Federal Policy Update

2015 Kentucky Affordable Housing Conference

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Overview

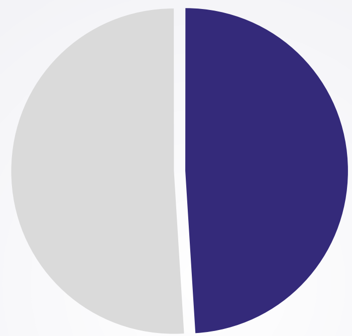
- Affordable rental housing need
- State of the Housing Credit market
- Status of tax reform in Congress
- Housing Credit policy priorities
- Selected HUD funding update
- Housing Trust Fund update

The Affordable Housing Crisis in America

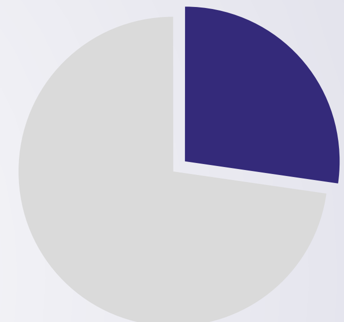
Many factors have exacerbated the affordable housing crisis:

- Increased demands for rental units
- Federal, state, and local budget cuts
- Years of stagnating income at the low end of the economic spectrum
- Over the past decade, 13 percent of units renting for less than $400 per month were removed from the country's housing stock

…leading to high rent burdens:



Nearly half of all US renters pay **more than 30 percent of their income** on rent



More than a quarter of all US renters pay **more than 50 percent of their income** on rent

Six out of 10 extremely low-income renters do not have access to affordable and available units

Source: HUD "2015 Worst Case Housing Needs", Joint Center for Housing Studies at Harvard University "The State of the Nation's Housing 2014"

The Affordable Housing Crisis in America

Nationally, the gap between the number of available affordable rental homes and ELI households that need them is more than **8.2 million homes.**

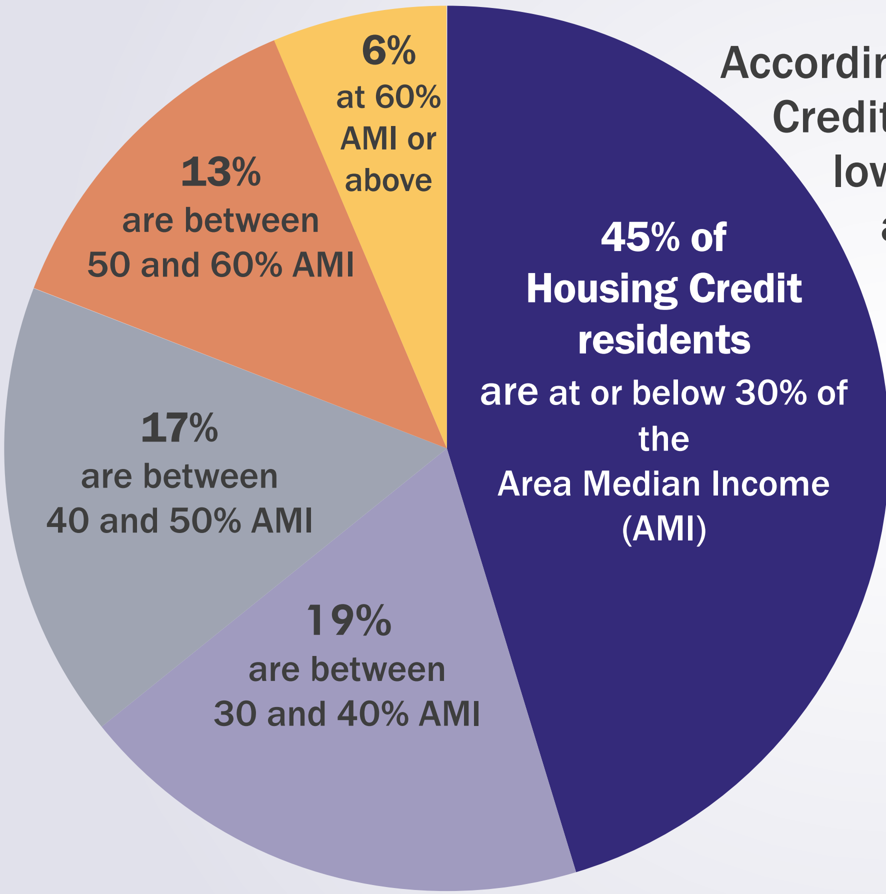
Only **one in four** households eligible for federal housing assistance receives it.

State allocating agencies, on average, receive applications annually for **more than twice as much Housing Credit as they have available**, while demands increase on the program to serve more and more needs, including preservation of federally assisted housing.

The Housing Commission of the Bipartisan Policy Center recently recommended that annual Housing Credit authority be increased by **50 percent** to address these unmet needs.

Source: National Low-Income Housing Coalition, "Housing Spotlight: The Affordable Rental Housing Gap Persists" and "Vouchers: Housing Choice Voucher Program"

Who Lives in Housing Credit Properties?

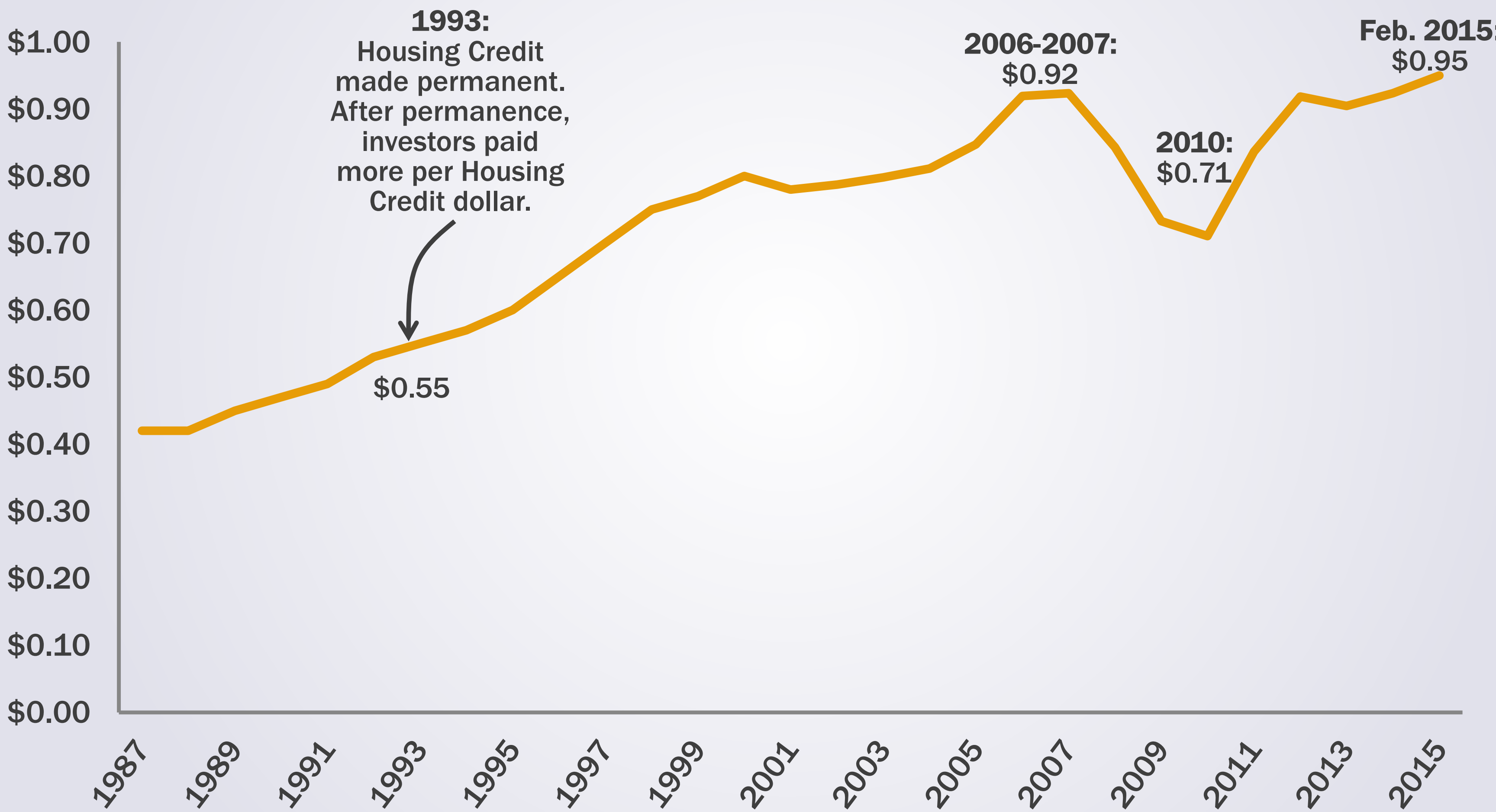


According to a recent HUD study, 45% of Housing Credit residents are considered “extremely low-income” or ELI, meaning their incomes are less than 30% of the area median income (AMI).

Source: HUD “Understanding Whom the Housing Credit Program Serves: Tenants in Housing Credit Units as of December 31, 2012”

History of Housing Credit Pricing

These prices reflect market conditions, not the level of tax benefits in a property



Source: Novogradac & Company LLP "Housing Credit Pricing Trends"

History of Average Investor Yield

As credit pricing has risen, investor yield has gone down

Source: Carlisle Tax Credit Advisors

Tax reform status

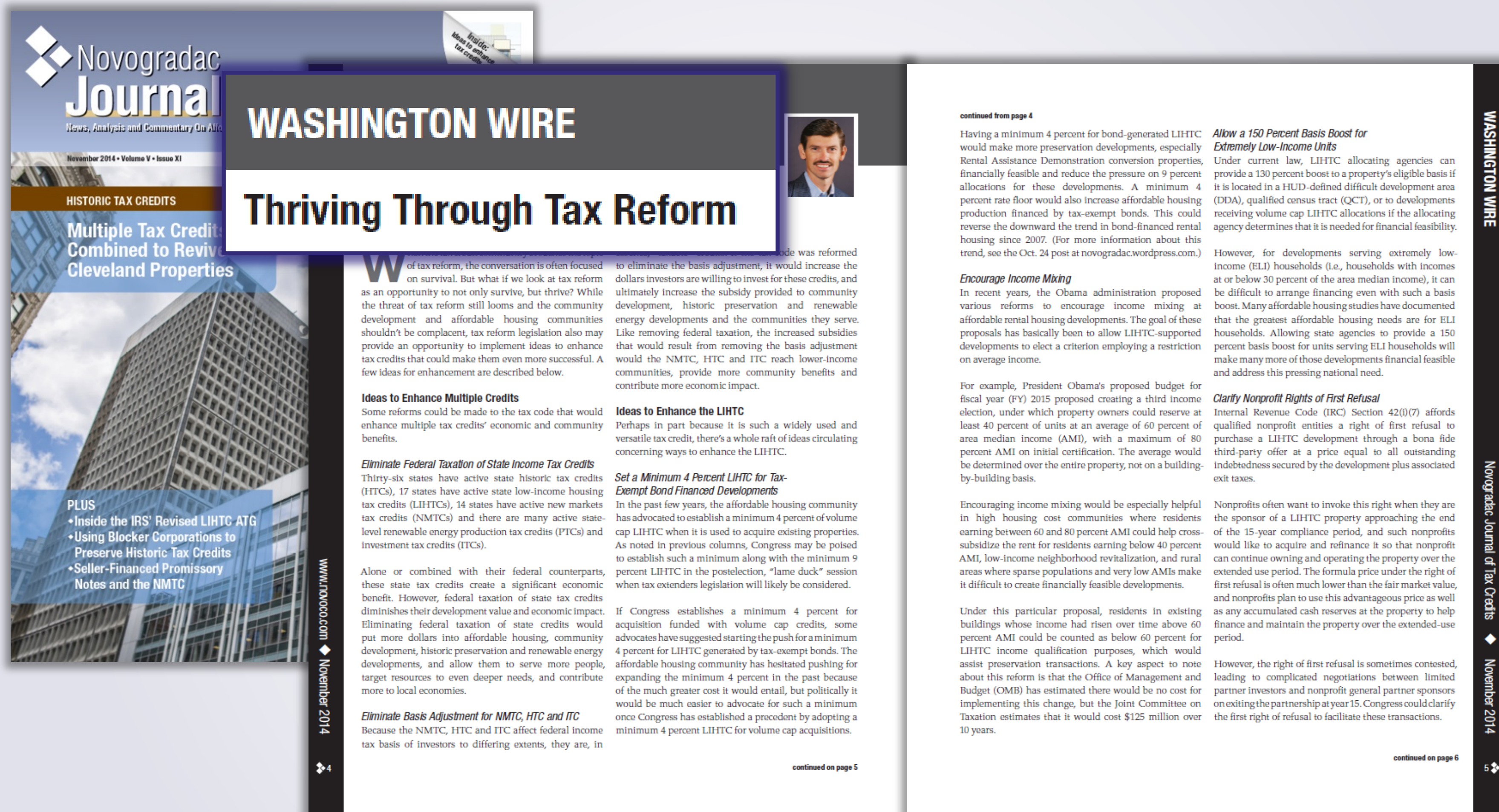
- Former House Ways & Means Committee Chairman David Camp (R-Mich.) tax reform bill released last year
- Senate Finance Committee tax reform working groups
  - April 7 Community Development & Infrastructure stakeholder discussion
- Focus on "business-only" reform in 2015

Policy Risks that Make it More Difficult to Develop Housing Credit Properties

Loss of 9 percent minimum floor	This provision has not effectively been used since 2013.	**Effect Per Property** This would reduce Housing Credit equity by ***17%***
Increase in depreciation recovery period to 40 years	Camp Tax Reform Act would increase deprecation from 27.5 to 40 years. Baucus staff draft also proposed increasing deprecation from 27.5 to 43 years.	**Effect Nationally** 40 year depreciation would reduce Housing Credit equity by reducing the value of depreciation losses by **2.1**%
Reduction in corporate tax rate to 25%	Camp Tax Reform Act would lower the corporate tax rate from 35% to 25%. Administration proposes lowering the corporate tax rate to 28%.	**Effect Nationally** A 25% corporate tax rate would reduce Housing Credit equity reducing the value of losses by ***or 6.3%***

Housing Credit policy priorities

Protect Housing Credit in tax reform	Increase Housing Credit resources	Greater flexibility for existing resources
• Preserve 9 and 4 percent Housing Credit • Retain multifamily housing private activity bonds tax exemption • Maintain 27.5 year depreciation • Compensate for reduced corporate tax rate	• Per capita allocation increase • Private activity bond conversion	• Permanent minimum rates for 9 percent, 4 percent acquisition, and 4 percent Housing Credit with bond financing • Income mixing



Novogradac Journal

News, Analysis and Commentary On All

November 2014 • Volume V • Issue XI

HISTORIC TAX CREDITS

Multiple Tax Credit Combined to Reviv Cleveland Properties

PLUS
•Inside the IRS' Revised LIHTC ATG
•Using Blocker Corporations to Preserve Historic Tax Credits
•Seller-Financed Promissory Notes and the NMTC

WASHINGTON WIRE

Thriving Through Tax Reform

W of tax reform, the conversation is often focused on survival. But what if we look at tax reform as an opportunity to not only survive, but thrive? While the threat of tax reform still looms and the community development and affordable housing communities shouldn't be complacent, tax reform legislation also may provide an opportunity to implement ideas to enhance tax credits that could make them even more successful. A few ideas for enhancement are described below.

Ideas to Enhance Multiple Credits

Some reforms could be made to the tax code that would enhance multiple tax credits' economic and community benefits.

Eliminate Federal Taxation of State Income Tax Credits

Thirty-six states have active state historic tax credits (HTCs), 17 states have active state low-income housing tax credits (LIHTCs), 14 states have active new markets tax credits (NMTCs) and there are many active state-level renewable energy production tax credits (PTCs) and investment tax credits (ITCs).

Alone or combined with their federal counterparts, these state tax credits create a significant economic benefit. However, federal taxation of state tax credits diminishes their development value and economic impact. Eliminating federal taxation of state credits would put more dollars into affordable housing, community development, historic preservation and renewable energy developments, and allow them to serve more people, target resources to even deeper needs, and contribute more to local economies.

Eliminate Basis Adjustment for NMTC, HTC and ITC

Because the NMTC, HTC and ITC affect federal income tax basis of investors to differing extents, they are, in

de was reformed to eliminate the basis adjustment, it would increase the dollars investors are willing to invest for these credits, and ultimately increase the subsidy provided to community development, historic preservation and renewable energy developments and the communities they serve. Like removing federal taxation, the increased subsidies that would result from removing the basis adjustment would the NMTC, HTC and ITC reach lower-income communities, provide more community benefits and contribute more economic impact.

Ideas to Enhance the LIHTC

Perhaps in part because it is such a widely used and versatile tax credit, there's a whole raft of ideas circulating concerning ways to enhance the LIHTC.

Set a Minimum 4 Percent LIHTC for Tax-Exempt Bond Financed Developments

In the past few years, the affordable housing community has advocated to establish a minimum 4 percent of volume cap LIHTC when it is used to acquire existing properties. As noted in previous columns, Congress may be poised to establish such a minimum along with the minimum 9 percent LIHTC in the postelection, "lame duck" session when tax extenders legislation will likely be considered.

If Congress establishes a minimum 4 percent for acquisition funded with volume cap credits, some advocates have suggested starting the push for a minimum 4 percent for LIHTC generated by tax-exempt bonds. The affordable housing community has hesitated pushing for expanding the minimum 4 percent in the past because of the much greater cost it would entail, but politically it would be much easier to advocate for such a minimum once Congress has established a precedent by adopting a minimum 4 percent LIHTC for volume cap acquisitions.

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Having a minimum 4 percent for bond-generated LIHTC would make more preservation developments, especially Rental Assistance Demonstration conversion properties, financially feasible and reduce the pressure on 9 percent allocations for these developments. A minimum 4 percent rate floor would also increase affordable housing production financed by tax-exempt bonds. This could reverse the downward the trend in bond-financed rental housing since 2007. (For more information about this trend, see the Oct. 24 post at novogradac.wordpress.com.)

Encourage Income Mixing

In recent years, the Obama administration proposed various reforms to encourage income mixing at affordable rental housing developments. The goal of these proposals has basically been to allow LIHTC-supported developments to elect a criterion employing a restriction on average income.

For example, President Obama's proposed budget for fiscal year (FY) 2015 proposed creating a third income election, under which property owners could reserve at least 40 percent of units at an average of 60 percent of area median income (AMI), with a maximum of 80 percent AMI on initial certification. The average would be determined over the entire property, not on a building-by-building basis.

Encouraging income mixing would be especially helpful in high housing cost communities where residents earning between 60 and 80 percent AMI could help cross-subsidize the rent for residents earning below 40 percent AMI, low-income neighborhood revitalization, and rural areas where sparse populations and very low AMIs make it difficult to create financially feasible developments.

Under this particular proposal, residents in existing buildings whose income had risen over time above 60 percent AMI could be counted as below 60 percent for LIHTC income qualification purposes, which would assist preservation transactions. A key aspect to note about this reform is that the Office of Management and Budget (OMB) has estimated there would be no cost for implementing this change, but the Joint Committee on Taxation estimates that it would cost $125 million over 10 years.

Allow a 150 Percent Basis Boost for Extremely Low-Income Units

Under current law, LIHTC allocating agencies can provide a 130 percent boost to a property's eligible basis if it is located in a HUD-defined difficult development area (DDA), qualified census tract (QCT), or to developments receiving volume cap LIHTC allocations if the allocating agency determines that it is needed for financial feasibility.

However, for developments serving extremely low-income (ELI) households (i.e., households with incomes at or below 30 percent of the area median income), it can be difficult to arrange financing even with such a basis boost. Many affordable housing studies have documented that the greatest affordable housing needs are for ELI households. Allowing state agencies to provide a 150 percent basis boost for units serving ELI households will make many more of those developments financial feasible and address this pressing national need.

Clarify Nonprofit Rights of First Refusal

Internal Revenue Code (IRC) Section 42(i)(7) affords qualified nonprofit entities a right of first refusal to purchase a LIHTC development through a bona fide third-party offer at a price equal to all outstanding indebtedness secured by the development plus associated exit taxes.

Nonprofits often want to invoke this right when they are the sponsor of a LIHTC property approaching the end of the 15-year compliance period, and such nonprofits would like to acquire and refinance it so that nonprofit can continue owning and operating the property over the extended use period. The formula price under the right of first refusal is often much lower than the fair market value, and nonprofits plan to use this advantageous price as well as any accumulated cash reserves at the property to help finance and maintain the property over the extended-use period.

However, the right of first refusal is sometimes contested, leading to complicated negotiations between limited partner investors and nonprofit general partner sponsors on exiting the partnership at year 15. Congress could clarify the first right of refusal to facilitate these transactions.

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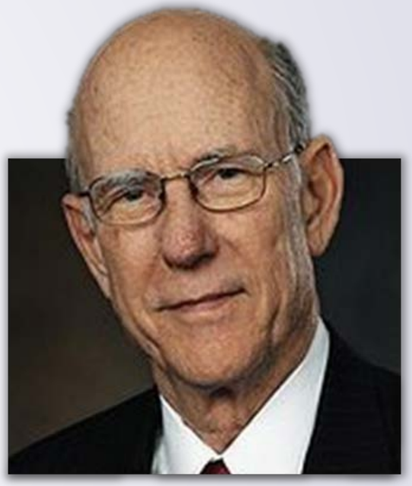

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9 Percent LIHTC Extension

- HOUSE -

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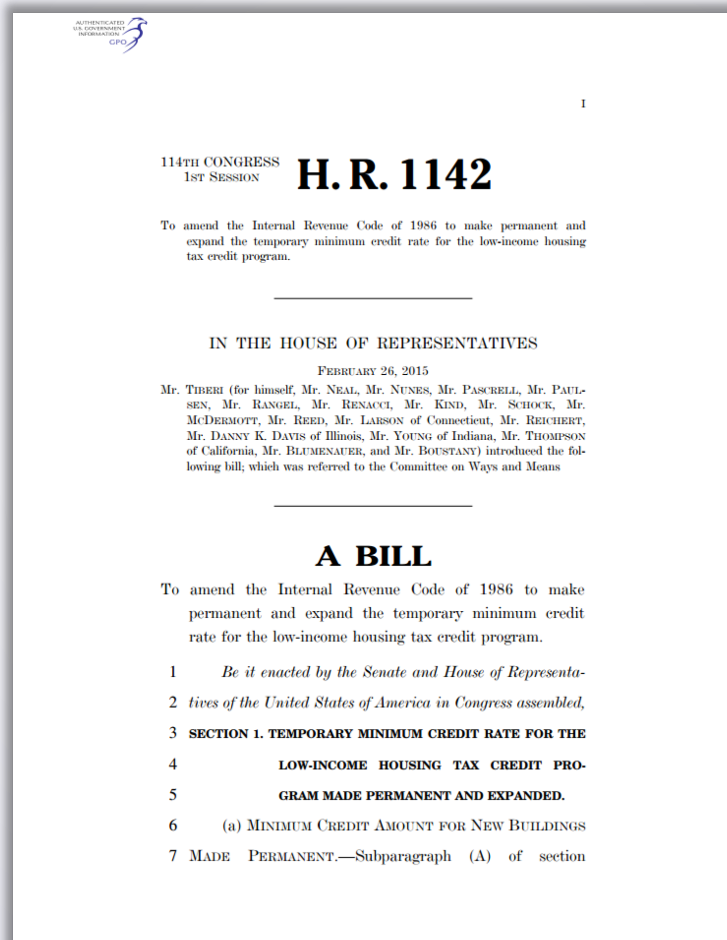

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114TH CONGRESS 1ST SESSION **H. R. 1142**

To amend the Internal Revenue Code of 1986 to make permanent and expand the temporary minimum credit rate for the low-income housing tax credit program.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2015

Mr. TIBERI (for himself, Mr. NEAL, Mr. NUNES, Mr. PASCRELL, Mr. PAULSEN, Mr. RANGEL, Mr. RENACCI, Mr. KIND, Mr. SCHOCK, Mr. MCDERMOTT, Mr. REED, Mr. LARSON of Connecticut, Mr. REICHERT, Mr. DANNY K. DAVIS of Illinois, Mr. YOUNG of Indiana, Mr. THOMPSON of California, Mr. BLUMENAUER, and Mr. BOUSTANY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to make permanent and expand the temporary minimum credit rate for the low-income housing tax credit program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

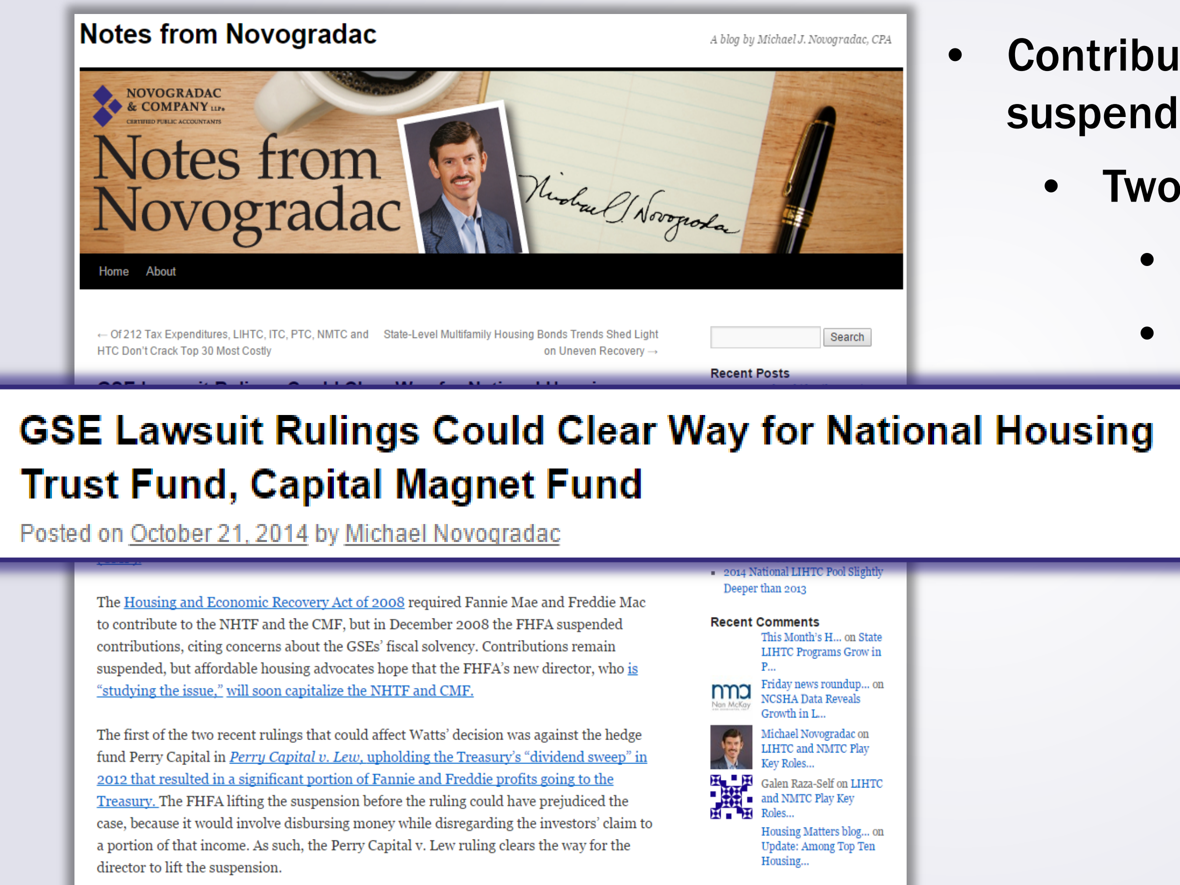
SECTION 1. TEMPORARY MINIMUM CREDIT RATE FOR THE LOW-INCOME HOUSING TAX CREDIT PROGRAM MADE PERMANENT AND EXPANDED.

(a) MINIMUM CREDIT AMOUNT FOR NEW BUILDINGS MADE PERMANENT.—Subparagraph (A) of section

- Introduced Feb. 26
- 39 cosponsors as of March 27
  - 23 Republicans
  - 16 Democrats

	FY 2014 Enacted	President's FY 2015 Proposed	FY 2015 Enacted	President's FY 2016 Proposed
Housing Choice Voucher	$19,177	$20,045	$19,304	$21,123
Project Based Section 8	$9,917	$9,746	$9,730	$10,760
Public Housing Operating Fund	$4,400	$4,600	$4,440	$4,600
Public Housing Capital Fund	$1,875	$1,925	$1,875	$1,970
Section 202	$383	$440	$420	$455
Section 811	$126	$160	$135	$177
HOPWA	$330	$332	$330	$332
CDBG	$3,030	$2,800	$3,000	$2,800
HOME	$1,000	$950	$900	$1,060
Homeless Assistance	$2,105	$2,406	$2,135	$2,480
Overall	$45,462	$46,660	$45,372	$49,311

Housing Trust Fund



Notes from Novogradac

A blog by Michael J. Novogradac, CPA

NOVOGRADAC & COMPANY LLP

Notes from Novogradac

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← Of 212 Tax Expenditures, LIHTC, ITC, PTC, NMTC and HTC Don't Crack Top 30 Most Costly

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Recent Posts

GSE Lawsuit Rulings Could Clear Way for National Housing Trust Fund, Capital Magnet Fund

Posted on October 21, 2014 by Michael Novogradac

- 2014 National LIHTC Pool Slightly Deeper than 2013

The Housing and Economic Recovery Act of 2008 required Fannie Mae and Freddie Mac to contribute to the NHTF and the CMF, but in December 2008 the FHFA suspended contributions, citing concerns about the GSEs' fiscal solvency. Contributions remain suspended, but affordable housing advocates hope that the FHFA's new director, who is "studying the issue," will soon capitalize the NHTF and CMF.

The first of the two recent rulings that could affect Watts' decision was against the hedge fund Perry Capital in *Perry Capital v. Lew*, upholding the Treasury's "dividend sweep" in 2012 that resulted in a significant portion of Fannie and Freddie profits going to the Treasury. The FHFA lifting the suspension before the ruling could have prejudiced the case, because it would involve disbursing money while disregarding the investors' claim to a portion of that income. As such, the Perry Capital v. Lew ruling clears the way for the director to lift the suspension.

Recent Comments

This Month's H... on State LIHTC Programs Grow in P...

Friday news roundup... on NCSHA Data Reveals Growth in L...

Michael Novogradac on LIHTC and NMTC Play Key Roles...

Galen Raza-Self on LIHTC and NMTC Play Key Roles...

Housing Matters blog... on Update: Among Top Ten Housing...

- Contributions to the fund have been suspended since 2008
  - Two recent rulings:
    - Perry Capital v. Lew
    - Samuels v. Federal Housing Finance Agency

2008 2009 2010 2011 2012 2013 2014

Housing Trust Fund

Mel Watt

Federal Housing Finance Agency Director

Julian Castro

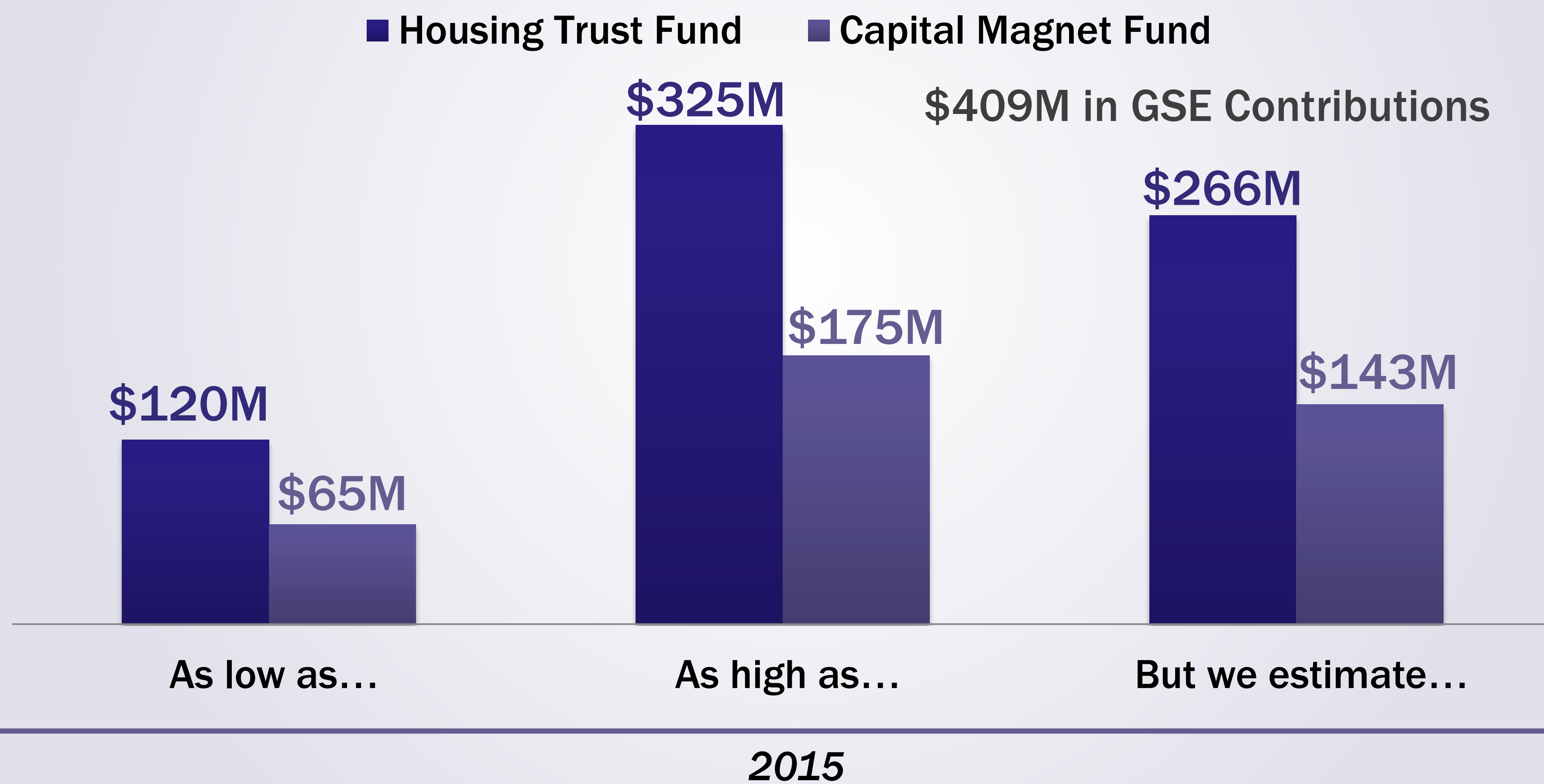
HUD Secretary

- In calendar year 2015, contributions will be set aside by Fannie Mae & Freddie Mac
  - Watt December 11, 2014 letters to Fannie Mae, Freddie Mac
- Grants to be for affordable rental housing that targets extremely low income-income individuals and households
- HUD released interim rule on January 30

2014 *2015*

Housing Trust Fund

How much should we expect for 2015?



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