Low-Income Housing Tax Credit

Frequently Asked Questions (FAQs)

How the Low-Income Housing Tax Credit (Housing Credit) Works

What is the Housing Credit?

The Housing Credit is a federal tax credit created by the *Tax Reform Act of 1986* designed to encourage the private sector investment in the new construction, acquisition, and rehabilitation of rental housing affordable to low-income households. Since its inception, the Housing Credit has financed the construction and preservation of more than 3.7 million affordable homes nationwide, making it the most successful affordable rental housing production program in U.S. history. Today it produces nearly all new affordable rental housing and is our primary tool for preserving existing affordable housing.

How does the Housing Credit work?

The Housing Credit offers a dollar-for-dollar reduction in a taxpayer's income tax liability in return for making a long-term investment in affordable rental housing. State agencies award Housing Credits to developers, who engage private investors in the property's ownership. The investors provide upfront equity capital to fund the construction and rehabilitation of affordable housing, allowing developers to borrow less money and pass through the savings in lower rents for low-income tenants. Investors, in turn, receive a 10-year stream of tax credits based on the cost of constructing or rehabilitating apartments that must be rented to low-income households.

The incentive allows states to allocate Housing Credits to developments they select pursuant to qualified allocation plans (QAPs) they develop that identify the type, location, and other characteristics of affordable rental housing needed throughout the state. The QAPs must describe the criteria agencies will apply in allocating the Credit and are subject to review after a public hearing and comment process. In this way, the Housing Credit empowers states to respond to the housing needs, priorities, and challenges they consider most important and to respond to changing housing priorities or emerging challenges.

The Housing Credit has two components: the "9 percent" Credit and the "4 percent" Credit. The annual amount of 9 percent Housing Credit authority in each state is based on the state's population. In 2023, the state Credit cap is $2.75 times the state's population, with a small state minimum of $3,185,000.[1] Volume cap figures are published by the IRS on an annual basis and subject to an inflation adjustment.

The 4 percent component can only be triggered by the use of tax-exempt qualified private activity multifamily Housing Bonds. The 4 percent Housing Credit is also used for acquisition, which comes out of the state ceiling. Housing Bonds and the 4 percent Housing Credit finance a growing proportion of Housing Credit rental homes every year. In 2021, rental homes financed with 4 percent Credits and Bonds made up more than half of Housing Credit homes financed that year.[2] Because multifamily Housing Bonds are limited by the Private Activity Bond (PAB) volume cap, the 4 percent Credit is not subject to the Housing Credit volume cap. Not only do Housing Bonds make possible the production of substantial numbers of new Housing Credit properties, they are also essential to state efforts to preserve

[1] U.S. Department of Treasury, Internal Revenue Service, Rev. Proc. 2022-38.
[2] National Council of State Housing Agencies, *State HFA Factbook: NCSHA Annual Survey Results 2021*, October 2022.

affordable housing. In 2023, the state PAB cap is $120 times the state's population, with a small state minimum of $358,845,000.[3] Like the Housing Credit cap, the IRS publishes PAB cap amounts annually and provides an inflation adjustment.

Only once the property is constructed, meets all federal requirements, and is occupied by income-eligible tenants paying affordable rents can the investor(s) begin claiming credits. In the rare case that a property falls out of compliance at any time over the next fifteen years, credits are subject to recapture by the IRS. The private sector, not taxpayers, bears the financial risk. The property is also subject to continued affordability restrictions enforced by the states for at least another 15 years, though many states impose even longer affordability requirements.

What are Tax-Exempt Multifamily Housing Bonds (Housing Bonds)?

Multifamily Housing Bonds are critical to the Housing Credit program because the use of these bonds is the only way to generate 4 percent Housing Credits for new construction or rehabilitation.

Multifamily housing bonds are used by states and local governments to finance low-interest loans for affordable rental housing developers seeking to acquire, construct, and/or rehabilitate multifamily housing for low-income renters. These bonds are a type of tax-exempt private activity bonds (PAB), which are bonds used by private owners for activities that serve a public purpose. Like the Housing Credit, the amount of PAB authority each state receives annually is based on population.

Under current law, if multifamily Housing Bonds are used to finance at least 50 percent of the aggregate land and building costs of a property, 4 percent Credits are available on the property's full qualified basis. These 4 percent Housing Credits do not count against the state's annual allocated Housing Credit cap. Instead, 4 percent Housing Credits are essentially limited because PAB authority is limited.

Bond-financed Housing Credit developments must comply with the state's qualified allocation plan and with all other applicable Housing Credit program rules, including those related to income targeting and the affordability period.

Who does the Housing Credit serve?

The Housing Credit program generally serves low-income working households earning 60 percent of area median income (AMI) or less, with congressional direction to serve the lowest income households possible. In practice, states well exceed this statutory requirement, reaching families with incomes much lower than the program's income limits. According to HUD data on Housing Credit resident demographics, around 53 percent of all households living in Housing Credit apartments are extremely low-income (ELI), meaning they earn 30 percent of AMI or less. Another 31 percent, roughly, were very low income, earning between 30 and 50 percent of AMI, and the remaining 16.6 percent earn more than 50 percent of AMI.[4]

In 2018, Congress amended the Housing Credit statute to allow owners to opt to *income average* in any individual property. Under the new Average Income Test (AIT), a household could qualify to live in a Housing Credit property if their income is no greater than 80 percent of AMI ***as long as*** the average income limit in the property is at or below 60 percent of AMI. This means that if an owner allows households between 60 and 80 percent of AMI to rent units in the property, they must also set aside units in that property for households at lower income levels in order to maintain an average of no more than 60 percent of AMI. The AIT preserves rigorous targeting to low-income households, while providing more flexibility to the program and greater income-mixing potential.

The flexibility of the Housing Credit has made it an attractive tool for meeting housing needs across rural, urban, and suburban areas. It finances housing for low-income families with children, seniors, veterans, members of Native American tribes, and people with disabilities. The Housing Credit has been

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[3] U.S. Department of Treasury, Internal Revenue Service, Rev. Proc. 2022-38.
[4] HUD: *Tenants in LIHTC Units as of December 31, 2019*.

instrumental in the production of permanent supportive housing for people experiencing homelessness, those recovering from substance use disorders, and other special needs populations.

Why is the Housing Credit necessary?

The Housing Credit is necessary because our nation faces an affordable housing crisis, which is growing more and more critical. The Housing Credit, together with multifamily Housing Bonds, is the nation's most successful tool for encouraging private investment in the production and preservation of affordable rental housing.

The U.S. rental market remains extremely tight, and increased demand for rental housing in recent years has caused rents to rise drastically, contributing significantly to overall price inflation. In fact, since the beginning of the COVID-19 pandemic, the number of renter households has climbed by more than 1.1 million and vacancy rates dropped by 1.1 percentage points to just 5.8 percent nationwide, indicating a critical rental housing supply shortage.[5]

According to HUD's "Worst-Case Housing Needs" report, 7.8 million very low-income renter households had worst-case housing needs in 2019, meaning they did not receive government housing assistance and paid more than half of their income for rent, lived in severely inadequate conditions, or both — an increase from 7.7 million in 2017.[6]

Currently, there is a shortage of over 7.3 million affordable rental units for ELI renters, with only 33 affordable units available for every 100 ELI renter households nationwide, and 72 percent of ELI renters are spending more than half of their income on housing.[7] Low-income renters who are unable to find affordable apartments are forced to pay a significant portion of their income for housing — leaving little money left over for other necessities like food, transportation, childcare, and healthcare.

The Housing Credit is an efficient and effective tool for providing affordable housing to the people who need it most. The Credit accounts for the vast majority of the country's new rental housing affordable to low-income people, creating affordable housing opportunities for the millions of families in our country today who otherwise pay an excessive portion of their income for housing, live in substandard or overcrowded conditions, or face homelessness. Our nation also relies on this program more and more to preserve the existing affordable housing stock that is often desperately in need of recapitalization.

How much housing has been developed because of the Housing Credit?

By providing an incentive for private-sector investment, the Housing Credit has financed more than 3.7 million apartments for low-income households, adding nearly 150,000 units to the inventory each year.[8]

How do states provide oversight and prevent against fraud?

As directed by Congress, state allocating agencies take the lead on oversight and work with the IRS to monitor project compliance. State agencies regularly conduct extensive reviews of Housing Credit developments to inspect their physical and financial condition, certify their occupancy by qualified low-income residents, and ensure overall compliance with federal rules. State agencies also underwrite transactions to make sure that costs are reasonable and that the amount of Housing Credits awarded is the minimum needed to complete the project. A 2017 GAO study of state agencies' administration of the program found that states often go above and beyond the compliance monitoring responsibilities required of them by law.[9] Multiple parties – both public and private – scrutinize each transaction from beginning to end, providing independent checks and balances, and tenants have full enforcement rights as well.

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[5] Joint Center for Housing Studies, Harvard University, *The State of the Nation's Housing 2022*.
[6] HUD, *Worst Case Housing Needs: 2021 Report to Congress*.
[7] National Low Income Housing Coalition, *The Gap: A Shortage of Affordable Homes, 2023*.
[8] National Council of State Housing Agencies, *State HFA Factbook: NCSHA Annual Survey Results 2021*, October 2022.
[9] US GAO, *Testimony before the Senate Committee on Finance, Low-Income Housing Tax Credit*, 2017.

There is no evidence of widespread fraud in the Housing Credit program. Out of more than 50,000 properties developed,[10] very few isolated cases have been found and the violators have been prosecuted swiftly. The record of states monitoring for compliance is strong and the affordable housing industry supports all efforts to investigate and vigorously prosecute any violations.

Proposals to Strengthen and Expand the Housing Credit

What is the *Affordable Housing Credit Improvement Act*?

The *Affordable Housing Credit Improvement Act of 2023*, **S. 1557** & **H.R. 3238**, is bipartisan legislation that would make numerous modifications to strengthen the Housing Credit. It would provide states with additional flexibility, making the financing of affordable housing more predictable and streamlined, facilitating Housing Credit development in challenging markets like rural and Native American communities, increasing the Housing Credit's ability to serve extremely low-income tenants, and supporting the preservation of existing affordable housing. It was introduced in the Senate by Senators Maria Cantwell (D-WA), Todd Young (R-IN), Ron Wyden (D-OR), and Marsha Blackburn (R-TN), and in the House by Representatives Darin LaHood (R-IL-16), Suzan DelBene (D-WA-01), Brad Wenstrup (R-OH-02), Don Beyer (D-VA-08), Claudia Tenney (R-NY-24), and Jimmy Panetta (D-CA-19).

Is there enough developer demand to absorb a significant increase in Housing Credits?

In 2021, state Housing Credit allocating agencies received applications requesting more than twice their available Housing Credit authority.[11] Many more potential applications for worthy developments are not submitted in light of the program's intense competition, suggesting the demand is even broader.

What does the Housing Credit cost?

According to the congressional Joint Committee on Taxation (JCT), the Housing Credit currently costs roughly $13 billion per year over the five-year period from 2022-2026, which represents an annual snapshot of all Housing Credit properties placed in service in their initial 10-year Credit period.[12]

Who administers the Housing Credit?

The Housing Credit is typically administered by state housing finance agencies (HFAs), which are state-chartered authorities established to help meet the affordable housing needs of the residents of their states. Although they vary widely in characteristics, such as their relationship to the state government, most HFAs are independent entities operating under the direction of a board of directors appointed by the state's governor. Administering the Housing Credit is one of the primary activities of HFAs.

Who oversees the Housing Credit's administration?

The IRS, which is an agency of the U.S. Treasury Department, oversees the Housing Credit program at the federal level and issues program guidance and regulations. In addition to IRS oversight, state-level administration, and private-sector due diligence — under threat of severe tax penalty for noncompliance — are hallmarks of the Housing Credit program and have eliminated the need for extensive federal involvement and bureaucratic regulations. This oversight system represents an unprecedented departure from previous federal housing programs and is an essential element of the program's success.

What is the Housing Credit's economic impact?

The Housing Credit is a vital tool for local economic growth. According to data from the National Association of Home Builders and the National Council for State Housing Agencies, the program has

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[10] HUD, *Low-Income Housing Tax Credit: Property Level Data*, updated April 28, 2022.
[11] National Council of State Housing Agencies, *State HFA Factbook: NCSHA Annual Survey Results 2021*, October 2022.
[12] Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2022-2026*.

generated almost $240 billion in federal, state, and local taxes; nearly $690 billion in economic income from wages and business income; and over 6 million jobs across various U.S. industries.[13]

Does the Housing Credit leverage other funding?

A unique feature of the Housing Credit is its ability to leverage private equity, which investors contribute up front in exchange for credits against their future tax liability. In addition, virtually every state combines the Housing Credit with other federal and state housing subsidies to make housing affordable to ELI families, the elderly, and special needs populations. More than half of Housing Credit apartments are financed using tax-exempt multifamily Housing Bonds annually, allowing them to achieve lower interest rates on project debt than would otherwise be available.

Would the private sector finance affordable housing without an incentive like the Housing Credit?

No. Unlike many other tax expenditures, which subsidize activity that would occur at some level without a tax benefit, virtually no affordable rental housing development would occur without the Housing Credit. It simply costs too much to build housing to rent it at rates low-income people can afford absent an incentive such as the Credit. In addition to leveraging private-sector equity, the Housing Credit encourages lenders to finance affordable housing developments when they may be otherwise disinclined to do so.

Doesn't the Housing Credit just enable corporate investors to reduce their tax liability?

Investors only receive Housing Credit benefits for making investments they would not otherwise make absent the Credit. Substantially all the net economic benefit of the program goes to low-income families, not corporations. A recent analysis of the Housing Credit in nine metropolitan areas showed that the average Housing Credit rent payment was 38 percent lower than the market-rate rent for a comparable apartment.[14] In contrast to other corporate tax expenditures, Housing Credit investors are only the intermediaries who enable private resources to be used to deliver affordable rental housing to low-income and special needs populations, housing which would not be built without the Credit.

How well do Housing Credit properties perform?

With strong state agency underwriting, strict compliance enforcement, and due diligence from the private sector, the inventory of Housing Credit properties overall has an outstanding performance track record according to all commonly used real estate metrics. Only 0.57 percent of Housing Credit developments have ever resulted in foreclosure, an unparalleled record compared to market-rate multifamily properties and other real estate assets.[15] States underwrite Housing Credit properties with a slim margin, careful not to over-subsidize any particular project.

In addition to affordable housing, what other benefits does the program provide?

In addition to providing shelter, the safe, sustainable, and affordable rental housing opportunities made possible by the Housing Credit lead to improved child well-being, enhanced educational achievement, improved health outcomes, increased employment access, proximity to transportation options, community revitalization, and reduced dependence on emergency services and institutional care.

How can Congress strengthen the Housing Credit program?

Despite the Housing Credit's successes, the unmet need for affordable rental housing continues to far outstrip the available resources. This imbalance between demand and supply has become even more pronounced in recent years as the overall number of renters has increased and incomes have stagnated.

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[13] ACTION Campaign, *National Fact Sheet*, Dec. 2022.
[14] Freddie Mac, *How Big a Difference Do Restricted Rents Make?*, 2018.
[15] CohnReznick, *Affordable Housing Credit Study*, 2021.

Moreover, as the federally subsidized affordable stock ages, we have become more and more dependent on the Housing Credit to meet preservation needs in addition to financing new construction.

Congress has the opportunity to build on what works by expanding the Housing Credit and providing states more flexibility so they can maximize their resources. NCSHA recommends that Congress increase Housing Credit authority by at least 50 percent and lower the bond financing threshold so that states can finance more affordable housing using the 4 percent Credit. Increased programmatic flexibility to target existing resources to those properties that need them most for financial feasibility, common-sense program simplifications, and other changes to further fortify state oversight would also make this strong program even more effective. Lastly, it is essential Congress ensure that owners of and investors in Housing Credit properties maintain their commitment to project affordability restrictions by closing the qualified contract loophole and protecting the nonprofit right of first refusal.

The Need for the Housing Credit

If there is so much demand for affordable rental housing, why doesn't the private sector provide it without a government incentive?

Unfortunately, the market on its own cannot and does not build or rehabilitate affordable rental housing. It simply costs too much to build housing to rent it at rents affordable to low-income households without either a tax incentive such as the Housing Credit or significant government subsidy.

The Housing Credit enables developers to raise equity capital from investors, which significantly reduces the debt on properties, enabling lower rents. Equity from the 9 percent Housing Credit typically represents about 50-75 percent of the total development costs. According to JCHS, "to develop new apartments affordable to renter households with incomes equivalent to the full-time minimum wage, the construction costs would have to be 28% of the current average" – essentially making the financing impossible.[16]

Why do we need to build affordable rental housing – can we just use vouchers?

The Housing Credit is often creatively combined with resources from several programs*,* including vouchers, to create better outcomes than is possible with just one affordable housing tool. Vouchers are one of the primary vehicles for providing affordable housing choices to extremely low-income families, especially in low-cost housing markets. However, vouchers are not a replacement for the Housing Credit, which expands or preserves the affordable housing stock as a long-term community asset. Likewise, the Housing Credit, as a capital subsidy, often depends on rental assistance to ensure apartments are affordable to the very lowest-income renters. Housing Credits and vouchers are often used together to address complementary issues: the Housing Credit to bring down the cost of the unit on a long-term basis, and the voucher to enable that already low-cost unit to be more affordable to the lowest income tenants.

There are several rental housing market challenges that the Housing Credit is uniquely positioned to address, such as expanding supply in tight markets, producing housing for households with special needs, providing affordable housing options in areas experiencing job growth, recapitalizing and preserving aging properties, and revitalizing low-income communities. The Housing Credit also enables voucher holders to access a broader array of housing options. As it is, many voucher holders are unable to find available units or a landlord who will accept their voucher. This problem has exacerbated in recent years as demand for rental housing has increased while vacancy rates have declined and rents have skyrocketed. Housing Credit properties are required by law to accept voucher holders.

How does the Housing Credit impact surrounding neighborhoods?

The Housing Credit supports economic growth in communities and surrounding neighborhoods in a number of ways. Since its inception in 1986, the Housing Credit is estimated to have added $688.5 billion

[16] Joint Center for Housing Studies, Harvard University, *America's Rental Housing, 2011*.

in wages and business income to the economy and has generated approximately $239 billion in federal, state, and local taxes. According to a 2020 NAHB analysis, Housing Credit development also supports jobs – roughly 186 for every 100 Housing Credit apartments developed – across a diverse range of industries, including the manufacturing of lighting and heating equipment, lumber, concrete, and other products, as well as jobs in transportation, engineering, law, and real estate.

Conversely, a lack of affordable housing negatively impacts economies. Research shows that high rent burdens have priced out many workers from the most productive cities, resulting in 13.6 percent foregone GDP growth, a loss of roughly $1.95 trillion, between 1964 and 2009.[17]

Housing Credit development also positively impacts neighborhoods in need of renewal. About one-third of Housing Credit properties help revitalize distressed communities. Stanford University research shows Housing Credit investments improve property values in low-income communities and reduce poverty, crime, and racial and economic isolation, generating a variety of socioeconomic opportunities for Housing Credit tenants and neighborhood residents.[18]

[17] Hsieh, C-T., & Moretti, E. (2019). *Housing Constraints and Spatial Misallocation*. American Economic Journal: Macroeconomics.
[18] Diamond, R., & McQuade, T. (2017). *Who Wants Affordable Housing in their Backyard? An Equilibrium Analysis of Low Income Property Development*. Stanford GSB.