credit agencies that the state could then allocate to finance the construction, or acquisition and rehabilitation of qualified low-income buildings. Grant money under the proposal would not be taxable income to recipients. The grant money would be allowed to be awarded to finance qualified low-income housing even if the building does not receive an allocation of low-income housing tax credits. However, if the building has not received such an allocation, the state would need to make a separate determination that the award would increase the total funds available to the state to build and rehabilitate affordable housing. In addition, in all events, any building receiving grant money is required to satisfy the LIHTC rules.

Under the proposal, there is a maximum low-income housing grant amount a state can elect to receive. This amount is calculated by first adding the state’s (1) unused housing credit ceiling for 2008, (2) any returns to the state during 2009 of credit allocations previously made by the state, (3) 40 percent of the state’s 2009 credit allocation, and (4) 40 percent of the state’s share of the national pool allocated in 2009, if any. That sum is then multiplied by ten, and 85 percent of that figure is the maximum grant amount. The otherwise applicable credit volume limit for a state in 2009 would be reduced by the amount that is taken into account in determining the grant election amount.

While this is an interesting proposal, it does not bring new investors to the program and adds no meaningful new federal support for the program. In addition, there is growing concern that if additional tax incentives are not included, there could be future pressure to increase this exchange program to the detriment of the current successful LIHTC program.

The House stimulus bill is scheduled to be voted on by the House today, January 28, 2009. Majority Leader Steny Hoyer has indicated there will be no tax amendments offered to the stimulus bill when it is considered on the floor.

To achieve any positive improvements, we are going to have to push hard in the next few days to have the Cantwell/Snowe/Kerry amendment adopted on the floor of the Senate. It will not be an easy lift, but we are circling back with our core group of supporters and are working hard to add additional support. We again ask for your support in this effort by contacting your home state Senators as well as any Senators you or your contacts may have relationships with. We will keep you posted on developments.

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