

A FIX FOR FLOATING RATES UNDER THE LOW-INCOME HOUSING TAX CREDIT (LIHTC)

This bill is a reintroduction of S. 1989 (112th) to extend the 9% minimum credit and establish a 4% minimum credit for acquisition of existing housing.

The LIHTC provides tax credits to affordable housing developments that use them to attract equity capital to help finance the properties. The LIHTC provides two kinds of credits – one for 70% of the cost (in present value) of constructing or substantially rehabilitating property, and one for 30% of the cost (in present value) of acquiring existing property.

Investors receive the credits over 10 years, so policymakers have to decide how to allocate them for each of 10 years so that they're worth 70% (for one credit) or 30% (for the other) in present value terms. For the 70% credit, Congress originally set the rate at 9% in the first year and decided that, for later years, the IRS would calculate the rate based on a "discount rate" that was derived from monthly calculations of federal borrowing costs. For the 30% credit, it originally set the rate at 4% and adjusted it using the same discount rate.

This system creates a problem in administering the LIHTC because historically low federal borrowing rates in recent years have translated into low annual LIHTC credit rates. As of February 2012, the 70% credit provides an annual rate of 7.42% while the 30% credit provides an annual rate of 3.18%. The lower the rate, the fewer credits that states can allocate to help finance any one eligible project.

Congress temporarily, fixed the problem in the 2008 Housing and Economic Recovery Act by setting the annual rate on the 70% credit at a flat 9% (the original rate when Congress enacted the program). That rate applies to properties that are placed in service (i.e., with people living in them) by the end of 2013.

If Congress does not extend the 2008 fix, the lower credit rates will apply to credit allocations that the states make beginning in 2012 because most of those properties will not be placed in service until after 2013. That would create two big problems. First, it would reduce the amount of equity that properties could receive by about 18%. Second, it would make it harder to develop LIHTC-assisted projects – especially as federal and state governments cut other spending that can fill financing gaps for such projects.

When Congress provided the fix in 2008, the Joint Tax Committee said it would cost just \$7 million over 10 years. That's because, with or without this fix, each state will still allocate all of its credits. The fix just lets a state provide more credits for a particular LIHTC-assisted project.

The 2008 fix provided a flat rate just for the 70% credit, not the 30% one. In extending the 2008 fix, Congress should add a 4% annual rate for the 30% credit. That would not significantly raise costs, however, because the 30% credit comprises less than a tenth of all LIHTC credits.