



Federal Stimulus: Big Implications for Affordable Housing

February 17, 2009

Today, President Obama signed the American Recovery and Reinvestment Act, a massive bill that allocates \$789.5 billion in federal funds and tax cuts for a variety of initiatives in an effort to stimulate the economy. The legislation includes important affordable housing spending and tax components. Provisions include:

- ▶ **Low-Income Housing Tax Credits (LIHTCs).** State housing agencies may elect to receive grants of up to eighty-five percent (85%) of forty percent (40%) of the state's low-income housing tax credit allocation in lieu of the low-income housing tax credits they would have received. Awards of these funds will be subject to the same requirements as low-income housing tax credit allocations (including rent, income, and use restrictions on such buildings). The grant program will apply to each state's 2009 low-income housing tax credit allocation. State housing agencies must affirmatively apply for the exchange and may need to modify their Qualified Allocation Plans (QAPs) to encompass the distribution of grant financing for affordable housing in lieu of LIHTC allocations.
- ▶ **Public Housing Capital Fund.** The majority of this \$4 billion fund will be distributed to public housing authorities according to the existing statutory formula. The remaining funds are expected to be awarded through a competitive process for projects that rehabilitate units to improve energy efficiency, facilitate ready-to-go affordable housing projects, and address the housing needs of seniors and people with disabilities. Michigan is expected to receive \$53.7 million through this program, and Illinois is expected to receive \$222.6 million.
- ▶ **Elderly, Disabled, and Section 8 Assisted Housing Retrofit.** Money from this program, funded at \$2.25 billion, will be awarded competitively for energy-efficient renovations and retrofits for federally assisted housing, including housing for the elderly (Section 202), housing for persons with disabilities (Section 811), and project-based Section 8 units.
- ▶ **The HOME Program.** The measure appropriates \$2.25 billion for this program, funding for which will be directed to both rehabilitation and new construction projects, with the goal of filling finance gaps caused by the current credit freeze. The funds for this program are distributed based on the existing formula, with recipients required to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available to recipients. Michigan is expected to receive \$64.1 million and Illinois is expected to receive \$94.8 million through the HOME Program.
- ▶ **Refundable First-Time Homebuyer Credit.** The bill eliminates the repayment obligation for taxpayers who purchase homes after January 1, 2009; increases the maximum value of the credit to \$8,000; removes the prohibition on financing by mortgage revenue bonds; and extends the availability of credit for homes purchased before December 1, 2009. The provision would, however, retain the credit recapture if the house is sold within three years of purchase.

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- ▶ **New Markets Tax Credits.** Under the current law, there are \$3.5 billion in new markets tax credits (NMTCs) available for 2008 and 2009. The new law increases the available credits for 2008 to \$5 billion and for 2009 to \$5 billion. Additional funds will be distributed through the Community Development Financial Institutions (CDFI).

The Obama administration has been reluctant to signal any policy or administrative changes that might take place after the stimulus package is signed into law. Dykema continues to monitor statements by President Obama and Housing Secretary Shaun Donovan for any indications as to how implementation might unfold.

The Federal Stimulus Tracking Initiative is a joint effort of Dykema's Government Policy Practice Group and Real Estate Practice Group/Affordable Housing Initiative. Dykema's Government Policy advisors and Real Estate/Affordable Housing attorneys are closely tracking the legislation and are available to answer questions and provide additional information. For additional information, please contact **Andy Buczek** at abuczek@dykema.com or 202-906-8655, or **Rochelle Lento** at rlento@dykema.com or 313-568-5322.