Rep. Tiberi & Rep. Neal: Affordable Housing Credit Improvement Act of 2017

TITLE I - CREDIT RATE AND OTHER RULES RELATING TO CREDIT ELIGIBILITY AND DETERMINATION

Section 101 - Average income test - Under current law, Housing Credit apartments serve renters with incomes up to 60 percent of area median income (AMI) and rents are comparably restricted. This section creates a new test that would allow the 60 percent of AMI ceiling to apply to the average of all apartments within a property rather than to every individual Housing Credit apartment. The maximum income to qualify for any Housing Credit apartment would be limited to 80 percent of AMI. The higher rents that households with incomes above 60 percent of AMI could afford have the potential to offset the lower rents that households below 40 or 30 percent of AMI could afford, allowing developments to maintain financial feasibility while providing a deeper level of affordability.

Section 102 - Uniform income eligibility for rural projects - Standardizes tenant income limit rules for Housing Credit projects in rural areas regardless of whether or not they are financed with tax-exempt bonds, making bond-financed projects more feasible in rural areas while streamlining program rules.

Section 103 - Codification of rules relating to increased tenant income – Allows existing tenants of federally assisted affordable housing projects that are subsequently recapitalized with Housing Credits to be considered low-income for purposes of determining Housing Credit eligibility if the tenant met the Housing Credit income requirement upon initial occupancy in a unit that at that time was subject to a federal, state, or local government income restriction, provided their income has not risen above 120 percent of AMI.

Section 104 - Modification of student occupancy rules – Simplifies the current Housing Credit student rule by replacing it with a new rule that makes households composed entirely of adult students under the age of 24 who are enrolled full-time at an institution(s) of higher education ineligible to reside in a Housing Credit unit. Exceptions are provided for students who are married, veterans, the disabled, those with one or more dependent children, and those who are income eligible under Housing Credit income limits and can show they are financially independent of their parents and guardians, as are those aging out of foster care and formerly homeless youth.

Section 105 - Tenant voucher payments taken into account as rent for certain purposes – Requires that tenant-based voucher payments count towards meeting the rent limits for projects electing the average income test in section 201 of this act or the basis boost established by section 309.

TITLE II - CREDIT RATE AND OTHER RULES RELATING TO CREDIT ELIGIBILITY AND DETERMINATION

Section 201 - Minimum credit rate – Establishes a minimum 4 percent rate for credits used to finance acquisitions and in Housing Bond-financed developments (the "30%" credit). This program modification would provide more predictability and flexibility in Housing Credit financing, allowing developers to target more units to very- and extremely-low income households at rents they could afford and make more types of properties financially feasible.

Section 202 - Reconstruction or replacement period after casualty loss – Clarifies that there is no recapture and no loss of the ability to claim Housing Credits during a restoration period that results from any casualty, provided that the building is restored within a reasonable period as determined by the state Housing Credit agency, but not to exceed 25 months from the date of the casualty.

Section 203 - Modification of rights relating to building purchase – Replaces the existing right of 1st refusal, which allows the nonprofit sponsors of Housing Credit properties, at the end of the property's initial 15-year compliance period, to gain full control of the property in order to maintain the affordable housing use restrictions, with a purchase option at the current law minimum purchase price.

Section 204 - Modification of 10-year rule; limitation on acquisition basis – Modifies the prohibition on claiming acquisition credits for properties placed in service in the previous 10 years by creating an option to instead limit the acquisition basis of the building to the lowest price paid for the building during the last ten years (with an adjustment for the cost of living) plus any capital improvements that are reflected in the sellers' basis.

Section 205 - Certain relocation costs taken into account as rehabilitation expenditures - Allow for relocation costs incurred in connection with a rehabilitation of a building to be capitalized as part of the cost of the rehabilitation.

Section 206 - Repeal of qualified census tract (QCT) population cap - Remove the aggregate QCT population cap, enabling properties in more areas to receive a 30 percent basis boost, if necessary to make the project financially feasible.

Section 207 - Determination of community revitalization plan to be made by State housing credit agency – Requires state housing credit agencies to establish definitions and clear parameters of concerted community revitalization plans, including whether the plan is geographically specific, includes a plan for implementation and goals for progress, includes a strategy for obtaining public and private commitments in other, non-housing infrastructure or other improvements beyond Housing Credit developments, and demonstrates the need for revitalization before projects located in QCTs are eligible for a basis boost.

Section 208 - Prohibition of local approval and contribution requirements - Prohibits states from including local approval and contribution provisions as either a threshold requirement or

part of a point system in their qualified allocation plans, except to the extent that contributions are taken into consideration as a part of a broader measure of a projects ability to leverage outside investment, and are considered on a level playing field with all funding sources.

Section 209 - Increase in credit for certain projects designated to serve extremely low-income households – Provides flexibility for state housing credit agencies to increase the basis of projects in which 20 percent of the units are designated for occupancy by households with incomes that are 30 percent of area median income or lower, by up to 50 percent if it is necessary for the project to be financially feasible.

Section 210 - Increase in credit for bond-financed projects designated by State agency – Provides parity for bond financed projects to be eligible for the 30 percent basis boost available to non-bond financed projects.

Section 211 - Elimination of basis reduction for low-income housing properties receiving certain energy benefits – Eliminates the basis reduction for Housing Credit projects that also claim the Section 48 Energy Credit.

Section 212 – Restriction of planned foreclosures – Allows state housing finance agencies to prohibit the termination of long-term use agreements to restrict rents when the purpose of an transaction is specifically to terminate those agreements.

Section 213 – Increase of population cap for difficult to develop areas- Raises the current law 20 percent cap on difficult to develop areas with a 30 percent cap.

TITLE III - REFORMS RELATING TO NATIVE AMERICAN ASSISTANCE

Section 301 - Selection criteria under qualified allocation plans - Requires that Housing Credit allocating agencies' Qualified Allocation Plans (QAP) include selection criteria that would require states to "take into consideration the affordable housing needs of Native Americans within the state."

Section 302 - Inclusion of Indian areas as difficult development areas for purposes of certain buildings - Modifying the definition of difficult to develop area s to automatically include projects located in an Indian area, making these projects eligible for the 30 percent basis boost would if needed to make them financially feasible.

TITLE IV—AFFORDABLE HOUSING TAX CREDIT

Section 401 - Affordable housing tax credit – Renames the "Low-Income Housing Tax Credit" the "Affordable Housing Tax Credit"