



Summary of Key Provisions of the Final Version of H.R. 3221

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Division A: Housing Finance Reform

TITLE I: REFORM OF REGULATION OF ENTERPRISES

Subtitle B: Improvement of Mission Supervision

Section 1131: Affordable Housing Programs

(a) Repeals section 1337 of Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. § 4567)

(b) Inserts new sections

- Section 1337 (allocations):

- (a) Fannie Mae and Freddie Mac set aside 4.2 basis points of new business each year. 65% goes to Housing Trust Fund (HTF), 35% to Capital Magnet Fund (CMF)

- (b) Director of new regulating agency can set aside allocation requirements if allocations would contribute to the financial instability of either GSE

- (c) Entities cannot pass on costs to originators of mortgages purchase/secured by GSEs

- (d) Requirements are enforceable

- (e) 25% of the amounts allocated under (a) set aside for Treasury HOPE Reserve Fund

- (f) Cannot use funds in conjunction with property taken by eminent domain

- Section 1338 (Housing Trust Fund):

- (a) Establishes HTF, funded by allocations from section 1337 and other monies as may be appropriated to increase/preserve supply of rental housing for extremely low- and very low-income families and increase homeownership in same groups. Money from this fund is considered federal financial assistance

- (b) For the first three years, money for HTF and CMF diverted to cover potential losses from FHA-backed troubled mortgages: FY2009, 100%, FY2010, 50%, FY 2011, 25%. If there is money left over at the end of the HOPE program, money goes back into the HTF and CMF

- (c) Establishes allocation rules for HTF

- Money goes to states according to formula to be developed by HUD Secretary. States must then develop plan to distribute funds.

- Eligible activities include production, preservation, and rehabilitation of rental housing (at least 75% of the grant must benefit extremely low income-families or families at/below poverty line), limited homeownership help (no more than 10% of amounts allocated to a state can go for homeownership activities)

- Eligible recipients are organizations and entities who have experience, capacity, and knowledge to undertake activity
- States must use money within two years or return the money to HUD
- Certain activities, such as travel or lobbying, are not eligible for funding
- (d) Failure to return misused funds will result in a reduction of future allocations to the state
- (e) Establishes accountability rules for states and grantees
- (f) Definitions
- (g) Authority to Create Regulations
- (h) If another housing trust fund is created in the future, the future fund will receive funds meant for this trust fund
- Section 1339 (Capital Magnet Fund):
 - (a) Establishes CMF within Community Development Financial Institutions Fund
 - (b) Consists of funds under Section 1337 and other appropriated/transferred funds
 - (c) Expenditures are to create a national competitive grant program for 1) development, preservation, rehabilitation, or purchase of affordable housing for extremely low-, very low-, or low-income families, and 2) economic development that would stabilize or revitalize low-income or underserved rural areas.
 - (d) This money is federal financial assistance
 - (e) Eligible grantees include Treasury-certified community development financial institution or nonprofit with at least one principal purpose of development/management of affordable housing
 - (f) Eligible uses include loan loss reserves, capitalizing revolving loan funds, affordable housing funds, or economic development funds, risk-sharing loans
 - (g) Describes application process
 - (h) No one eligible grantee may be awarded more than 15% of aggregate funds during any year, and Secretary shall seek to distribute funds for geographic diversity. Activities such as political activities, advocacy, counseling services, or travel are prohibited. There are certain accountability requirements grantees must meet.
 - (i) Secretary shall report to Congress, on periodic basis, how this fund is being used
 - (j) Secretary has authority to issue regulations

TITLE VI: MISCELLANEOUS

Sec. 1603: Conversion of HUD Contracts

- (a) Secretary may, at request of owner of multifamily housing project over 5,000 units with project-based Section 8 and RAP contract, convert everything to project-based Section 8 contract
- (b) When request made at least 90 days before conversion, Secretary may treat resulting contract as eligible for initial renewal

Division B: Foreclosure Prevention

TITLE VII: HOUSING PRESERVATION

Subtitle A: Preservation Under Federal Housing Programs

Provides certain preservation benefits to specific projects around the country.

Subtitle B: Coordination of Federal Housing Programs and Tax Incentives for Housing

Section 2831: Short Title

Names bill as the "Housing Tax Credit Coordination Act of 2008."

Section 2832: Approvals by Department of Housing and Urban Development

- (a) 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 HUD may take to do so.
- (b) 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.
- (c) Requires HUD to solicit recommendations from stakeholders to carry out these duties.
- (d) Requires HUD to submit a report, no later than 9 months from bill enactment, identifying actions taken and stakeholder recommendations, & making legislative recommendations.

Section 2833: 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, regulations, forms and approval requirements for projects combining 515 assistance and tax credits or bonds.

Section 2834: Use of FHA Loans with Housing Tax Credits

Includes provisions to streamline use of FHA-insured multifamily loans with housing tax credits:

- (a) 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.
- (b) 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%.
- (c) Bars HUD from requiring escrowing of tax credit proceeds or posting of a letter of credit for FHA loans involving tax credits. Exempts FHA multifamily loans that utilize housing tax credits from required periodic inspections. Permits HUD to rely on tax credit allocating agency compliance monitoring. Requires HUD to establish a pilot program for streamlined review of FHA multifamily mortgage insurance loan approvals, through appointment of designated underwriters.

Section 2835: Other HUD programs

- (a) Section 8 Assistance. Measures 25% limit on share of units that may receive project-based voucher assistance based on project, not per building. Increases maximum Section 8 voucher contract from 10 years to 15 years. Permits project-based voucher rents in tax credit projects up to the normally allowed voucher maximum rent. 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 for housing assistance payments contracts unless otherwise required in law or reg. Authorizes project-based vouchers in coops and buildings with elevators. Establishes clearer standards for voucher rent reasonableness for projects using housing tax credits.
- (b) Section 202 Housing for Elderly Persons. Requires delegated processing of all new Section 202 elderly housing grants that also use other non-HUD funding sources.
- (c) McKinney-Vento Homeless Assistance. Extends time period for completion of Shelter Plus Care projects that also use funding from housing tax credits. Authorizes 15 year terms for renewal of Shelter Plus Care permanent housing assistance contracts
- (d) Data Collection on Tenants of Housing Tax Credit Projects. 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 this subsection.

Division C: Tax-Related Provisions

TITLE I: HOUSING TAX INCENTIVES

Subtitle A: Multi-Family Housing

Part I: Low-Income Housing Tax Credit

Sec. 3001: Temporary increase in volume cap for low-income housing tax credit

For 2008 and 2009 (calendar years), per capita housing credit cap amount increased by \$0.20, and small state minimum increased by 10%, rounded to next lowest multiple of \$5,000

Sec. 3002: Determination of Credit Rate

- ☆ (a) Non-federally subsidized buildings placed in service after enactment and before Dec. 31, 2013 will have an applicable percentage no less than 9%
- ☆ (b) Modifies definition of federally subsidized by removing below-market Federal loan from the definition, allowing 9% credit for all federally subsidized properties (except tax-exempt bond financed properties)

Sec. 3003: Modifications to definition of eligible basis

- (a) Modifies 42(d)(5)(C): buildings designated by state housing credit agency as needing credit increase to be feasible as part of qualified low-income housing project shall be treated as located in a difficult development area (for buildings placed in service after effective date)
- (b) Increases from the minimum rehab expenditures in a 24-month period to 20% of adjusted basis (from 10%) or \$6,000 per unit (from \$3,000) along with various inflation adjustments

- (c) Increases the space allowable for community service facilities in small projects
- (d) Eligible basis of a building will not include costs financed with a federally funded grant (for buildings placed in service after effective date)
- ☆ (e) Relaxes housing credit related party rule (for buildings placed in service after effective date) to allow related party interest to 50%, up from 10%
- ☆ (f) 10-year nonacquisition period for existing buildings waived for federally or state-assisted buildings (for buildings placed in service after effective date)

Sec. 3004: Other simplification and reform of low-income housing tax incentives

- ☆ (a) Repeals prohibition on credits for moderate rehab assistance
- ☆ (b) Extends time limit for incurring 10% of project cost from 6 months to 1 year
- ☆ (c) Repeals recapture bond rule on disposition of a building continuing as qualified low-income building and if taxpayer subjects himself to new longer statute of limitations
- (d) Includes energy efficiency and historic nature of buildings in making credit allocations for allocations after Dec. 31, 2008
- (e) Extends housing credit apartment eligibility for students who received foster care help
- ☆ (f) For rural projects, income limitation for 9% credit developments will be measured by reference to area median gross income or national non-metropolitan median income
- ☆ (g) Clarifies general public use requirement as not excluding buildings restricted to individuals with special needs, share common occupation/interests or members of a group based on federal, state, or local programs/requirements
- (h) Requires GAO report by Dec. 31, 2012 analyzing distribution of credit allocations before and after modifications from this bill

Sec. 3005: Treatment of military basic pay

Excludes housing allowances from income determinations for qualified military housing in counties with military base (or adjacent counties) that had population grow by 20% or more between Dec. 31, 2005 and June 1, 2008

Part II: Modifications to Tax-Exempt Housing Bond Rules

Sec. 3007: Recycling of tax-exempt debt for financing residential rental projects

- (a) Certain bonds issued to refinance loans will be treated as a refunding issue
- (b) Extends such financing to LIHTC under 42(h)(4)(A)

Sec. 3008: Coordination of certain rules applicable to low-income housing credit and qualified residential rental project exempt facility bonds

- (a) Modifies determination of next available unit to align them with credit rules
- (b) Provides special rules for students, making them consistent with credit rules
- ☆ (c) Allows single-room occupancy units to be considered residential units for housing bond purposes

Part III: Reforms Related to the Low-Income Housing Credit and Tax-Exempt Housing Bonds

☆ Sec. 3009: Hold Harmless for reductions in area median gross income

Determination of area median gross income for projects after 2008 will not be less than area median gross income for the project for the calendar year prior to the determination;

for HUD hold harmless impacted projects, area median gross income is greater of sum of area median gross income for 2008 plus increase with respect to such project

Sec. 3010: Exception to annual current income determination requirement where determination not relevant

Annual determination requirement waived if there's no new resident with income exceeding applicable income limit

Subtitle B: Single Family Housing

Subtitle C: General Provisions

Sec. 3021: Temporary liberalization of tax-exempt housing bond rules

- (a) Increases set aside for housing bonds in 2008 to fraction of \$11 billion
- (b) Proceeds of qualified mortgage bond proceeds for bonds issued prior to Dec. 31, 2010 may be used to refinance qualified subprime mortgages (adjustable rate single-family residential mortgage made after Dec. 31, 2001 and before Jan. 1, 2008)

Sec. 3022: Repeal of alternative minimum tax limitations on tax-exempt housing bonds, low-income housing tax credit, and rehabilitation credit

- (a) Exempts tax-exempt interest on certain housing bonds from alternative minimum tax
- (b) Allows a low-income housing credit against alternative minimum tax
- (c) Allows a rehabilitation credit against alternative minimum tax

Sec. 3023: Bonds guaranteed by Federal home loan banks eligible for treatment as tax-exempt bonds

- (a) Guarantee by Federal home loan bank from enactment through Dec. 31, 2010 may be tax exempt
- (b) Adds safety and soundness requirements for federal home loan banks

Sec. 3024: Modification of rules pertaining to FIRPTA nonforeign affidavits

- (a) Allows for an alternative procedure for furnishing a nonforeign affidavit (a qualified substitute may provide the appropriate statement to transferee)
- (b) Defines qualified substitute as agent or other person responsible for closing the transaction

Sec. 3025: Modification of definition of tax-exempt use property for purposes of the rehabilitation credit

Raises percentage of property that must be for tax-exempt use from 35% to 50%

Sec. 3026: Extension of special rule for mortgage revenue bonds for residences located in disaster areas

Extends special rule (143(k)(11)) to bonds issued between May 1, 2008 and Jan. 1, 2010.

Sec. 3027: Transfer of Funds Appropriated to Carry Out 2008 Recovery Rebates for Individuals

Secretary of Treasury may use funds from section 101(e)(1)(A) of 2008 Economic Stimulus Act for the acceleration of the 10% tax bracket. But Congress has to be notified in advance of transfers, and transfers over \$5 million must be approved by both Committees on Appropriations

TITLE II: REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

TITLE III: REVENUE PROVISIONS

Subtitle A: General Provisions

Sec. 3081: Election to accelerate amt and r and d credits in lieu of bonus depreciation

- (a) Allows corporations to elect to accelerate credits instead of bonus depreciation
- (b) Applies the credit acceleration to eligible automobile partnerships

Sec. 3082: Certain GO Zone incentives

- (a) If taxpayer claims deduction for any year for a casualty loss of principal residence from Hurricanes Katrina, Rita, or Wilma and later gets a grant for the loss, taxpayer may file an amended income tax return for the year with the deduction and reduce the amount of the deduction by reimbursement amount without penalty/interest if tax is paid within one year of filing amended return
- ☆ (b) Waives construction deadline for GO Zone property for bonus depreciation
- (c) Adds Colbert Co., Alabama and Dallas Co., Alabama to GO Zone

Sec. 3083: Increase in Statutory Limit on the Public Debt

Increases limit to \$10.615 trillion.

Subtitle B: Revenue Offsets

Sec. 3091: Returns relating to payments made in settlement of payment card and third party network transactions

Requires payment settlement entities (merchant acquiring banks or third party settlement organizations) to file returns reporting certain transactions and their amounts

Sec. 3092: Gain from sale of principal residence allocated to nonqualified use not excluded from income

Sec. 3093: Delay in Application of Worldwide Allocation of Interest

Sec. 3094: Time for Payment of Corporate Estimated Taxes