NALHFA
National Association of Local Housing Finance Agencies

2025 M Street, N.W., Suite 800
Washington, DC 20036-3309
Phone: (202) 367-1197
Fax: (202) 367-2197
www.nalhfa.org

Officers
President
Ernestine Garey
Atlanta, Georgia
Development Authority

Vice President
Marc Jahr
New York, New York
Housing Development
Corporation

Treasurer
Ron Williams
Houston, Texas
Southeast Texas Housing Finance
Corporation

Secretary
Paula Sampson
Fairfax County, Virginia
Department of Housing &
Community Development

Immediate Past President
Jim Shaw
Austin, Texas
Capital Area Housing Finance
Corporation

Directors
Vivian Benjamin
Montgomery County, Maryland
Housing Opportunities
Commission

Patricia Braynon
Miami-Dade County, Florida
Housing Finance Authority

Tom Cummings
Pittsburgh, Pennsylvania
Urban Redevelopment Authority

Olson Lee
San Francisco, California
Mayor's Office of Housing

Mercedes Marquez
Los Angeles, California
Department of Housing

W.D. Morris
Orange County, Florida
Housing Finance Authority

Harry Sewell
Washington, DC
Housing Finance Agency

Mtumishi St. Julien
New Orleans, Louisiana
Finance Authority

Mark Ulfers
Dakota County, Minnesota
Community Development Agency

Staff
John C. Murphy
Executive Director

Heather Williams
Senior Associate

Statement by

National Association of Local Housing Finance Agencies

to the

Tax Reform Debt, Equity and Capital and Real Estate Working Groups

Committee on Ways and Means

U.S. House of Representatives

April 15, 2013

The National Association of Local Housing Finance Agencies is pleased to submit this statement to the Tax Reform Debt, Equity and Capital and Real Estate Working Groups in support of preserving current law tax code incentives that stimulate private investment in affordable homeownership and rental housing to serve the needs of the Nation's low-and moderate-income households. These incentives have been regularly reviewed by Congress since the early 1980s and have been sharply targeted to meet a public purpose. The incentives include tax-exempt private activity Mortgage Revenue Bonds to assist first-time homebuyers, and tax-exempt multifamily housing bonds combined with 4% Low-Income Housing Tax Credits.

Affordable Housing Tax Code Incentives – Tax- Exempt Bonds

Local housing finance agencies (HFAs), and their state agency counterparts, utilize the authority provided under the Internal Revenue Code to issue several types of tax-exempt bonds to expand affordable housing opportunities for low-and moderate-income households. Among these are Mortgage Revenue Bonds, which provide first mortgage assistance for first-time homebuyers; and, on the rental housing side, through tax-exempt multifamily bonds which are either private activity bonds, essential function bonds, or 501(c)(3) bonds. In order to issue tax-exempt private activity bonds, issuers must receive an allocation of bond authority from the state unified volume cap. The volume cap, indexed for inflation, is calculated as the greater of $75 per capita or $225 million per state per year, and may be used for a variety of purposes including affordable housing, "small issue" industrial, student loans, solid waste, and qualified redevelopment bonds.

Mortgage Revenue Bonds (MRBs) and Mortgage Credit Certificates (MCCs)

Local housing finance agencies issue tax-exempt MRBs under the authority of Section 143 of the Internal Revenue Code of 1986 to provide first mortgage assistance to low-and moderate-income first-time homebuyers – the people that the conventional market often leaves behind. Typically, the

tax-exempt bond-financed interest rate is as much as 1.5 percent below the conventional interest rate, although the spread has been much less for the past several years as the nation has faced very low interest rates for conventional loans. In addition to being a first-time homebuyer, i.e. not having owned a home in the previous three years, to be eligible for MRB assistance, borrowers must have incomes no higher than 115 percent of the area median for households of three or more or 100 percent for households with less than three persons. There is an exception to these limits in certain targeted areas as a means of stimulating reinvestment in distressed areas. In addition, the homes financed must have a purchase price no greater than 90 percent of the average area purchase price. Should a homebuyer sell the residence in which he/she lives within the first ten years, a phased recapture of the imputed subsidy is required to be repaid to the Treasury.

In addition to providing first mortgage assistance, MRBs are also issued for qualified home improvement loans and qualified rehabilitation loans. Qualified home improvement loans cover repairs or improvement to an existing property by he owner to enhance the basic livability or energy efficiency of the residence. The amount of the loan may not exceed $15,000.

Local housing finance agencies use MRBs for one or more public purposes:

- Providing homeownership opportunities for targeted households;
- Promoting new affordable housing construction through builder set-asides;
- Stimulating housing rehabilitation and home improvements;
- Promoting substantial rehabilitation, thereby encouraging neighborhood revitalization;
- Stabilizing and improving neighborhoods through homeownership; and
- Attracting residents to- and retaining them within - inner cities.

Local housing finance agencies may also elect to exchange all or part of their annual unused bond authority to issue Mortgage Credit Certificates (MCCs) in lieu of MRBs. MCCs entitle qualifying

individuals to a credit against their federal income tax liability for a specified percentage of the annual interest paid on a mortgage to purchase, improve or rehabilitate a home. Issuers may offer a credit from 10 to 50 percent. However, for credits in excess of 20 percent the amount of the credit is capped at $2,000. MCCs generally are subject to the same eligibility and targeting requirements applicable to the MRB program, including income, purchase price and target area set-aside. Credits are usable for the life of the mortgage as long as the mortgagor maintains the home as his/her principal residence. In order to maximize the value of an MCC the mortgagor has to have sufficient tax liability. MCC programs tend to work best in areas with high housing costs.

Congress worked very hard in both the 1986 Act, as well as subsequent statutes, to limit the amount of issuance of MRBs and other tax-exempt private activity bonds by use of a volume cap as well as sharply targeting both the households assisted and the cost of the housing that can be purchased.

Multifamily Housing Bonds

Local housing finance agencies and states use tax-exempt bonds to stimulate construction and substantial rehabilitation of rental housing meeting certain targeting requirements set forth in the Internal Revenue Code. They may issue private activity bonds pursuant to Section 142 (d) of the Code for residential rental projects. To qualify for such financing, a project must have at least 20 percent of the units set-aside for those households whose incomes do not exceed 50 percent of the area median, adjusted by household size; or at least 40 percent of the units set-aside for households whose incomes do not exceed 60 percent of the area median income, adjusted for household size. The balance of the units may be rented to households paying market-rate rents.

Local and state housing finance agencies may also issue other types of tax-exempt multifamily bonds including "essential function" bonds in which the agency issuing the bonds is the owner of the project. Housing finance agencies may also issue tax-exempt bonds under Section 145 of the Code

on behalf of non-profit entities qualifying for tax exemption under Section 501 (c)(3) of the Internal Revenue Code, subject to a limitation of $150 million in bonds outstanding for any single non-profit at any one time. Under current law, both types of bonds, if not used solely to acquire existing properties, are exempt from the targeting requirements and volume cap applicable to private activity bonds. None-the-less, issuers usually require some type of income restrictions for a portion of the units.

In addition to the types of bonds mentioned above, general obligation bonds are occasionally used for affordable housing. These bonds are backed by the full faith and credit of the issuing governmental entity and are not subject to federal restrictions as to targeting or the amount that may be issued. They may, however, be subject to state restrictions. Often it is necessary to obtain voter approval before issuing such bonds.

Current Activity in the Tax-Exempt Housing Bond Market

Since 2007 the market for tax-exempt single-family and multifamily housing bonds has largely dried up. In 2008 NALHFA approached the Treasury Department with an urgent plea to create a market for housing bonds through the Government-Sponsored Enterprises (GSEs), Fannie Mae and Freddie. A provision in the Housing and Economic Recovery Act of 2008 (HERA) authorized Treasury to purchase obligations securitized by the GSEs. An additional provision in HERA authorized an additional $11 billion in tax-exempt bond volume cap to be used exclusively for affordable housing (assist first-time homebuyers, refinance subprime loans into long-term, affordable mortgages, or aid in the construction of affordable rental housing) to aid in the Nation’s economic recovery.

In mid-October 2009 Treasury announced a $15.3 billion Treasury/GSE New Issue Bond Purchase Program (NIBP) pursuant to the HERA authority. Under the program local and state Housing Finance Agencies were required to issue taxable single-family and/or multifamily housing bonds

before the end of 2009, which would be converted to tax-exempt bonds in 2010 (subsequently extended through 2011). Because conventional mortgage interest rates are so low, the key to making the NIBP program work was the ability of local and state HFAs to borrow at the Treasury's 10-year cost of funds. This resulted in a tax-exempt-financed interest rate below the conventional market. Under the NIBP program forty-four local housing finance agencies created nearly 17,000 affordable housing opportunities for first-time homebuyers and low-income renters. This includes 33 local HFAs that have used $269,870,000 of a total $1,018,740,000 allocated for single-family to assist 7,540 homebuyers - 97% of whom are first-time homebuyers with average incomes that are 78% of the area median income - purchase affordable homes.

Several local HFAs reported that their NIBP programs helped builders clear some of their inventory of newly-constructed homes, while other local HFA NIBP programs have been used to purchase foreclosed homes. In addition, many local HFA's were able to use their initial NIBP allocation to leverage an additional $265,500,337 in funding to serve additional qualified borrowers.

For the multifamily portion of the program 11 local HFAs have used $794,850,000 of $1,139,110,000 allocated for multifamily to finance 71 new construction or preservation projects containing 9,427 units, 91% of which are affordable to households with incomes at or below 60% of median income. The Total Development Cost for these projects is $2,007,146,082, with most using 4% Low-Income Tax Credits as equity. While not every agency surveyed was able to estimate the number of jobs created by NIBP, those that did reported at least 4,736 construction and/or permanent jobs.

NIBP has been a critical tool in expanding affordable homeownership and rental housing opportunities, stabilizing blocks and neighborhoods as well as generating significant economic

activity in response to the Nation's housing crisis. Without it much of this economic activity would not have occurred.

Affordable Housing Tax Code Incentives – Low-Income Housing Tax Credits

The Low-Income Housing Tax Credit program was created by Congress in the Tax Reform Act of 1986 to generate equity capital for the construction and rehabilitation of affordable rental housing for lower income households. They are usually used with other forms of subsidy because no one subsidy is sufficient to produce an affordable rental housing project. The credit replaced traditional tax incentives for investment in low-income housing (passive losses) that were eliminated by the same Act. The credit is a reduction in tax liability for an individual or corporate taxpayer each year for ten years that is based on the costs of development and the percentage of low-income units. The tax credit rate is approximately 4 percent for acquisition costs, 9 percent for rehabilitation and new construction cost, and 4 percent if a project has federal subsidies (other than Community Development Block Grant or HOME funds) or tax-exempt bond financing. Properties qualifying for the tax credit (for a minimum 15-year compliance period) must have set-aside 20 percent of the units at or below 50 percent of area median income or 40 percent of the units at or below 60 percent of the area median income, with residents paying no more than 30 percent of their incomes for rent. The tax credit program is subject to a statewide volume cap set at the greater of $1.75 per capita or a minimum of $2 million per state. Housing credit allocating agencies must develop plans on how they will allocate credits, giving preference to projects that serve the lowest income households for the longest period of time. They must also evaluate and underwrite projects carefully to insure that they award them the least amount of credits necessary to ensure financial feasibility. Projects that are tax-exempt bond-financed do not require a separate allocation of tax credits because the bonds are already subject to a volume cap. Tax credits are typically syndicated to investors who may claim

credits against taxable income. Individual investors with annual adjusted gross incomes of $100,000 or less may offset income tax liability with up to$25,000 a year in deductions or credits. This is phased out for incomes between $100,000 and $150,000 due to passive loss restrictions. Corporate investors may claim an unlimited amount of tax credits. Until 2006 Fannie Mae and Freddie Mac were the two largest purchasers of Low-Income Housing Tax Credits.

While the value of housing tax credits fell substantially during the Nation's housing crisis to $.60+ on the dollar its value has increased in many markets, particularly on both the east coast and west coast to over $1.00 today. It is estimated to result in the construction or preservation of approximately 110,000 affordable units annually.

Without these tax code incentives it would be extremely difficult to expand affordable housing. NALHFA strongly urges Congress to preserve them, with no diminution of their value such as through a cap, in tax reform.

Thank you for your favorable consideration of NALHFA's recommendation.