



The much anticipated and long awaited housing stimulus bill, the *Housing and Economic Recovery Act of 2008* (H.R. 3221), passed the Senate on Saturday, July 26, by a vote of 72-13. The bill now will be sent to the President for signature.

Importantly, the White House's original threat to veto the bill was dropped this week and President Bush is expected to sign the bill without delay. As soon as the bill is enacted into law, we will send you the good news.

There are no surprises in the final bill, as the provisions reflect the negotiations between the House and Senate that were in the most recent version passed by the House. Below are a few of the highlights and a brief summary of many of the other LIHTC provisions. Attached for your convenience are the [final bill](#) and the relevant portions of the technical explanation provided by the Joint Committee on Taxation (JCT). The [JCT document](#) provides helpful descriptions of the LIHTC provisions.

HIGHLIGHTS OF THE LIHTC PROVISIONS

Alternative Minimum Tax Relief

- LIHTC and the rehabilitation credit may offset AMT tax liability.
- Tax-exempt interest on (i) exempt facility bonds issued as part of an issue 95 percent or more of the net proceeds of which are used to provide qualified resident projects, (ii) qualified mortgage bonds, and (iii) qualified veterans' mortgage bonds is not an item of tax preference for purposes of AMT.

9% Credit Fix

- As previously seen, the 9% credit fix will sunset December 31, 2013.

LIHTC Volume Cap Increase

- A credit cap increase is provided for calendar years 2008 and 2009 of 10% in small population states and \$.20 per capita increase in large population states.

Modification of the Definition of Federally Subsidized Buildings

- The concept of below market federal loans is deleted from the definition, expanding the number of buildings that may become eligible for the 70% credit.

30% Basis Increase

- Housing credit agencies may provide up to 30% more credits for certain properties in designated areas.

Section 8 Moderate Rehabilitation

- The prohibition on the use of the credits with Section 8 Moderate Rehabilitation developments is repealed.

Other important provisions included in the final bill, as expected, include the provision extending the time limit for meeting the 10% test to one year, the tax-exempt bond recycling provision, the provision increasing the minimum threshold to the greater of \$6,000 per unit or 20% of adjusted basis for rehabilitation requirements, and the provision expanding eligible basis for community service facilities to 25% of the first \$15 million and 10% thereafter.

The bill also excludes military housing allowances from the definition of income for certain qualified buildings, revises the criteria for measuring rural median incomes, and clarifies the treatment of federal grants, directing Treasury to issue regulations providing that rental assistance and operating subsidies are not federal grants which would require basis reduction.

In addition, the bill clarifies the general public use rule, modifies the definition of related persons (repealing the 10% threshold, and amending it to the 50% threshold), and includes the provision providing a new exception to the ten-year nonacquisition period for certain federally-assisted existing buildings.

As also expected, among other provisions, the bill repeals the bond posting requirement, substituting an extended statute of limitations, and includes the requirement that states must take into account energy efficient standards and the historic nature of the project in its allocation of credits.

We look forward to sending you the good news that the President has signed the bill into law.

HAG Contact Information:

[David Gasson](#), Executive Director
(617) 624-8896

[Allison E. Marino](#), Communications Associate
(617) 624-8678