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Research Summary

State Low-Income Housing Tax Credit Programs

For additional information please contact Cameron Rifkin, Policy Associate, Children and Families Program, cameron.rifkin@ncsl.org

BACKGROUND

The federal Low Income Housing Tax Credit (LIHTC) program was created in 1986 to finance and incentivize investors who partner with nonprofit developers for the construction, rehabilitation and preservation of affordable housing. Investors receive a dollar-for-dollar reduction in taxes owed on other income for 10 years to offset their investment costs. Per federal law, a certain percentage of housing units must be rent-restricted and occupied by households with qualifying income levels for at least 30 years. After the first 15-year period, an investor may sell the property or convert it to market rate, allowing nonprofit developers to exercise the right of first refusal to purchase the building(s) from the investor for minimal purchase price (outstanding debt plus taxes, typically well below market value).

As the first LIHTC-participating properties became eligible for market rate conversions in 2020, some investors began converting buildings to market-rate housing. Some advocacy and nonprofit organizations consider investors that acquire several LIHTC projects to be aggregators. Many investors and aggregators who invest in several LIHTC projects then sell the properties at market rate rather than the federally mandated minimal purchase price to the nonprofit developers that have been operating and managing the project. This has resulted in costly court cases that can divert resources away from increasing affordable housing supply and into expensive legal battles.

STATE LOW-INCOME HOUSING TAX CREDIT PROGRAMS

While changes to the federal LIHTC program would require Congressional action, some states have created state-level LIHTC programs. These programs supplement the federal low-income housing tax credit through mandated extended affordability periods, investments in affordable housing preservation and expanded protections for the of right of first refusal when an investor decides to sell a property.

At least 32 states and the District of Columbia currently have state LIHTC programs. An additional seven states (Alabama, Iowa, Kentucky, Louisiana, Mississippi, North Carolina and Oregon) have proposed creating state LIHTC programs over the years. Many state programs build on the federal LIHTC by providing state credits to fill gaps in development costs. Other state programs are separated from the federal program to make state tax credits available to investors who may not have received federal tax credits.

- **Arkansas** includes state tax credits within the federal LIHTC application and amounts equal to 20% of the federal credit total.

Compiled by the National Conference of State Legislatures, February 2024

- **The District of Columbia** offers a low-income housing tax credit up to 25% of the federal LIHTC. Developers must receive an eligibility Statement from the DC Department of Housing and Community Development. Additionally, DC allows for a user fee of up to 1% to be charged to any qualified development.
- **Florida** provides a state housing tax credit for a five-year period to developers of qualified housing projects located in an urban infill area and providing low-income housing, such as senior-living residences.
- **Hawaii** offers a low-income housing tax credit for qualifying developers equal to 50% of the federal LIHTC. In order to qualify for Hawaii's LIHTC, developers must allocate at least 20% of units for families with incomes of less than 50% of the area median income or at least 40% of units must be reserved for households with incomes of 60% of AMI.
- **Illinois** encourages private investment in affordable housing by providing donors of qualified donations with a one-time tax credit on their Illinois state income tax equal to 50% of the value of the donation. The donor can choose to transfer the credits to the development, which creates additional development financing through syndication of the credits.
- **Missouri's** Low-Income Housing Tax Credit Program prioritizes allocation based on geographic region, development and market characteristics, feasibility, and community impact. The tax credit is up to 50% of the federal amount available for a credit period of 10 years.
- **Oklahoma** offers a dollar-for-dollar match up to 100% of the federal LIHTC; however, the credit period is limited to two years and applications are ranked using a variety of criteria including income targeting, affordability, development location, preservation of affordable housing, energy efficiency, tenant ownership, and historic nature.
- **Wisconsin** established a state housing tax credit to complement the federal 4% LIHTC and largely follows federal guidelines. However, key differences in Wisconsin's LIHTC included a 6-year credit period instead of the federal 10-year period and the prioritization of developments in towns of 150,000 people or less.

Extended Affordability Periods: The original LIHTC required investors to maintain affordability for 15 years, and Congress extended this period to 30 years in 1989. A study by Abt Associates found that most properties remain affordable during the period immediately following the mandated compliance period. To sustain and preserve affordable housing units beyond the federally mandated compliance period, some states have extended this period even further.

- **California**'s state low-income housing tax credit program requires projects constructed after 1996 to extend the number of low-income use restrictions to 55 years in order to be competitive for a 9% tax credit allocation.
- **Nevada**'s LIHTC program gives preference to projects that extend periods of affordability beyond the 30-year federal mandate. Project owners committed to an additional period of affordability up to 50 years receive additional points during the application scoring stage. Nevada (SB 284) removed the expiration date for the LIHTC program in 2021.

ADDITIONAL RESOURCES

- Low-Income Housing Tax Credit Property and Tenant Data, HUD
- State Tax Credits for Affordable Housing, Local Housing Solutions
- Low-Income Housing Tax Credit FAQ, Tax Policy Center
- Housing Credit, National Council of State Housing Agencies
- About the Housing Credit, Affordable Housing Tax Credit Coalition