HB 810

Report of the Virginia Housing Opportunity Tax Credit Task Force

September 2020

VIRGINIA DHCD

Virginia Housing

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I. Executive Summary

HB 810 mandates the convening of a stakeholder advisory group ("Task Force") to: (i) determine the most effective and efficient way to administer a Virginia housing opportunity tax credit program, (ii) develop draft legislation establishing such an affordable housing credit program, and (iii) conduct financial modeling to determine the fiscal impact of such a program to the Commonwealth.

The Task Force is supportive of the goals of HB 810, and is of the opinion that a Virginia housing opportunity tax credit, if enacted, would provide additional necessary resources to extend the reach of other effective and efficient federal and state programs, thereby increasing quality affordable rental housing production throughout Virginia. Further, the Task Force believes that, through the passage of HB 810 and this report ("Report"), Virginia is now poised to take the next meaningful step in further addressing housing insecurities across the Commonwealth.

In studying the potential adoption of the Virginia housing opportunity tax credit legislation, the Task Force identified the primary goal of incentivizing additional affordable rental housing unit production to complement existing state programs. In doing so, the Task Force studied existing housing tax credit programs in other states, conducted an economic impact analysis, and evaluated the salient features of a successful state housing tax credit program.

The Task Force developed a key proposal represented by draft legislation. The draft legislation mirrors the federal Low-Income Housing Tax Credit (LIHTC) program in the Commonwealth and provides an allocated and bifurcated Virginia housing opportunity tax credit in an amount equal to the federal LIHTC in Virginia (and in any event a minimum amount of $20 million of credits annually) with a 10-year credit period. In addition, the Report presents an alternative model the Task Force also considers worthy of further study before any potential legislation is enacted.

The key proposal as presented in the draft legislation would reduce gross Virginia income tax by $200 million over 10 years for each annual award allocation. However, this reduction is balanced with the benefit that, for each annual award allocation, the key proposal would also result in an increase of 762 affordable housing units, support 3,948 jobs and $227.5 million in earnings, increase state & local tax revenue by $18.9 million, and contribute nearly $344.6 million to state gross domestic product.

The Task Force and staff at the Department of Housing and Community Development and Virginia Housing are appreciative of the opportunity the General Assembly and the Governor have provided to draft this report. As directed in HB 810, the Task Force has determined the alternatives set forth herein are the most effective and efficient way to administer a Virginia housing opportunity tax credit in the Commonwealth.

II. Introduction and Need for Affordable Housing in the Commonwealth

In recognition of the need and desire to adequately house all Virginians, the General Assembly passed, and Governor Northam signed, HB 810 authorizing a study of a Virginia housing opportunity tax credit program. Housing is a foundational pillar and economic driver of healthy communities throughout the Commonwealth, and has been shown to be a leading indicator of opportunity, health, and community stability. However, quality affordable housing is increasingly unattainable for many Virginians that live rent burdened or are continually facing an eviction. Housing is inextricably tied to other public policy priorities including economic development and public health, both of which have been impacted during the COVID-19 pandemic.

The federal Low-Income Housing Tax Credit (LIHTC) program is one of the few proven mechanisms available for leveraging private equity in the rehabilitation and production of new affordable housing aimed at serving lower income households. It is the exemplary model of a public-private partnership used to incentivize the development of affordable rental housing. Since its inception in 1987, Virginia has utilized the federal program to raise enough private equity to produce over 100,000 affordable units throughout the Commonwealth. During the last 5 years Virginia has allocated approximately $200 million credits that have leveraged nearly $2.9 billion in private equity, producing over 22,000 units of affordable housing for Virginians.

Despite the successes of the federal LIHTC program, the funding remains inadequate in effectively fulfilling the depth of need for Virginians of very low incomes to attain affordable rental housing. According to a 2017 Virginia Housing Policy Advisory Council report, Virginia needs to produce substantial new affordable housing to accommodate anticipated workforce growth and house over 350,000 new workers in the next 10 years. To expand financing opportunities for new affordable housing, other states have established state housing tax credits to augment the federal LIHTC by attracting additional private investment and extending the effectiveness of other public incentives. If Virginia housing opportunity tax credit legislation were to be enacted, Virginia would join a growing number of states either operating or planning such a state tax credit program.

A panel of experts (the “Task Force”) in the affordable housing field, with support of staff from the Department of Housing and Community Development (DHCD) and the Virginia Housing Development Authority (now known as Virginia Housing), the Task Force met over several months to develop this report (“Report”). The Report details HB 810, the activities of the Task Force, other states’ affordable housing credits, comparable Virginia state credits, salient features of credit programs, proposals for a Virginia housing opportunity tax credit, and financial modeling of the economic impact of such a state credit.

III. Definitions and Acronyms

A. Definitions

- **Allocated Credits:** Credits that are awarded to, and claimed by, an equity partner in the development's ownership structure.
- **Area Median Income:** The midpoint of a region's income distribution where half of the population earns less than this amount and half of the population earns more.
- **Bifurcated Credits:** Credits that are not required to be allocated or sold to the same investor that purchases the federal Low-Income Housing Tax Credits.
- **Capital Account:** The individual accounting of each member's investment in the LLC.
- **Certificated Credits:** Credits that may be sold to a third party that is not an equity partner in the development.
- **Community Reinvestment Act:** A federal law that requires banks and savings and loan institutions to take affirmative steps to help meet the credit needs of the communities they are chartered to serve, especially low- and moderate-income communities.
- **Cost Burdened/Rent Burdened:** Households that spend more than 30% of their household income for housing. Those paying more than 50% are considered severely cost burdened.
- **Credit Period:** The time period in which the owners of a project receive tax credits which can then be applied to their respective income tax liabilities.
- **Deferred Loan:** A loan structure that allows the borrower to pay only the accruing interest but not the principal, which would be repaid upon sale, refinancing, or some specified future date.
- **Federal Low-Income Housing Tax Credits (LIHTC):** LIHTC is a federal subsidy used to facilitate low-income housing. In Virginia, Virginia Housing's Tax Credit Department administers the program on behalf of the US Department of the Treasury pursuant to Section 42 of the Internal Revenue Code ("Section 42" and "IRC," respectively) federal tax code and by appointment of the Governor as Virginia's allocating entity.
- **Federal LIHTC Recapture:** When utilizing the federal LIHTC program, owners claim the low-income housing credit over a 10-year period. However, the owner of a LIHTC project is required to provide low-income housing in compliance with Section 42 for 15 years to be in compliance. As a result, the taxpayer is claiming credit prior to providing housing during the last five years, after the credit period has ended. Therefore, one-third of the credit claimed each year during the 10-year credit period is associated with the provision of housing during years 11 through 15 of the compliance period. This one-third portion claimed each year is the "accelerated portion" of the credit.[1] In the event of noncompliance by the owner with requirements of Section 42, such as failure to qualify as a qualified low-income building, the IRS will recapture the accelerated portion of the credits.

1 Source: https://www.ajjcs.net/paper/main/2016/01/06/recapture-what-it-is-and-when-it-occurs/)

- **Qualified Allocation Plan (QAP):** The plan created by Virginia Housing for the purpose of governing the distribution, reservation and allocation of federal LIHTC available under Section 42 for housing developments located throughout the Commonwealth of Virginia for occupancy by low-income persons and families, all in accordance with the requirements of the IRC.
- **Section 42:** Section 42 of the Internal Revenue Code (IRC), which governs the federal LIHTC program.
- **Task Force:** The stakeholder advisory group convened pursuant to HB 810, the members of which are listed in Section V.

B. Acronyms

- **AMI:** Area Median Income
- **CDFI:** Community Development Financial Institutions
- **CRA:** Community Reinvestment Act
- **DHCD:** Virginia Department of Housing and Community Development
- **GDP:** Gross Domestic Product
- **HRTC:** Virginia Historic Rehabilitation Tax Credit
- **IRC:** Internal Revenue Code
- **IRS:** Internal Revenue Service
- **LIHTC:** Low Income Housing Tax Credits
- **QAP:** Qualified Allocation Plan
- **VHTF:** Virginia Housing Trust Fund

IV. Background

A. Enabling Legislation

The 2020 Session of Virginia's General Assembly approved House Bill 810 Virginia housing opportunity tax credit program (Chapter 517 of Virginia Acts of Assembly) and tasks DHCD and Virginia Housing with convening the Task Force to develop draft legislation establishing a Virginia housing opportunity tax credit program for the purpose of providing incentives for the utilization of private equity in the development and construction of affordable housing. The legislation included the requirement to determine the most effective and efficient way to administer the program and provide a financial model estimating the fiscal and economic impacts to the Commonwealth. The full legislation can be found online on Virginia's Legislative Information System and in Exhibit C attached hereto.[2]

2 https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0517+pdf

B. Need for a State Housing Tax Credit

House Bill 810 was drafted to address the need for additional incentives to support the development of an adequate supply of affordable housing in the Commonwealth. Housing construction in Virginia, as throughout the nation, remains at levels inadequate to meet growing need and demand. Rental housing vacancy rates remain low, and there is an acute shortage of rental housing affordable to lower income families and individuals. According to estimates by Virginia Housing, 44% of Virginia renters who are considered "cost burdened" (i.e., paying more than 30% of their income for rent) and 22% of lower income renters who are considered "extremely cost burdened" (i.e., paying more than 50% of their income for rent). While record low mortgage loan rates are helping to maintain the affordability of home purchase, there is an inadequate inventory of homes to meet need and demand. In many parts of Virginia, the inventory of for-sale homes is reaching record low levels and is placing increased upward pressure on the demand for rental housing.

Current federal and state housing assistance programs are not funded at levels sufficient to address the shortages of affordable housing now facing Virginia. While the federal LIHTC program has proven to be an extremely effective vehicle for supporting the production of new affordable rental housing, its funding level is set at a fixed per capita rate that has not been increased to keep pace with growing need. The Virginia Housing Trust Fund (VHTF) has received significant increases in funding, and is intended to focus on the critical housing needs of the Commonwealth's most vulnerable populations through provision of subsidies that enable housing developments to serve lower income families and individuals than would otherwise be possible. The VHTF is critical to address key state policy priorities in providing housing to address key state policy goals such as developing permanent supportive housing and serving the vulnerable populations such as people that are chronically homeless, seriously mentally ill, individuals with intellectual and developmental disabilities, seniors, veterans and other vulnerable populations.

In the Task Force's opinion, there is a need to augment the federal LIHTC and VHTF with additional tools to increase production to assist in addressing the state's broad affordable housing inventory shortfall. Further, the Task Force suggests that there should be a variety of state and federal programs to address the shortage of affordable housing in Virginia. Often, affordable housing developments are feasible only through a layering of programs intended to help incentivize and increase supply of affordable housing in the Commonwealth. Virginia's Historic Rehabilitation Tax Credit program supplements the federal LIHTC program and makes feasible the preservation and use of older historic structures for housing. However, while an important tool in enabling the reuse and preservation of older structures, it is not designed to address the broader affordable housing inventory challenges facing communities across the Commonwealth.

Many other states are facing these same challenges and have developed state housing tax credit programs to augment and support the federal LIHTC program, their state Housing Trust Funds, and other state and local housing assistance resources. HB 810 seeks to evaluate how a Virginia affordable housing tax credit could be most efficiently and effectively administered.

C. Interaction with Existing Housing Programs

The creation of a Virginia housing opportunity tax credit would augment other federal, state, and local efforts to support affordable housing in Virginia.

1. Federal Programs

The federal LIHTC program is discussed in detail in this Report. The Task Force determined that it would be most efficient and effective for a Virginia housing opportunity tax credit to be structured for application, allocation, and monitoring in conjunction with the federal LIHTC program, and that policy decisions, such as priorities of populations served, be determined in the QAP process.

2. State Programs

The Virginia housing opportunity tax credit would augment the efforts of other state programs also addressing housing needs across the Commonwealth, including the VHTF and the federal and state Historic Rehabilitation Tax Credit.

The VHTF creates and preserves affordable housing and reduces homelessness in the Commonwealth. The VHTF provides assistance through programs that allow for creative approaches to address the needs of a variety of populations, including: families and individuals who cannot afford decent, safe housing; disabled persons needing accessible housing in addition to supportive services; homeless persons struggling with mental health; as well as other critical housing issues.

At least 60%[3] of the VHTF is to be used for short-, medium- and long-term loans to reduce the cost of homeownership and rental housing. For rental housing, most of the funding is used to provide second mortgage "gap" financing in order to enable housing developments to incorporate units for lower income households. Up to 40%[3] of the fund may be used to provide grants for targeted efforts to reduce homelessness. The two components of the VHTF are administered separately. First, the Competitive Loan Pool for the production and preservation of affordable rental and homebuyer housing is administered through the Affordable and Special Needs Housing (ASNH) program. Second, the VHTF grants, used to reduce homelessness, are allocated through the Homeless Reduction Grants.

The housing development loans are awarded to developers that supply affordable housing units consistent with gubernatorial initiatives or state housing policies. The loans are low- interest and are administered through the ASNH program and through the Vibrant Community Initiative (VCI). The provisions of the loan encourage developers to use outside funding sources, such as tax credits or other federal and local funding programs. Criteria used in awarding funding include, but are not limited to: the project's impact on state housing policy, affordability, financial sustainability, feasibility, and readiness. [4,5]

3 Section 36-142 of the Code of Virginia provides for at least 80 percent of the moneys in the VHTF to provide flexible financing for low-interest loans and up to 20 percent of the moneys from the VHTF to provide grants to reduce homelessness. However, the FY2021 budget gives flexibility to adjust that percentage administratively and the current allocation percentages as of the date of this report are 60 percent and 40 percent, respectively.

4 Source: https://www.dhcd.virginia.gov/vhtf

5 In the Governor's proposed 2020 – 2022 Biennium budget for the 2020 Special Session, the VHTF is slated to receive a historic level of funding, totaling $85 million. The Task Force's proposal is predicated on the state opportunity tax credit not reducing funding for the VHTF.

The Virginia housing opportunity tax credit could also be utilized in conjunction with the Virginia Historic Rehabilitation Tax Credit (HRTC). The HRTC helps to preserve historic residential and nonresidential buildings that benefit communities. Through the federal and state rehabilitation tax credit programs, property owners are given substantial incentives for private investment in preservation. Both the federal and state tax credit programs in Virginia are administered through the Department of Historic Resources. State HRTC are available for owner-occupied, as well as income-producing buildings. [6]

Virginia's HRTC program has played an essential role in the preservation of thousands of historic properties. Between 1997 and 2017, the program issued $1.2 billion in tax credits, reimbursing 25% of eligible rehabilitation expenses as tax credits. Those tax credits have stimulated $4.5 billion in private investment since 1997. Although the $1.2 billion in tax credits issued represents revenue not immediately realized by the Commonwealth, much of the $4.5 billion of private investment may not have otherwise occurred. A study conducted by Virginia Commonwealth University estimated Virginia's return on investment, represented by tax credits, is repaid in five to nine years.[7] The HRTC is described in more detail below in Section VI.

D. Homeownership

The proposals for a Virginia housing opportunity tax credit discussed in this Report are intended to further address the issue of insufficient affordable rental housing. While the affordability of homeownership in Virginia is also a topic of concern, this report focuses on a tax credit incentive to be used to entice the production of new affordable rental units, primarily larger multi-family developments. Some states, most notably Vermont, do operate programs that employ state housing tax credits to spur affordable home purchases. The Task Force decided affordable homeownership and affordable rental housing are different enough to warrant separate analysis. As a result, this Report focuses on affordable rental housing in the Commonwealth of Virginia.

E. Understanding the Federal Low-Income Housing Tax Credit Program

The Tax Reform Act of 1986 established the federal LIHTC to encourage private investment in affordable housing. The program provides a dollar-for-dollar reduction in tax liability to the owner of a qualified low-income housing development for the acquisition, rehabilitation, or construction of low-income rental housing units. The amount of credits allocated is based directly on the eligible costs and the number of qualified low-income units that meet federal rent and income targeting requirements. To qualify for tax credits, a development must meet a number of conditions set forth in Section 42. In particular, the development must provide low-income housing units that meet certain occupancy and rent requirements.

The developer of housing that qualifies for tax credits will typically establish a limited partnership or limited liability company (LLC) to own the development. The developer usually assumes the role of Managing General Partner or Managing Member, retaining 0.01% of the ownership. The remaining 99.99% shares are sold to investors interested in using the tax

6 Source: https://www.dhr.virginia.gov/tax-credits/#:~:text=Virginia's%20Historic%20Rehabilitation%20Tax%20Credit,rehabilitation%20expenses%20as%20tax%20credits.

7 https://www.dhr.virginia.gov/wp-content/uploads/2018/04/DHR-HRTC-Report.pdf

credits to reduce their federal tax liability. The capital invested by the investor partner accounts for all or most of the development's equity. This reduces the need for debt financing and thereby reduces the amount of the development's annual debt service. While there is no direct rental subsidy to households under this program, the increased equity and reduced debt allows for lower rents than would otherwise be possible.

States are assigned tax credit issuance authority based upon a federal formula that takes into account a state's population. States allocate federal LIHTC to eligible rental housing developments pursuant to a state-adopted qualified allocation plan, also known as a QAP. LIHTCs are administered by state housing finance agencies. Virginia Housing administers the federal LIHTC for the Commonwealth.

There are three types of federal LIHTCs:

1. **9% credit**
   The availability of federal 9% credits is limited. A state's annual allocation of 9% credits is based on the state population and can vary in amount. The most recent allocation equated to $2.81 per-capita. The 9% maximum allowable credit is determined on a 10-year, present value calculation of 70% of the qualified basis of the low-income units for new construction or substantial rehab of developments not federally subsidized or financed with tax-exempt bonds. Most 9% credits are allocated during one or more competitive cycles held each year. Selection priorities and procedures vary in each state and are outlined in the state's QAP.

2. **4% for new construction or substantial rehabilitation**
   The federal 4% credit is available to new construction and substantial rehab developments that are federally subsidized with tax-exempt bonds, which are also allocated to states on a limited formula basis. This maximum allowable credit amount is determined by a present value calculation of 30% of the qualified basis over 10 years.

3. **4% for the acquisition of existing developments**
   The federal 4% credit is also available for the acquisition of existing developments subsidized with tax-exempt bonds if the development was not previously placed in service by the owner or a related party and is acquired at least 10 years after the later of (a) the date the development was last placed in service or (b) the date of the most recent non-qualified substantial improvements.

Investors claim all three types of tax credits annually over a 10-year term, beginning with the tax year in which the development is placed in service or, at the owner's election, the following tax year.

F. Limitations on Scope of Report

The timeline allowed for this report posed substantial challenges. Given the short working timeframe, which was impacted by the COVID-19 pandemic, the Task Force recognizes the limitations in the scope of this analysis. The findings presented in this report are not to be considered final or to represent conclusive results on the efficacy of a Virginia housing opportunity tax credit. Further analysis of the proposals and the key elements presented in this report are encouraged before legislation is proposed to the General Assembly. Similarly, it is suggested the Task Force remain in place and the work presented in the following report be continued. Considering the potential increased need for affordable housing in the Commonwealth and the forthcoming budgetary challenges as a result of the COVID-19 pandemic, the importance of an efficient and effective program cannot be overstated.

Although the Task Force members include attorneys, accountants, and financial and other advisors, the Report does not constitute legal, accounting, or income tax advice, and a determination of those issues is outside the scope of the Report and would require additional, independent review. In addition to addressing the federal income tax treatment of a Virginia housing opportunity tax credit program, there are several remaining issues that the Virginia Department of Taxation recommends be addressed prior to adoption of any draft legislation. These include, but are not limited to, issues regarding how to administer an annual credit cap, the recapture provisions, transferability, and allowing taxpayers to claim credits prior to receiving an eligibility certificate. Virginia Housing and DHCD staff, as well as Task Force members, are prepared to assist in any way possible with the resolution of these issues with the Department of Taxation and the Virginia Division of Legislative Services.

The Report is addressed to, among others, the Secretary of Commerce and Trade and the Governor, and their feedback on the Report will be critical to implementing any program. In the current COVID-19 budgetary environment, the Secretary of Finance's input on any program will also be particularly crucial.

Lastly, while staff at DHCD and Virginia Housing were tasked in the legislation with convening and providing support to the Task Force and is supportive of the Report, the determinations and opinions contained herein are those of the Task Force.

V. Virginia Housing Opportunity Tax Credit Task Force

A. Task Force Membership

The following individuals comprised the final stakeholder advisory group and include individuals representing expertise in land development, construction, affordable housing, real-estate finance, tax credit syndication, the federal LIHTC program, and other areas pertinent to the development of a state housing opportunity tax credit. This stakeholder group was convened and supported by DHCD and Virginia Housing.

Task Force

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B. Task Force Process

The Task Force was charged with:

1. Developing draft legislation to establish a Virginia housing opportunity tax credit;
2. Developing rules and regulations of such a program; and
3. Determining the most effective and efficient way to administer a Virginia housing opportunity tax credit, the purpose of which is to provide incentives for the utilization of private equity in the development and construction of affordable housing in the Commonwealth.

The Task Force, along with a consultant it engaged, also conducted financial modeling to aid in estimating the economic impact on the Commonwealth at various levels of funding for a state credit used in conjunction with the federal LIHTC.

Beginning in June, 2020 potential members of the stakeholder advisory group were contacted and invited to participate in the Task Force to deliver the Report to the Secretary of Commerce and Trade and the Governor regarding a Virginia housing opportunity tax credit. Members of the Task Force were notified of an accelerated schedule, with the expectation that work would be concluded over the course of eight weeks, beginning with an initial virtual meeting on Wednesday, July 1, 2020. During this time, it was also determined that the Task Force would meet virtually pursuant to the health and safety guidelines in place due to the State of Emergency declared in the Commonwealth as a result of the COVID-19 pandemic.

The July 1, 2020 meeting established the timeline and virtual process for concluding by the September 1, 2020 report deadline. During that meeting a number of questions arose around defining, or identifying, salient features the members believed would be necessary in establishing a Virginia housing opportunity tax credit. Most notably, a desire for consensus on programmatic objectives was determined to be a driving factor in the development of a state credit, including the overarching purpose of a Virginia housing opportunity tax credit. After the initial meeting of the Task Force, Virginia Housing administered a survey to gain insight and identify the key programmatic elements for the Task Force to deliberate. The survey had a 100% response rate from the Task Force members and the results of the survey are contained in Appendix A. The most notable themes emerging from the survey were:

- The primary purpose of a Virginia housing opportunity tax credit should be to increase the supply of affordable rental units.
- The program should target very low incomes, including those below 30% area median income (AMI).
- The most relevant outcome measure is the increased number of new affordable rental units created as a result of a Virginia housing opportunity tax credit program.
- A Virginia housing opportunity tax credit program in Virginia should align with the federal LIHTC program.
- The minimum program size should be at least $10 million in annual state tax credits. Later consensus raised the suggested program size to $20 million annually.[8]
- Programmatic details, such as the awarding of state credits should be determined in the QAP and not in the legislation.
- The program design should be as simple as possible while providing clarity and flexibility for efficient and effective implementation.
- The top 4 priorities for set asides (targeted populations) are:

    1) New affordable unit production
    2) Preservation of existing affordable housing
    3) Affordable housing in targeted areas of opportunity
    4) Affordable urban housing

- There is concern that a Virginia housing opportunity tax credit program would compete with the VHTF, and any program implementation should be considered a complementary program intended to further the overarching goal of increasing the supply of affordable rental housing.

In total, the Task Force met virtually five times. In addition to participating in the survey, the Task Force reviewed the salient features of the proposals set forth herein, heard presentations of such proposals, received a presentation on how such proposals may impact a recently awarded 9% credit deal, and reviewed a draft of this Report.

8 It was later determined through financial modeling conducted by Virginia Housing that $10 million in annual state tax credits would be insufficient to adequately move the needle to encourage additional development of new affordable units. Later consensus by the Task Force based on this modeling determined this amount should be at least $20 million in annual state credits.

VI. Review of Other Tax Credit Programs

A. Summary of Tax Credit Programs in Other States

As of 2019, 19 states provide state housing tax credits to help finance affordable housing, and seven others have pending legislation, or are in the process of establishing a state housing tax credit program. Altogether more than half of the states have or are drafting legislation to support a state level tax credit to promote affordable housing.

Thirteen of the states with an existing program—Arkansas, California, Colorado, Georgia, Hawaii, Massachusetts, Missouri, Nebraska, Nevada, New York, Oklahoma, Utah, and Wisconsin—are based on the structure of the federal LIHTC program. Additionally, in May of 2020, the South Carolina legislature passed, and the Governor signed, their version of a state housing tax credit, which also largely mirrors the federal LIHTC program. In their simplest form, investors provide equity to fund the development of an affordable housing property in exchange for a credit against their state tax liability. However, these state credits differ from each other and the federal LIHTC program in various ways.

For the most part, state housing tax credits are used in conjunction with the federal housing credit to provide additional equity to those developments. While in some states investors are required to take both the state and federal credits together, others allow bifurcation for the federal credit. A few states allow developments not receiving federal credits to still utilize the state program.

In most states, an entity seeking state housing tax credits in addition to federal credits will request this on their application for federal credits. Other states will automatically allocate state credits to successful applicants for federal credits until the state pool is exhausted. In any case, the state is able to determine its own additional or differential criteria and requirements for which projects are awarded credits. In the case of states with bifurcated credits, state housing tax credits may also be certificated, allowing for the sale of the credits to a third party that does not have an equity stake in the project. Likewise, the financing terms, reporting requirements, length of the credit period, and even the recapture period are determined by the state. These differences include the use of any combination of 4% and 9% credits, varying credit periods, and some states allowing the tax credits to serve higher income households.

The additional six states—Connecticut, Illinois, New Mexico, Oregon, North Dakota, and Vermont—operate under models that do not mirror the federal LIHTC program. Illinois, New Mexico, and North Dakota all provide a state tax reduction to institutions providing a qualified donation, monetary or otherwise, to affordable housing projects or the states' respective affordable housing trust fund. Connecticut also uses a donation model, but provides state housing tax credit certificates to nonprofits developing affordable housing. These nonprofits can then raise equity through sale or exchange of these credits to for-profit entities, thereby financing the production of more affordable housing.

Oregon's program provides a tax credit to affordable housing lending institutions that are able to lower the cost of financing for affordable multifamily developments by as much as 4% with the stipulation that the full value of the interest rate reduction is used for rent reduction. Vermont's state housing tax credit is used for the production of both rental housing and owner-occupied housing. The state provides the credit to project sponsors, which sell the credits to an entity making a cash contribution to the project. The purchaser, much like in Connecticut, does not have to be an equity partner in the project.

As discussed further in this Report in Section IX regarding the Alternative Proposal, it is important to consider the possible federal income tax treatment of the state housing opportunity credit as it relates to credit pricing. If the credit is subject to federal taxation the Task Force estimates a $0.21 reduction in price per $1.00 credit. As shown in the salient features of the Key Proposal, it is anticipated that credits in the Key Proposal will be subject to federal taxation and the credit price ($.54 - $.62 per $1.00 credit) will reflect such taxation. The proponents of the Alternative Proposal suggest that it is likely those credits will not be subject to federal income taxation, and the price for such credits ($.87 - $.90 per $1.00 credit) as shown in the salient features for the Alternative Proposal reflect that. Please note, however, that further investigation is needed to clarify the tax treatment of the Alternative Proposal and that investigation is continuing. As stated in Limitations on Scope of Report, a full examination of tax treatment is outside the scope of this Report.

B. Summary of Comparable Virginia Tax Credits

Virginia has two comparable state tax credit programs that address the development of affordable housing in the Commonwealth.

1. Virginia State Low-Income Housing Tax Credit

The Commonwealth of Virginia previously had a state low-income housing credit, last updated and codified at § 36-55.63. While this legislation was repealed in 2016, the Rules and Regulations remain in the Virginia Administrative Code at 13VAC5-175-10.[9]

The Virginia Low-Income Housing Tax Credit program administered by the DHCD previously allowed the Commonwealth to allocate up to a total of $3.5 million in credits over a five-year credit period. In order to qualify for state credits, the development had to qualify for and claim federal low-income housing tax credits, which are administered by Virginia Housing, and the qualified housing units must have been placed in service on January 1, 1998 or later. The state tax credit for each project was based on a percentage of the federal tax credit allowed and claimed for the project. The program was designed to target "hard-to-develop" rental projects, rental housing located in Virginia Enterprise Zones[10] or revitalization areas, and projects with units designated for households at or below 40% of AMI. The tax credit was calculated as a percentage of the federal low-income housing tax credit allowed and claimed. Any persons claiming the Virginia low-income housing tax credit, and was subject to the credit recapture provisions for federal income tax, was also subject to a recapture of the state tax credit amount claimed on the Virginia income tax return. Ultimately, this program was underutilized and, therefore, repealed in 2016. Even if it had been fully utilized,

9 https://law.lis.virginia.gov/admincodeexpand/title13/agency5/chapter175/

10 The Virginia Enterprise Zone program is a partnership between state and local government that encourages job creation administered by DHCD. The program designates Enterprise Zones throughout the state and provides grant-based incentives to qualified investors and job creators within those zones, while the locality provides local incentives. https://www.dhcd.virginia.gov/vez

the amount of state tax credits available would not likely have created an amount of equity significant enough to reduce the demand for federal low income housing tax credits or create substantial additional housing units.

2. State Historic Tax Credit Legislation:
In the Code of Virginia, the Commonwealth also administers a historic rehabilitation tax credit. Since 1997, entities incurring eligible expenses in the rehabilitation of a certified historic structure shall be entitled to a credit against the tax imposed.[11] The Rehabilitation Tax Credits are dollar-for-dollar reductions in income tax liability for owners who rehabilitate historic buildings. Credits are available from both the federal government and the Commonwealth of Virginia. The amount of the credit is based on total rehabilitation costs, and the state credit is 25% of eligible rehabilitation expenses.

In order to qualify for the state credit, the rehabilitation expenses must be:

- For owner-occupied structures, at least 25% of the assessed value of the buildings for local real estate tax purposes for the year before the rehabilitation work began.
- For all other eligible structures, at least 50% of the assessed value of the buildings for local real estate tax purposes for the year before the rehabilitation work began.

For the state program, this "material rehabilitation" test must be met within a consecutive 24-month period that ends during the year in which the credits are claimed. Essentially, this means that for most projects the greatest expenditures must be made within a two-year period. For phased projects, the time limit is extended to 60 months. The state credit is claimed in the year the rehabilitation is completed, though if the full amount of the credit is not claimed in the first year, it can be carried forward for up to 10 years. There is no carry-back for the state credit. Credits may be syndicated through the use of limited partnerships, but they may not be directly sold. To claim the state credit, the taxpayer must complete the state Schedule CR and attach a copy of the certification of the completed work by the Department of Historic Resources. The amount of the credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed $5 million in any taxable year.

VII. Key Attributes of State Tax Credit Programs Identified by the Task Force

During the development process, the Task Force identified key features of any state housing tax credit program that should be considered to make a Virginia housing opportunity tax credit successful. The treatment of these features in the legislation often requires a balancing act between creating a credit that produces the highest value to investors (and resulting equity for affordable housing) and the impact on state tax revenue. The following is a description of salient features to consider in drafting legislation and options with respect to them. The approach determined to be most effective and efficient for each salient feature for the two proposals will be described later in the Report in the description of those programs.

11 https://law.lis.virginia.gov/vacode/58.1-339.2/

A. Size of the Program

- **Issue:** How many dollars of credits should be available for award each year?

- **Cap Based Upon Federal LIHTC:** Several states' credit allocations are equal to or based upon that of the federal LIHTC on both 4% and 9% deals. For Virginia, state credits allocated in an amount equal to federal 9% credits would roughly total $23 million per year (federal 9% credits are determined based upon state population). Any estimation as to the 4% state allocation would be dependent on a number of variables that are not constant year to year; however, for a sense of scale, they were $9.7 million in 2019 and $3.3 million in 2018 (the amount of federal 4% credits for new construction is determined by the number of developments utilizing tax-exempt bond financing that also seek 4% credits). [12]

- **State-Specific Cap Determined by State Legislature:** Several states have a state-specific dollar cap on credits set forth in the legislation that is unrelated to the amount of federal LIHTC.

- **Task Force Comment:** The total dollar amount of the state housing opportunity tax credits needs to be sufficiently large enough to effectively create new affordable units that would not have otherwise been built but for the additional Virginia housing opportunity tax credit. While a state credit pool equal to the federal LIHTC is aspirational, the general consensus of the Task Force is the annual credit amount of proposed state housing opportunity tax credit should not be less than $20 million per year. The Task Force also noted pending federal legislation, The Affordable Housing Credit Improvement Act, intended to increase the allocation of 9% credits by 50%, phased in over five years.

B. Taxpayer Limitation

- **Issue:** Should the legislation limit the amount of credits that can be awarded per developer, per development or claimed by a single taxpayer?

- **No Limit:** Some states do not have limits. In their estimation, this results in a competitive process producing the best applications and credit pricing.

- **Limit:** Other states impose such limits in order to have multiple developers and investors able to participate in the program in the long run.

- **Task Force Comment:** The QAP currently limits developers to no more than 15% of the federal 9% LIHTC per year, and developments are limited in their credit request by the applicable pool size in which they compete. The Task Force further notes that the state rehabilitation tax credit provides "For taxable years beginning on and after January 1, 2017, the amount of the credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed $5 million in any taxable year." The Task Force would defer to the state tax department for its judgment on the appropriateness of a limit on individuals.

12 For the federal LIHTC program, the foregoing credit amounts are an annual amount each year of a 10-year credit period

C. Credit Period

- **Issue:** In how many years should the credits be claimed by taxpayer?
- **Follow LIHTC:** The state credit period for many states mirror the 10-year federal credit period. This means that the awarded credits are claimed 1/10th per year for 10 years.
- **Accelerated Credit Period:** Several states allow the credit to be claimed on an accelerated basis, as compared to LIHTC, with credit periods as short as one-year.
- **Task Force Comment:** To determine the full amount of credits being claimed, the credits awarded must be multiplied by the credit period. Due to the time value of money, a credit with a shorter credit period is more valuable to investors and increases the credit price. However, a shorter credit period means the annual credit amount is multiplied by fewer credit period years. A credit with a longer credit period would have a reduced equity price but would get multiplied for ten years and would ultimately provide more equity for affordable housing.

D. Credit Carryover Period

- **Issue:** A taxpayer must have a state tax obligation greater than the amount of available credits in order to fully use its credits. The carryover or carryforward period is the number of years that any unused credits can be retained by taxpayer and utilized in subsequent years. How many years should the carryover period be?
- **Multi-Year:** A multi-year period provides the most flexibility for investors and is therefore priced more favorably, creating more equity. A multi-year period could also spread the reduction in state tax revenue over more than one year.
- **No Carryforward:** A "use it or lose it" approach would provide certainty as to the maximum number of credits that could be claimed in any particular year.
- **Task Force Comment:** The Virginia HRTC may be carried over for up to 10 years.

E. Risk of Recapture

- **Issue:** Recapture refers to a situation where the development has not been operated in accordance with program requirements and therefore credits are terminated (recaptured) by the state. The question is who bears this risk?
- **Developer:** When the developer shoulders this risk of recapture, they are more likely to comply with programmatic requirements. Obviously, investors prefer this model and will pay more for such a credit.
- **Investor/Taxpayer:** A state may prefer this option as there are existing processes for collecting unpaid taxes from individuals and the developer entity may not have assets.
- **Task Force Comment:** In the federal LIHTC program, the investor bears the risk of recapture, but typically requires the developer and its principals to sign guarantees in order to shift the risk.

F. Certificated or Allocated Credits

- **Issue:** Should the credits be certificated or allocated, or both?

- **Certificated:** Certificated credits are credits that may be sold to a third party that is not an equity partner in the development. The benefit of certificated credits is that if the sale of certificates happens at the nonprofit or CDFI level there will be no resulting federal tax liability. For-profit developers could then benefit from the program by partnering with a nonprofit, or by borrowing from a CDFI capitalized by certificated credits, and thereby, increase the pool of equity investors. Those interested in tax relief will include potential investors not directly involved in the affordable housing development but who still have a need for tax relief and are, therefore, interested in the credits.

- **Allocated:** Allocated credits are credits awarded to and claimed by an equity partner in the development. The benefit of allocated credits is they are not limited to nonprofit participation and there is familiarity with this type of credit approach among developers and investors.

- **Task Force Comment:** The federal LIHTC credits are allocated credits.

G. Bifurcation

- **Issue:** A bifurcated credit is a credit that is not required to be sold to the same investor that purchases the federal Low-Income Housing Tax Credits. Should the state credit be bifurcated?

- **Bifurcated Credit:** The benefit of a bifurcated credit is a broader appeal that expands the pool of potential investors. A national syndicator may not be interested in purchasing the state credits in addition to the federal if they do not have state tax liabilities which would reduce the price given for the state credits.

- **Non-Bifurcated Credit:** The benefit of a non-bifurcated credit is ease of use, as the credits would be bundled and only one investor would need to be involved. It is also likely there is less administrative burden than a bifurcated credit.

- **Task Force Comment:** A bifurcated credit would increase the equity price achievable for the state opportunity tax credit.

H. Use with 4% and 9% Credits

- **Issue:** Should the credits be utilized in connection with 4% or 9% credits, or both?

- **9% Credits Only:** The 9% credit deals produce the most units in most states, including Virginia. The 9% credits are subject to a more competitive application process than 4% credits (which are allocated based upon the use of tax-exempt bond financing and must only meet a threshold score). This competitive process leads to selection of points items (such as additional green building requirements) that can be expensive. The state credit could enable more units with these selections.

- **4% Credits Only:** The 4% credit produces less equity than a 9% credit, based upon the credit calculation prescribed in the IRC. Using the state credit would enable more 4% deals to be feasible.

- **Both 9% and 4%:** This creates the widest pool of eligible projects, but minimizes ability to favor one type if that is desired.
- **Task Force Comment:** The structure of the state credit program may impact this decision, as noted in the discussion of the proposals.

I. Program Priorities

- **Issue:** What priorities should the program target and should these priorities be stated in the legislation or the state QAP?
- **Priorities in Legislation:** State priorities vary. Including them in the legislation itself clearly articulates the legislature's goals for the program.
- **Priorities in QAP:** State priorities vary. Expressing the priorities in the QAP permits the program to be more nimble as housing needs and priorities change over time.
- **Task Force Comment:** The priorities for the program are identified in the description of the Task Force process. Regarding the QAP, Virginia Housing is responsible for updating the QAP to incorporate current program priorities that meet the needs identified in the Commonwealth. These priorities are determined by regularly gathering external stakeholder input through a series of focus groups and public hearings, and ultimately approved by the Governor. The QAP is typically updated every other year, although can be done more frequently if the need arises.

J. State Taxes and Fees Satisfied by the Tax Credit

- **Issue:** What state taxes and fees can be offset by the credit?
- **Limited:** The Virginia housing opportunity tax credit may be used to offset tax liability on individual income taxes, estate and trust taxes, corporate income taxes, insurance license taxes, and utility license taxes.
- **Expanded:** Some states expand the list to also include state franchise fees that are fees paid by banks in lieu of state taxes.
- **Task Force Comment:** More input from state tax department may be needed on this issue.

K. Limitations on Types of Developers

- **Issue:** Should participation in the program be limited to certain types of developers?
- **Non-Profit Developers:** Some states limit their programs to non-profit developers (501c(3) tax exempt organizations) as a means to support those mission-based entities. Also, for non-profit developers, the subsequent sale of the certificate would not generate a federal tax liability—this would result in the greatest value for the State's "investment" in this program and maximize the value of the credit.
- **All Developers:** States have indicated this approach maximizes the pool of affordable housing developers throughout the state.

- **Task Force Comment:** There may be some difference of opinion on this issue among the affordable housing developer community, which includes both for-profit and non-profit members.

L. Administration of Tax Credits and Program

- **Issue:** The legislation instituting this study names DHCD and Virginia Housing as resources, which should administer the program?
- **Task Force Comment:** Because Virginia Housing administers the federal LIHTC, the Task Force recommends that Virginia Housing administer the state credit, if enacted.

M. Sunset Date

- **Issue:** Is the legislation required to have a sunset date?
- **No Sunset:** To attract developer and investor interest, it is desirable not to have a sunset date to provide certainty as to the continuity of the program as an ongoing concern.
- **Sunset:** May be legally required in appropriations act and promotes regular examination of the success of the program.
- **Task Force Comment:** The Task Force defers to the state tax department and legislative services for the determination of whether it is legally required.

N. Credit Price

- **Issue:** At what price is the credit estimated to trade and should the state set a minimum "floor" on the price?
- **Floor:** Would guarantee state a minimum "bang for the buck" for the reduction in state tax revenue.
- **No Floor:** Let the market determine price. Difficult to set an accurate floor in legislation prior to program roll out, and program needs to be nimble without need to change legislation as market conditions change.
- **Task Force Comment:** See the description of the proposals for discussion on expected pricing of credits. See also Section VI.A for a discussion of the impact of federal taxation of the credit on credit pricing.

VIII. Key Proposal

A. Background

During the process of developing the Virginia housing opportunity tax credit program, the Task Force contemplated many viable options in an effort to identify the most effective and efficient way to administer a program that would provide significant private equity investment in the development of low-income housing for the Commonwealth. As stated above in Section IV the option of offering a homeownership tax credit was also considered but ultimately tabled as further analysis would be required to identify the most effective and efficient viable option in addition to the traditional tax credit for rental housing.

The draft legislation for this Key Proposal was put forward by a Task Force member and garnered significant consensus as to its inclusion in the Report. (However, the Task Force was not unanimous in its ranking of alternatives. While agreeing that the Key Proposal has merit, several members of the Task Force suggested that the Alternative Proposal in Section IX of this Report be presented as a co-equal option to the Key Proposal.) This draft legislation closely follows a structure implemented and shown to be effective in other states. Another viable option that is also modeled on a proven structure that is effective in other states was presented and received significant support among some members of the Task Force. That alternative proposal is presented in Section IX.

B. Salient Features

- **Size of the program:** Equal to Virginia's annual federal LIHTC allocation, both 9% (approximately $23 million annually) and 4% (variable annual amount).[13]
- **Taxpayer Limitation:** None.
- **Credit Period:** 10-years (like federal LIHTC).
- **Credit Carryover Period:** Three years.
- **Risk of Recapture:** The recapture rules would mirror the federal LIHTC rules. The partnership's general partner would bear the risk of recapture.
- **Certificated or Allocated Credits:** Allocated.
- **Bifurcation:** Bifurcated.
- **Use with 4% and 9% Credits:** State credit may be used with both 9% and 4% credits.
- **Program Priorities:** To be set forth in the QAP.
- **State Taxes and Fees Satisfied by the Tax Credit:** The Virginia housing opportunity tax credit may be used to offset tax liability on individual income taxes, estate and trust taxes, corporate income taxes, insurance license taxes and utility license taxes. The Task Force also suggested adding state bank fees (i.e., franchise tax).
- **Limitations on Types of Developers:** No limitation.
- **Administration of Tax Credits and Program:** Virginia Housing.
- **Sunset Date:** None, unless mandatory to include.
- **Credit Price:** Based on prevailing market conditions in other states with analogous program structures and mature investor markets, it is estimated that the credit price would be $0.54-$0.62.

C. Draft Legislation for Key Proposal

The Task Force evaluated and includes for consideration by the Governor, the Secretary of Commerce and Trade, the Director of DHCD, and the Commissioners of Virginia Housing the following draft legislation of the Key Proposal.

13 The foregoing amounts are an annual amount each year of a 10-year credit period.

AN ACT RELATING TO TAXATION; ENACTING A VIRGINIA HOUSING OPPORTUNITY TAX CREDIT.

SECTION 1. SHORT TITLE. The act may be cited as the "Virginia Housing Opportunity Tax Credit Act".

SECTION 2. DEFINITIONS. As used in this Act:

A. ***"Housing Opportunity Tax Credit"*** or "tax credit" means the tax credit created by this Act.

B. "Authority" means Virginia Housing, or its successor agency.

C. "Credit period" means the credit period as defined in Section 42(f)(1) of the Internal Revenue Code, as amended.

D. "Department" means the Department of Taxation, or its successor agency.

E. "Eligibility certificate" means a certificate issued by the authority to the owner of a qualified project certifying that such project qualifies for the ***housing opportunity tax credit*** authorized by this Act, and specifying the amount of ***housing opportunity tax credits*** that the owner of such qualified project may claim in each year of the credit period. The authority shall issue an eligibility certificate to a qualified project upon the authority's approval of a final cost certification that complies with the authority's requirements.

F. "Federal low-income housing tax credit" means the federal tax credit as provided in Section 42 of the Internal Revenue Code, as amended.

G. "Qualified project" means a qualified low-income building (as defined in Section 42(c) of the Internal Revenue Code, as amended), that is located in the Commonwealth of Virginia, is placed in service on or after January 1, 2021, and is issued an eligibility certificate.

H. "Qualified taxpayer" means a taxpayer owning an interest, direct or indirect (through one or more pass-through entities), in a qualified project at any time prior to filing a tax return claiming a ***housing opportunity tax credit***.

I. "Taxpayer" means an individual, corporation, S corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, or nonprofit organization.

J. "Virginia tax liability" means the income taxes imposed by Articles 2 (§58.1-320 et seq.), 6 (§58.1-360 et seq.) and 10 (§58.1-400 et seq.) of Chapter 3; Article 1 (§58.1-2500 et seq.) of Chapter 25; and Article 2 (§58.1-2620 et seq.) of Chapter 26. An insurance company claiming a housing opportunity tax credit against the taxes, licenses and other fees, fines and penalties imposed by Article 1 (§58.1-2500 et seq.) of Chapter 25, including any retaliatory tax imposed on insurance companies by the Code of Virginia, shall not be required to pay any additional tax as a result of claiming the tax credit. The tax credit may fully offset any retaliatory tax imposed by the Code of Virginia.

SECTION 3. TAX CREDIT.

A. A ***housing opportunity tax credit*** shall be allowed for each qualified project for each year of the credit period, in an amount equal to the amount of federal low- income housing tax credit allocated or allowed by the authority to such qualified project, except that there shall be no reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. 42(f)(2).

B. A qualified taxpayer may claim a ***housing opportunity tax credit*** against its Virginia tax liability prior to reduction by any other credits allowed the taxpayer. The tax credit may be allocated by pass-through entities to some or all of its partners, members or shareholders in any manner agreed to by such persons, regardless of whether or not any such person is allocated or allowed any portion of any federal low-income housing tax credit with respect to the qualified project, whether the allocation of the tax credit under the terms of the agreement has substantial economic effect within the meaning of Section 704(b) of the Internal Revenue Code, and whether any such person is deemed a partner for federal income tax purposes as long as the partner or member would be considered a partner or member in accordance with Chapter 2.1 of Title 50 and Chapter 12 of Title 13.1 of the Code of Virginia, and has been admitted as a partner or member on or prior to the date for filing the qualified taxpayer's tax return (including any amendments thereto) with respect to the year of the tax credit. Such pass- through entities or qualified taxpayer may assign all or any part of its interest, including its interest in the tax credits, to one or more pass-through entities or qualified taxpayers, and the qualified taxpayer shall be able to claim the tax credit so long as its interest is acquired prior to the filing of its tax return claiming the tax credit.

C. The tax credit authorized by this Act shall not be used to reduce the Virginia tax liability of the taxpayer to less than zero (0).

D. Any tax credit not used in a taxable year may be carried forward for the succeeding three years.

E. A qualified taxpayer claiming a housing opportunity tax credit shall submit a copy of the eligibility certificate at the time of filing its tax return with the department. If the owner of the qualified project has applied to the authority for the eligibility certificate but the authority has not yet issued the eligibility certificate at the time the qualified taxpayer files its original tax return claiming the tax credit, the taxpayer may claim the tax credit based upon the amount of tax credit set forth in the carryover allocation or 42(m) letter, as applicable, issued to the qualified project, and shall amend its tax return to include the eligibility certificate upon its receipt. If the amount of tax credit in the eligibility certificate is different than the amount of tax credit previously claimed, the taxpayer shall adjust the tax credit amount claimed on the amended tax return.

F. If under Section 42 of the Internal Revenue Code, as amended, a portion of any federal low-income housing credits taken on a qualified project is required to be recaptured or is otherwise disallowed during the credit period, the taxpayer claiming ***housing opportunity tax credits*** with respect to such project shall also be required to recapture a portion of any tax credits authorized by this Act. The percentage of ***housing opportunity tax credits*** subject to recapture shall be equal to the percentage of federal low-income housing credits subject to recapture or otherwise disallowed during such period. Any tax credits recaptured or disallowed shall increase the income tax liability of the qualified taxpayer who claimed the tax credits in a like amount, and shall be included on the tax return of the qualified taxpayer submitted for the taxable year in which the recapture or disallowance event is identified.

SECTION 4. ADMINISTRATION. Virginia Housing shall administer the ***housing opportunity tax credit*** program.

SECTION 5. APPLICABILITY. The tax credit created pursuant to this Act shall only be claimed with respect to taxable years beginning on or after January 1, 2021.

IX. Alternative Proposal

A. Background

An alternative program was presented to the Task Force by members and also garnered substantial consensus for inclusion in the Report. However, the Task Force was not unanimous in its ranking of alternatives. While agreeing that the Key Proposal set forth in Section VIII of this Report has merit, several members of the Task Force suggested that this Alternative Proposal be presented as a co-equal option to the Key Proposal.

The Alternative Proposal is based on a certificated tax credit utilized in several states. This proposal was drafted in an attempt to address the issue of a taxable event being triggered when a traditional credit enters a partnership, thereby diminishing the value of the credit to investors. (As previously stated in Section VI.A, however, further investigation is needed to clarify the tax treatment of the Alternative Proposal and that investigation is continuing). While a “donation credit” would seem to solve this problem, potentially getting one dollar of benefit from one dollar of credit allocated by the state, it provides no positive financial return to the donor and therefore limits the market of potential contributors. This program structure utilized in Connecticut—they offer a dollar-for-dollar credit and raise $10 million per year—but, in recent years they have become increasingly reliant on a single large contributor to provide 90% of the program’s capital.

Based on feedback from the Task Force and subsequent research, this Alternative Proposal and subsequent structure was proposed as an alternative to the Key Proposal. The program will be a certificated state housing tax credit awarded to 501c(3) tax exempt organizations. This structure would allow recipients of credit certificates to sell them to investors interested in using the credits to reduce their state tax liability.

B. Salient Features

- **Size of the Program:** $20 million to $25 million annually.
- **Taxpayer Limitation:** Regulated by the QAP, but there should be a limit of 10% to 12.5% of the total available credits for any single project, but not a limit to those purchasing and claiming the credit on their taxes.
- **Credit Period:** One year.
- **Credit Carryover Period:** Three years.
- **Risk of Recapture:** The partnership or an approved guarantor would bear the risk of recapture and compliance monitoring would mirror the federal LIHTC.
- **Certificated or Allocated Credits:** Certificated, with option to also allocate based on partnership preference.
- **Bifurcation:** Not needed.
- **Use with 4% and 9% Credits:** State credit may be used with both 9% and 4% credits.
- **Program Priorities:** To be set forth in the QAP.
- **State Taxes and Fees Satisfied by the Tax Credit:** The credit should be allowed to offset state individual and corporate taxes as well as state franchise fees that are fees paid by banks in lieu of Virginia state taxes.
- **Limitations on Types of Developers:** No limitation on types of developers, but the allocation of the credits should be restricted to 501c(3) tax exempt organizations. Certificates could also be awarded directly to non-profit sponsors of LIHTC developments or CDFIs.
- **Administration of tax credits and program:** Virginia Housing.
- **Sunset Date:** Preferably no.
- **Credit Price:** Virginia certificated credit could generate between $0.87 and $0.90 per $1.00 of state housing tax credit.

C. Framework of the Alternative Proposal for a Virginia Housing Opportunity Tax Credit Program

Several states, including Massachusetts and California, have robust state credit programs that operate in a similar fashion as Virginia's Historic Rehabilitation Tax Credit and similar to the structure proposed below, but tied to the federal LIHTC program. Recently, these two states added components that allow some of the credits be certificated. Allowing certificated credits gives partnerships the ability to monetized the tax credits via a sale of the certificate to another taxpayer desiring the reduction in state tax liability.

These states require that the certificated tax credits be awarded only to nonprofit entities—the sale of the certificate by the nonprofit does not generate a federal tax liability since the seller is tax-exempt. As a result, the nonprofit recipient of the credits can either loan the proceeds of the sale of the certificate into the partnership or donate the certificate to a third party nonprofit who would, in turn, make such a loan to the partnership. The requirement to only award certificates to non-profits does limit the pool of candidates initially, but it should be noted, it is more difficult for for-profit developers to benefit from such structures without using a nonprofit general partner because of the federal tax liability issue. This process does incur a possible risk as some tax attorneys worry whether a certificate offered to a nonprofit parent that is in turn loaned into that nonprofit's project might be vulnerable to being ultimately considered a disguised sale, thereby generating a major tax liability for the partnership. Partnership agreements for such deals are generally drawn up in such a way that the risk of the deferred loan being disregarded by the IRS would be borne by the general partners.

Both Massachusetts and California also allow developers to choose whether they want an allocated credit, which is subject to federal taxation, or a certificated credit. The rationale for offering an allocated credit, which comes at a much lower value to the project and an efficiency cost to the state, would be to generate more equity in order to solve capital account problems (such as on large 4% developments with lots of losses in danger of going negative before year 10).

Some or all of the certificates could be awarded to one or more pre-approved statewide 501c(3) Community Development Financial Institutions (CDFIs), which would use the proceeds of the sale of the credit certificates to capitalize a deferred loan fund. Certain projects receiving a reservation of federal LIHTC that meet the overlaying eligibility criteria as established in the QAP could apply to the CDFI(s) for interest-only deferred loans. This would likely require such projects to declare on their application for reservation their intention to seek such a deferred loan upon reservation, and may be necessary to establish competitive allocation criteria to fairly distribute the limited resource. The CDFI(s) would underwrite the loan applications in accordance with requirements established in the QAP and would make the loans into the partnerships using standard loan documents and a simple closing process. Both the DHCD and Virginia Housing could participate in the loan approval process if they choose to do so. The mechanics of how certificates would be awarded by the state would need to be clarified in the final legislation but would likely follow similar criteria as the federal LIHTC program, and administered by Virginia Housing.

The sale of certificates happens at the CDFI level to ensure no resulting federal tax liability. This would maximize the amount of capital received for every dollar of state credit and provide a vehicle for for-profit developers, and the nonprofits, to maximize the benefit of the state credit certificates. Both for-profit and nonprofit-sponsored developments could apply for the deferred loans through some competitive process following criteria established in the QAP. The state housing opportunity tax credit certificates would be awarded according to the plan established by the final legislation and the state credit would be available to the purchaser in the tax year in which it is purchased. There would be no recapture risk to the investor or to the deferred loan lender. If federal LIHTC noncompliance is detected by Virginia Housing and results in a federal credit recapture, the partnership or an approved guarantor would be responsible for repaying directly to the state the proportional financial impact of that recapture on the proceeds provided by the state credit.

A preliminary analysis of the benefits of a certificated state housing tax credit awarded to 501c(3) organizations estimates the program could deliver pricing near $0.90 to the $1.00 and $0.60 - $0.65 to the $1.00 for an allocated credit. Ensuring the opportunity for a purchaser to earn a positive return on the transaction is important to guarantee the pool of potential purchasers remains viable. A positive return helps ensure there is a greater pool of investors than the pool of potential donors with a dollar-for-dollar donation credit, such as is used in Connecticut. As a result, it is assumed more capital could be raised as compared to the donation credit model likely resulting in greater production and increased affordability.

D. Proposed Legislation

Because the Alternative Proposal was only recently developed as part of the Task Force process, no draft legislation exists for this option. However, both Massachusetts and California legislation would be instructive and Task Force members and Virginia Housing and DHCD staff are committed to continued study of this alternative and willing to work with the Virginia Division of Legislative Services on legislation.

X. Economic Modeling

A. Background

Virginia Housing contracted Novogradac Consulting LLP to develop an economic impact model for a Virginia housing opportunity tax credit. The model was generated using IMPLAN (impact analysis for planning) economic impact modeling software to analyze the effects of household spending associated with a 10-year Virginia housing opportunity tax credit that mirrors the federal LIHTC. The effects were modeled to show the short-term, one-year impact and the long-term impacts with a 20-year time horizon. The key assumptions are held constant for both impact model results. The results represent statewide effects of spending throughout the Commonwealth of Virginia and are not region-specific. It is important to note the geographic location of housing developed as a result of a Virginia housing opportunity tax credit will have a direct impact on the economic effects as market conditions are not homogeneous across the Commonwealth. As a result, the impact results presented here are a best estimation of the economic impact on the Commonwealth and regional impacts will vary greatly from project to project. Housing Virginia offers a Residential New Construction Impact Calculator that estimates localized impacts.[14]

B. Defining Economic Impacts

Economic impacts are changes in the size and structure of the state's economy as a result of goods and services purchased from within the state using money generated from outside the state. A common modeling technique to measure economic impacts is through the use of input-output (I-O) analysis. I-O models capture direct business-to-business purchases and induced spending generated when households supported by the additional economic activity as a result of this spending. I-O models are static and measure impacts only in the year in which the economic event occurred.

IMPLAN is an input–output model widely used in academic and professional research. The IMPLAN model applies regional and industry multipliers to estimate the direct, indirect, and induced effects of agency-related spending. The estimated impacts include regional gross domestic product (GDP), earnings, jobs, and tax revenue. The impacts measured occur only within the year of spending, in this case during the construction phase. IMPLAN includes direct, indirect, and induced effects.

- **Direct Effects:** The cost of construction from developments funded as a result of a Virginia housing opportunity tax credit.
- **Indirect Effects:** The value of the spending of local businesses purchases from other local businesses as a result of the construction.
- **Induced Effects:** The impacts associated with the expenditure of wages derived from direct and indirect effects (i.e., household purchases of goods and services).
- **Total Economic Impacts:** The sum of direct, indirect, and induced effects.
- **Earnings:** The sum of wages, salaries, and other labor income.
- **Employment/Jobs:** The number of wage and salaried jobs, including sole proprietors and general partners. Includes full- and part-time jobs.
- **State & Local Tax Impacts:** State and local revenues associated with direct, indirect, and induced economic activity (i.e., sales tax, property tax, and income tax). IMPLAN does produce federal tax revenues, but these revenues leave the region and do not directly benefit the state.

C. Key Assumptions

The economic impact model presented below relies on the following assumptions to create the most accurate estimate of statewide economic impacts of a Virginia housing opportunity tax credit.

14 https://www.housingvirginia.org/toolkits/sourcebook/residential-new-construction-economic-impact-calculator/

- Short-term impacts estimate the one-year impact as a result of the construction of new affordable units which take place in the year after the credits are awarded. It is reasonable to assume these impacts will be sustained, and the units will compound, for each year the Commonwealth awards a new round of tax credits.
- Long-term impacts measure 20 years of estimated impacts based on the ongoing increase in economic activity as a result of the new affordable housing units. This model also assumes 10 consecutive years of new tax credits awarded during the first 10 years. It is reasonable to assume these impacts will continue to compound for the life of the developments.[15]
- The model assumes an "investment leverage" ratio of 5:1. Meaning, for every $1 of the equity generated as a result of the Virginia housing opportunity tax credit, economic activity in the form of the total development costs increase by $5. This ratio was determined based on the anticipated equity to total development costs, as supported by data from Virginia's federal LIHTC program.
- The model, by design, receives most of the impacts during the construction phase. Long-term supported impacts are limited to the operations of the building itself (maintenance, repairs, management, etc.) and the marginal increase in household spending provided to the households.
- The model assumes a one-year construction period.
- The model assumes all households already reside in the Commonwealth of Virginia.
- The model does not assume any rent growth at the site.
- The model assumes that the households will be at 50% of AMI for Richmond, VA metropolitan statistical area. This was chosen as a representative median for a statewide measurement, it is reasonable to assume the area median income varies across the Commonwealth and the income thresholds vary accordingly.

D. Summary of Impacts

The economic impacts results are based on $20 million of Virginia housing opportunity tax credit awarded annually, with a 10-year credit period that generates $0.60 of equity per $1.00 of credit. Due to time constraints, these parameters are based upon the Key Proposal and the Alternative Proposal is not modeled below. Virginia Housing staff is available should any addressee of this report request financial modeling on the Alternate Proposal.

The model developed for the Report scales linearly with the credit period. So, a five-year credit period would result in approximately half of the impacts presented here; a one-year credit period would result in one-tenth of the impact.

15 https://www.housingvirginia.org/toolkits/sourcebook/residential-new-construction-economic-impact-calculator/

Short-Term Statewide Impacts of a Virginia Housing Opportunity Tax Credit

	Short Term Annual Impacts*
Affordable Units	**762**
Jobs Created**	**3,948**
Direct	2,731
Indirect	378
Induced	840
Earnings Created**	**$227.5**
Direct	$164.7
Indirect	$21.2
Induced	$41.6
State & Local Tax Impact***	**$18.9**
Direct	$6.9
Indirect	$4.1
Induced	$7.9
GDP Impact	**$344.6**
Direct	$234.0
Indirect	$32.8
Induced	$77.8

Note: Values are in millions of dollars and are not adjusted for inflation.
**Estimated short term annual impacts are based on construction costs and represent only the impact generated from the new private equity generated as a result of the state tax credit allocation.*
***Annual estimated jobs and related earnings created are result of the construction of new tax credit units and expire upon completion of the developments.*
****State & Local Tax Impacts include: Sub-county tax, special districts tax, county tax, and state tax.*

The short-term impacts occur during the year of construction and are likely to sustain for the life of the Virginia housing opportunity tax credit program. Each award year of new Virginia housing opportunity tax credits costs the state a total of $200 million in forgone state tax revenue of the course of 10 years. However, some of this tax revenue is recouped in the form of new state tax revenues as a result of the construction and new housing units (i.e. new income tax as a result of the jobs and labor income generated as a result of the new construction).

For each year new tax credits ($200 million in unrealized tax revenue) are awarded the state would see an additional 762 new affordable housing units. The resulting annual economic impact would create nearly 4,000 jobs and $228 million in earnings. A vast majority (97%) of these jobs and earning are in the construction industry and result from the construction of the new tax credit funded developments. Similarly, the state and local tax impacts, and regional GDP are mostly a result of the construction of new buildings. While some impact continues as a result of new household spending from residents occupying the new units, a majority of the impact is a result of the construction phase. Therefore, the impacts presented in the short-term reflect the impact of ongoing funding and new unit production. Overall, the effect of a 10-year tax credit funded at $20 million a year for a 10-year credit period (at a total gross cost of $200 million in unrealized tax revenue), the Commonwealth could realize 762 new units, 3,948 new jobs, $228 million in labor income, $19 million in state & local tax revenues, and $345 million in state GDP per year.

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Long-Term Statewide Impacts of a Virginia Housing Opportunity Tax Credit

Ten consecutive years of new credit allocation, beginning in year one.

	Long Term 20-year Impacts*
Affordable Units	**7,620**
Jobs Supported**	**102**
Direct	46
Indirect	39
Induced	18
Earnings Supported**	**$4.0**
Direct	$1.1
Indirect	$2.0
Induced	$0.9
State & Local Tax Impact***	**$198.1**
Direct	$72.4
Indirect	$44.8
Induced	$80.9
GDP Impact	**$3,566.0**
Direct	$2,391.1
Indirect	$374.6
Induced	$800.3

Note: Values are in millions of dollars and are not adjusted for inflation.
**Estimated long term impacts are based on the ongoing increase in economic activity as a result of the new affordable housing units as a result of the state tax credit, and will continue to generate impacts for the life of the units.*
***Annual estimated jobs and related earnings support are result of the ongoing needs of the region as a result of new household spending as a result of the developments.*
****State & Local Tax Impacts include: Sub-county tax, special districts tax, county tax, and state tax.*

The long-term impacts measure the more sustained impacts as a result of the same 10-year credit program that awards new credits for 10 years. Under this model, the total cost to the Commonwealth compounds to $2 billion in upfront unrealized tax revenue. A summary of the impact schedule is in Appendix B of the Report. Just as with the short-term impacts, some of the upfront unrealized tax revenue will be recouped over time due to the increase in state tax revenue from the additional spending as a result of the developments. The jobs and labor income presented in the short-term impacts represent the increase in economic activity during the construction phase. In the long-term impacts, the jobs and earnings supported represent the residual increase in new employment and earnings as a result of the new building and residents. This may include building maintenance, security, or retail jobs as a function of increased household spending in the region. For the life of the buildings placed in service during the Virginia housing opportunity tax credit program, the additional development would continue supporting 102 jobs and $4 million in earnings each year.

The long-term economic impacts of the credit, modeled over 20-years, results in a culmination of the increased state & local tax revenue, and GDP from both 10 years of construction, and 10 years of continued occupancy and spending (at the end of year 20, the final $20 million in forgone tax revenue will be allocated from the last year of tax credit awards). After 20 years, Virginia could realize $198 million in state & local tax revenues, and $3.6 million in state GDP.

XI. Conclusion

The Task Force's consensus is that the implementation of the Virginia housing opportunity tax credit would provide key resources to support the development of an adequate supply of affordable housing in the Commonwealth. With an estimated 44% of Virginia renters experiencing rent burden, and 22% of lower-income renters facing extreme rent burden, there is an inadequate inventory of homes to meet need and demand. Currently, the construction industry faces many challenges in producing affordable housing. In many parts of Virginia, rental vacancy rates, and inventory of for-sale homes, is reaching record low levels and is placing increased upward pressure on the demand for rental housing. Current federal and state housing assistance programs are not funded at levels sufficient to address the shortages of affordable housing now facing Virginia.

The federal Low-Income Housing Tax Credit (LIHTC) program has proven to be an extremely effective vehicle for supporting the production of new affordable rental housing in Virginia. However, its funding level has not been adequate to keep pace with growing need. Virginia's other programs, including the Virginia Housing Trust Fund and the Historic Rehabilitation Tax Credit program, serve to help address housing insecurity, but a Virginia housing opportunity tax credit meant to augment these efforts as well as additional funding for these programs is needed to help address the depth of need in the Commonwealth. In looking at other states, the Task Force's determination is that a Virginia housing opportunity tax credit that mirrors the federal LIHTC has substantial potential to be another essential resource in increasing the production of affordable rental housing.

A Virginia housing opportunity tax credit could effectively move the needle in increasing the supply of affordable rental housing in the Commonwealth, including for those with low- and very low-incomes. Given the Task Force's key proposal of a Virginia housing opportunity tax credit funded at $20 million each year for a credit period of 10 years ($200 million in total tax credits awarded), the Commonwealth, in exchange for forgoing the revenue as shown in Appendix B, could see an annual impact of:

- 762 new affordable units
- 3,948 new jobs and $227.5 million in labor income
- $198.1 million in state and local tax revenue
- $3.5 billion in state Gross Domestic Product

It is the Task Force's consensus that further analysis be devoted to analyzing the full implications of both proposals presented in the Report to identify the most feasible framework for establishing a housing opportunity tax credit. This would likely involve the continued participation of a stakeholder advisory group that includes the Task Force that assembled this Report. Ultimately, any final legislation enacted should consider a program that:

- Increases the supply of new affordable rental housing throughout the Commonwealth, especially in areas of opportunity and to those most in need.
- Mirrors the federal Low-Income Housing Tax Credit program.
- Compliments existing state programs and efforts also helping to address state housing needs.
- Provides a simple programmatic structure that allows for clarity and flexibility for efficient and effective implementation.

The Task Force and staff at the Department of Housing and Community Development and Virginia Housing respectfully submits the Report. As directed in HB 810, the Task Force determines the alternatives set forth herein to be the most effective and efficient way to administer a Virginia housing opportunity tax credit in the Commonwealth.

Appendix A: Task Force Survey Responses

Virginia Housing
2020 State Tax Credit Poll
Summary of Reponses

This poll was conducted from July 10 through July 21, 2020. All 19 people responded. This report provides summary lists, charts and graphs. Survey Monkey was the collection tool for the poll. The process was managed by Ron Reger.

Input from task force member in this poll indicated the following themes:

- The primary purpose of the program would be to increase the supply of affordable rental units
- The program should target very low incomes (including below 30% AMI)
- The number of units produced is the most relevant outcome measure
- A state program should align with the LIHTC
- The program should be at least $10 MM in annual credits.
- Programmatic details (such as a cap) should be in the QAP and not in legislation
- The program design should be simple with clarity and flexibility
- The top 4 priorities for set asides are (1) New affordable unit production, (2) Preservation of existing affordable housing, (3) Affordable housing in increased areas of opportunity, (4) Affordable urban housing
- There is some concern it could take away for the Housing Trust Fund

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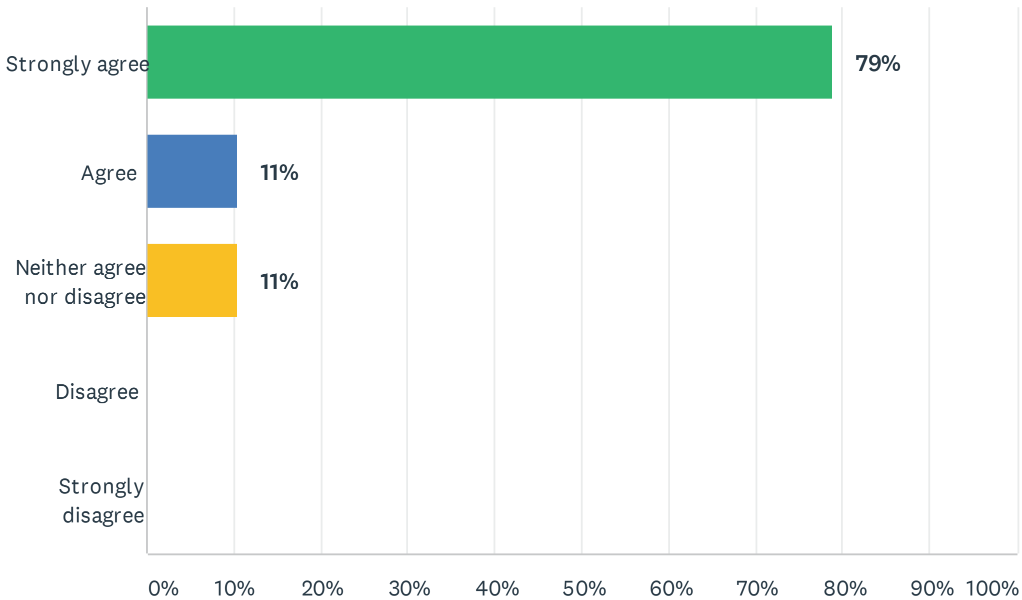
Q1 Please indicate your level of agreement with this statement: I support the creation of a state tax credit program in Virginia.

Answered: 19 Skipped: 0



Q2 What do you believe should be the stated objective, or goal, of a state housing credit program?

Answered: 19 Skipped: 0

#	RESPONSES	DATE
1	Create additional units of affordable housing	7/21/2020 11:27 AM
2	Increase the supply of affordable housing and target the program to very low income people.	7/20/2020 5:06 PM
3	More affordable housing; deeper affordability	7/20/2020 4:44 PM
4	To benefit Low to Moderate Income persons to create more affordable housing opportunity	7/20/2020 3:59 PM
5	To produce more units of affordable housing.	7/20/2020 3:58 PM
6	More affordable units; serving lower income households; helping projects pay for services	7/20/2020 11:42 AM
7	I think that is best left to the agencies with more subject matter expertise in this area.	7/20/2020 9:22 AM
8	To augment the success of the Federal Low-Income Housing Tax Credit Program in preserving, rehabilitating, and expanding the supply of affordable housing by leveraging private-sector investment capital. Additionally, a new State LIHTC Program should be built off the “lessons learned” from the previous State LIHTC Program; initially focus on the “basics” to allow to program to establish credibility among stakeholders, developers, non-profits, policy makers and legislators.	7/19/2020 11:33 AM
9	To increase the supply of affordable housing for people earning below 50% AMI.	7/17/2020 12:33 PM
10	Support the development and preservation of affordable and permanent supportive housing.	7/15/2020 12:34 PM
11	Financial support of the most effective affordable housing projects.	7/15/2020 10:22 AM
12	increase the number of rental units affordable to households with incomes below 50% of AMI	7/15/2020 9:45 AM
13	affordable housing targeting the Alice population and below	7/15/2020 9:42 AM
14	To increase the level of production of new or rehabilitated affordable rental units, preferably targeted to some specific public policy priority.	7/13/2020 2:48 PM
15	Increase the supply of quality affordable housing.	7/10/2020 4:58 PM
16	Increase production in both the 4% and 9% LIHTC programs.	7/10/2020 2:58 PM
17	To create as many new affordable housing units as possible. This could also be stated "to assist as many families in need as possible".	7/10/2020 2:24 PM
18	Produce much-needed affordable rental housing in VA, especially for households at 60% AMI or below.	7/10/2020 12:28 PM
19	Create more affordable housing units throughout the state serving households with incomes between 30% and 80% AMI.	7/10/2020 12:08 PM

Q3 What do you think should be the desired measureable outcomes of a state housing credit?

Answered: 19 Skipped: 0

#	RESPONSES	DATE
1	Number of units and apartment communities built; funds leveraged; jobs created	7/21/2020 11:27 AM
2	number of units and incomes served	7/20/2020 5:06 PM
3	number of units below 50%	7/20/2020 4:44 PM
4	Develop X amount of affordable energy efficient houses each year	7/20/2020 3:59 PM
5	Additional units of affordable housing.	7/20/2020 3:58 PM
6	more affordable units produced; more lower income households served with service-enriched affordable housing	7/20/2020 11:42 AM
7	I think that is best left to the agencies with more subject matter expertise in this area.	7/20/2020 9:22 AM
8	3. Additional affordable LIHTC units (newly construction or rehabilitated); confidence of stakeholders (investors, private sector/non-profit developers, other stakeholders); evidence that State LIHTC program is truly augmenting the Federal program; geographic diversity	7/19/2020 11:33 AM
9	1. More overall affordable units 2. More affordable units located in areas of high opportunity	7/17/2020 12:33 PM
10	Increase in affordable and permanent supportive housing units.	7/15/2020 12:34 PM
11	Number of units occupied by persons earning at or below 30% AMI at the time of leasing.	7/15/2020 10:22 AM
12	increase production of deeply affordable apartments	7/15/2020 9:45 AM
13	# of additional units created successful development of difficult to fund projects that serve rural and remote areas	7/15/2020 9:42 AM
14	Maximum use of existing systems-- Increased production of affordable housing that would not otherwise be produced-- economic impact/ job creation	7/13/2020 2:48 PM
15	number of units provided in areas that are not economically disadvantaged. Provision of family (not just couples) housing.	7/10/2020 4:58 PM
16	Producing more units than would have occurred otherwise (as opposed to year over year, since other variables such as interest rates may have an effect).	7/10/2020 2:58 PM
17	How many affordable housing units created that would otherwise not have been built, which also means how many families in need have newfound access to affordable housing.	7/10/2020 2:24 PM
18	Number of units produced at various tiers of affordability, 60% and below.	7/10/2020 12:28 PM
19	An increase in the number of affordable units created.	7/10/2020 12:08 PM

Q4 What do you think are the most Important aspects to consider in constructing a statewide housing credit?

Answered: 19 Skipped: 0

#	RESPONSES	DATE
1	Flexibility to work with other funding sources	7/21/2020 11:27 AM
2	and lower incomes that can be served.	7/20/2020 5:06 PM
3	ease, flexibility, simplicity	7/20/2020 4:44 PM
4	Affordable Housing and Job creation/boost the economy	7/20/2020 3:59 PM
5	Consensus among stakeholders that a state housing credit is the best use of state resources.	7/20/2020 3:58 PM
6	alignment with existing LIHTC program overseen by VHDA	7/20/2020 11:42 AM
7	I think that is best left to the agencies with more subject matter expertise in this area.	7/20/2020 9:22 AM
8	4. Simplicity and confidence among investor/developer community that this iteration of the program will not be like the last State LITHC Program. The harder the program is, the less helpful it will be overall. Should be structured similar to the Federal credit since that’s well established and understood by developers, lenders, and investors. Lofty goal, but I also think the re-establishment of this credit can be used as an opportunity to re-shape the misconceptions about LIHTC projects; the name of the credit won’t change the world, but we can help refocus the discussion by talking about Housing Opportunity Tax Credits	7/19/2020 11:33 AM
9	Affordability to renters and homeowners	7/17/2020 12:33 PM
10	There is little or no value to creating a state housing tax credit if the budget impact will result in a corresponding reduction in funding for the Virginia Housing Trust Fund.	7/15/2020 12:34 PM
11	The number of units affordable to households earning at or below 30% AMI supported.	7/15/2020 10:22 AM
12	simplicity, clarity - compatibility with federal credit	7/15/2020 9:45 AM
13	easy, simple, low barrier	7/15/2020 9:42 AM
14	ability to specially allocate or certificate the credit, market appeal to investors, maximu, administrative efficiency, short credit flow period, alighn with/ pair with federal credit	7/13/2020 2:48 PM
15	bifurcation from federal credit; developer to take recapture risk	7/10/2020 4:58 PM
16	Keeping the statutory language as simple as possible. All policy goals should be met in the QAP since it can adapt over time to reflect changing circumstances.	7/10/2020 2:58 PM
17	To maximize the value of the credit so that it can have the greatest impact. This means making it able to be used by the greatest number of businesses and individuals and also to make it redeemable in the shortest possible time frame (i.e. the first year after a community is placed in service).	7/10/2020 2:24 PM
18	transparency, efficiency, effectiveness	7/10/2020 12:28 PM
19	Impact on job creation, property tax base, and number of units produced. Ease of allocation and streamlined compliance are also important factors.	7/10/2020 12:08 PM

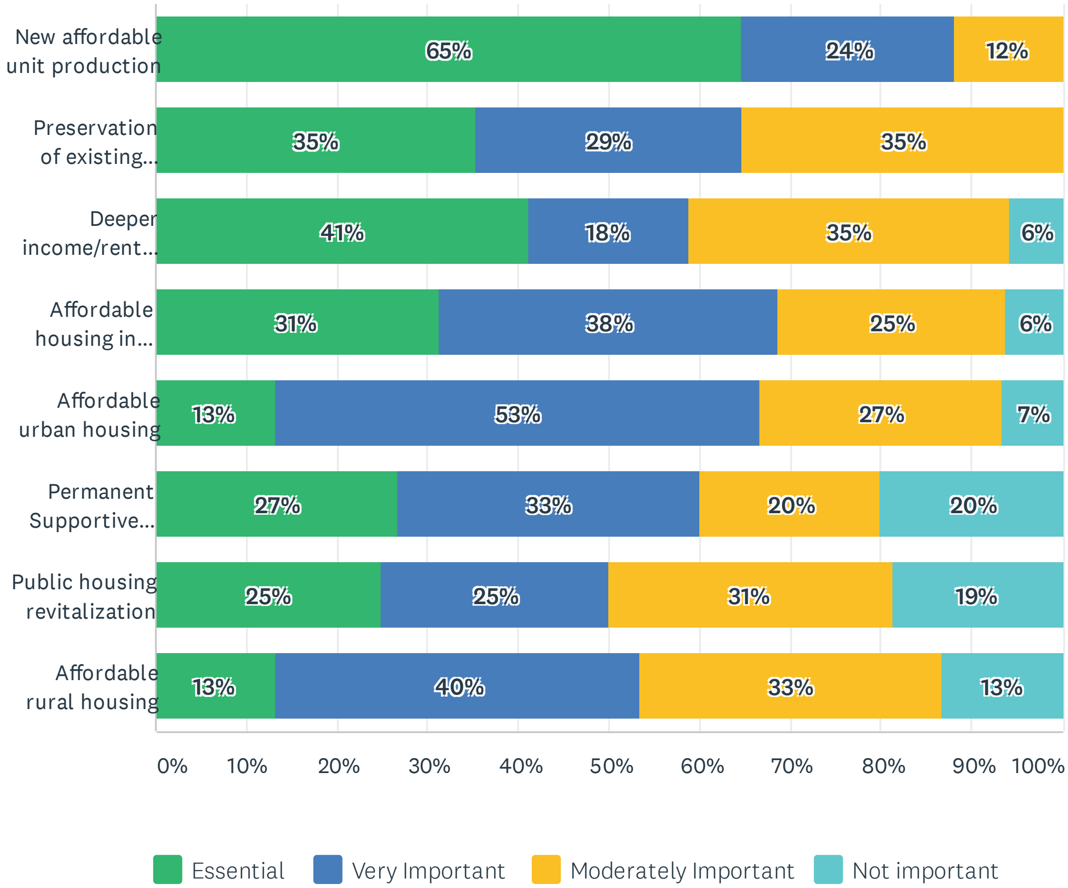
Q5 Please briefly explain why you indicated you "{{ Q1 }}" that you support the creation of a state tax credit program in Virginia. Your feedback will enhance the understanding of multiple perspectives.

Answered: 0   Skipped: 19

#	RESPONSES	DATE
	There are no responses.	

Q6 What targeted set asides, if any, should a state housing credit program seek to focus on? Prioritize each of the following options:

Answered: 18 Skipped: 1



	ESSENTIAL	VERY IMPORTANT	MODERATELY IMPORTANT	NOT IMPORTANT	TOTAL	WEIGHTED AVERAGE
New affordable unit production	65% 11	24% 4	12% 2	0% 0	17	5.06
Preservation of existing affordable units	35% 6	29% 5	35% 6	0% 0	17	4.00
Deeper income/rent targeting	41% 7	18% 3	35% 6	6% 1	17	3.88
Affordable housing in increased areas of opportunity	31% 5	38% 6	25% 4	6% 1	16	3.88
Affordable urban housing	13% 2	53% 8	27% 4	7% 1	15	3.47
Permanent Supportive Housing services	27% 4	33% 5	20% 3	20% 3	15	3.33
Public housing revitalization	25% 4	25% 4	31% 5	19% 3	16	3.13
Affordable rural housing	13% 2	40% 6	33% 5	13% 2	15	3.07

State Tax Credit Poll

#	OTHER (PLEASE SPECIFY)	DATE
1	Help bridge the funding gap caused by decreasing equity prices.	7/20/2020 5:10 PM
2	All of these questions should be addressed in the QAP, not state law.	7/10/2020 2:59 PM

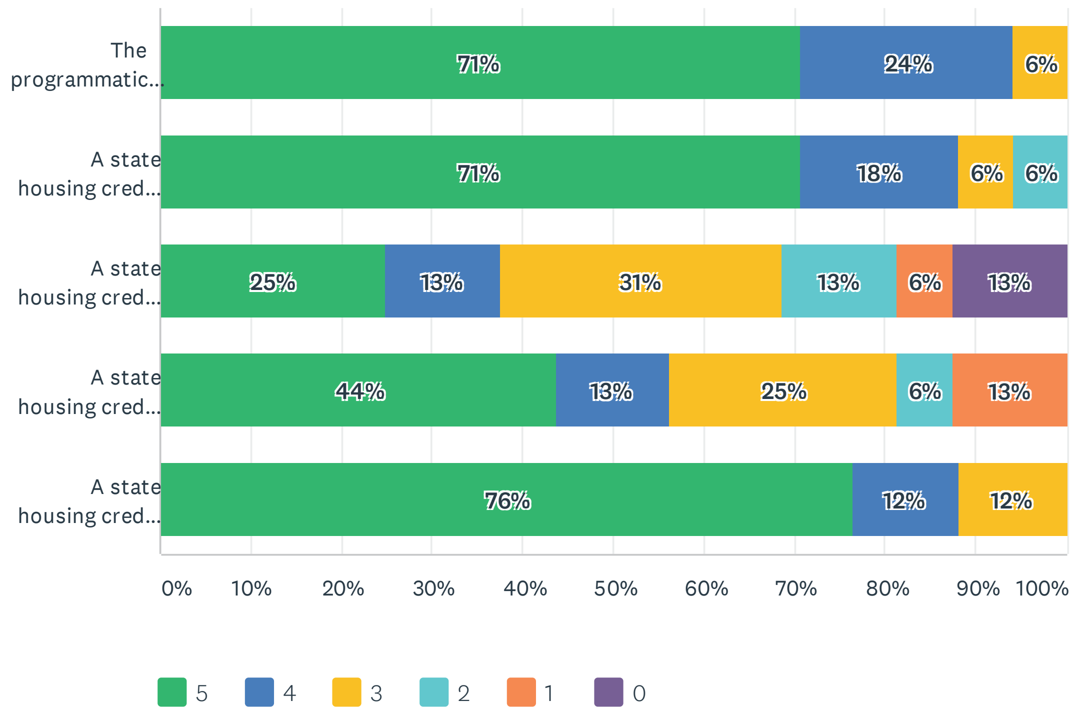
Q7 Use this space if you would like to explain your responses to the items on this screen.

Answered: 9 Skipped: 10

#	RESPONSES	DATE
1	Emphasize the need to prioritize public housing revitalization and the creation of supportive housing with service provisions	7/21/2020 11:29 AM
2	I believe too many priorities will diminish the message. Keep it simple.	7/20/2020 5:10 PM
3	The state housing credit should allow the state to carry out its housing priorities.	7/20/2020 3:58 PM
4	Addressing systemic racism in housing; serving lower income households will begin to address discriminatory practices of the past that disproportionately impacted people of color.	7/20/2020 11:45 AM
5	All of the items are important, but initially, the program should probably focus on areas/types of projects that will be able to quickly/easily leverage the state credits with the goal of expanding the focus over time. As someone mentioned on the first call, we probably don’t want to spread the credits to thin.	7/19/2020 11:33 AM
6	In my locality it is a struggle for a household earning at 120% or below to afford housing. I observe that there is nearly sufficient funding in the market for projects serving 80 - 120% although competition is strong. There is a dearth of funding for households at or below 30%AMI. If funding existed to provide a platform to builders who would venture into development that included units for those in this end of the market (<30%AMI) I think Virginia could begin to see real progress. We have to put forth financing that will relieve localities of the burden they face while serving residents who reside long term in short stay hotels and disintegrating mobile home parks. These communities exist and are likely to grow Post-COVID if we don't address them. My concern is that the next wave of social disruption will emerge from these communities if we don't address them. We have to figure out how to address the "Hard to House!" It will take more than money, but it will take money!	7/15/2020 10:43 AM
7	most likely, this program will not be massively funded at the state level - so it is critical that it not try to do too many things -- keep it simple / show clear results	7/15/2020 9:47 AM
8	Public Housing: While there is great need for the revitalization of Public Housing, there are other resources dedicated to this sector that are not available to other potential developments. New Production: I believe that our fundamental problem in housing is rooted in the basic economics of supply and demand. For decades zoning laws and NIMBY pressure have severely limited the production of both affordable and market rate housing, which has limited supply, driven up demand, and thus increased rents. The availability of affordable housing has been impacted most egregiously because the incomes of working families have stagnated over roughly the same period in which supply has been constrained. Today, working families simply have less real income to compete for more expensive apartments. The new state housing tax credit can, therefore, make the greatest impact by 'moving the needle' on the supply side. This means creating new units 'on the margin', meaning new developments where the state tax credit can tip the scales from infeasible to feasible.	7/10/2020 2:24 PM
9	This is an opportunity to put racial justice into this new program by targeting very low incomes households in areas of opportunity. We already have programs for PSH, rural housing and public housing. This is a good time to address affirmatively furthering fair housing and moving families to schools and neighborhoods of high opportunity	7/10/2020 12:31 PM

Q8 Using a scale of 0 to 5, Please indicate the degree to which you support each of the following. 5 = Complete Support 0 = No Support

Answered: 17 Skipped: 2



	5	4	3	2	1	0	TOTAL
The programmatic aspects of a state housing credit should be spelled out using Virginia's existing Qualified Allocation Plan (QAP)	71% 12	24% 4	6% 1	0% 0	0% 0	0% 0	17
A state housing credit should be used in conjunction with the Federal LIHTC program	71% 12	18% 3	6% 1	6% 1	0% 0	0% 0	17
A state housing credit should mirror Virginia's Historic Credit	25% 4	13% 2	31% 5	13% 2	6% 1	13% 2	16
A state housing credit that has a credit period that aligns with the federal LIHTC "credit period"In this case meaning a “credit period" equaling 10 years to claim credits and a 30 year affordability compliance period	44% 7	13% 2	25% 4	6% 1	13% 2	0% 0	16
A state housing credit should be monitored for compliance through the existing federal tax credit compliance program in Virginia	76% 13	12% 2	12% 2	0% 0	0% 0	0% 0	17

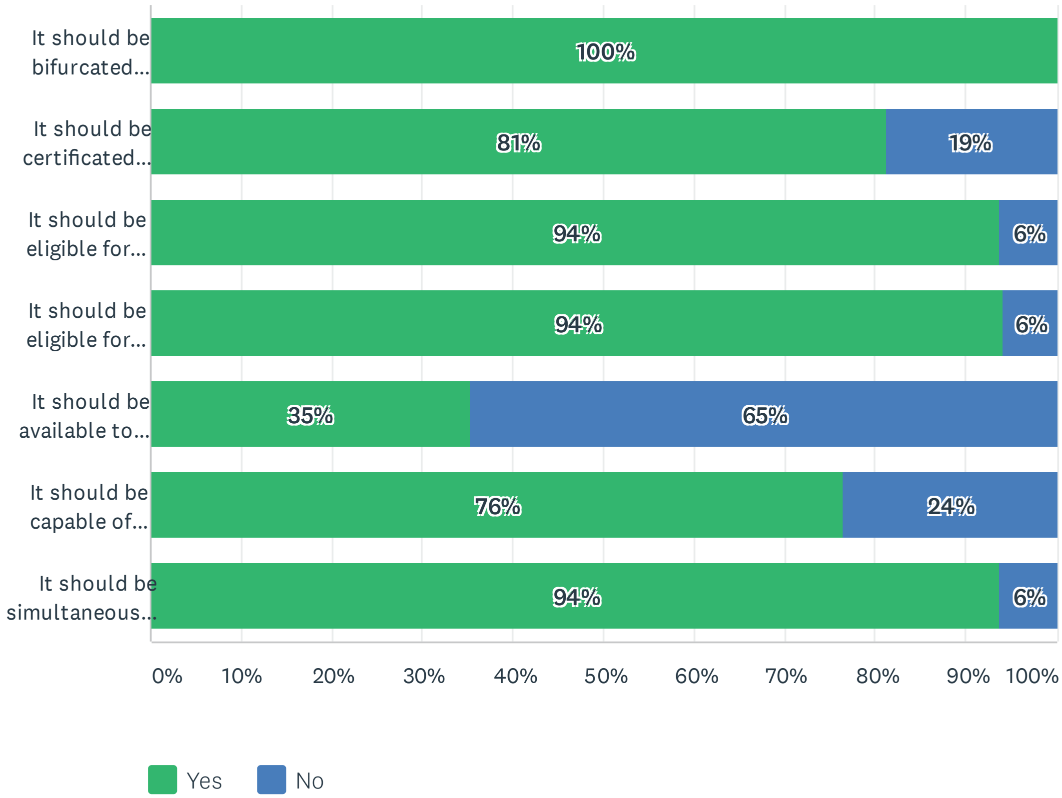
Q9 Use this space if you would like to explain your responses to the items on this screen.

Answered: 7 Skipped: 12

#	RESPONSES	DATE
1	Keep it simple! Mirror the Federal housing tax credit. Everyone already understands it, and knows how to monitor it. This response is from steve.smith@suntrust.com	7/20/2020 4:01 PM
2	Making a State LIHTC that is as similar to the Federal LIHTC will make utilizing the State LIHTC much easier because there is built-in institutional knowledge. Enabling statute for State LIHTC should be simple and short; important to keep specific programmatic components in the QAP and out of the state code.	7/19/2020 11:33 AM
3	My ideal utilization of these funds would be their employment as part of a Federal LIHTC application to include or expand units subsidized for <30%AMI occupants.	7/15/2020 10:43 AM
4	it doesnt seem likely that the state will agree to a 10 year stream of credits - that would have a profound budget implication -- so the flow of credits probably needs to be more like the state historic credit	7/15/2020 9:51 AM
5	A state LIHTC should only existing in conjunction with the federal. Otherwise almost all of the operational and programmatic efficiencies are lost. The timing of when it flows will need to be determined based on what is the possible fiscal impact.	7/10/2020 3:02 PM
6	The tax credit will have more value and a wider potential investor pool if it has a shorter duration than that of the federal credit (10 years). In this respect, Virginia's Historic Credit is a very good model.	7/10/2020 2:27 PM
7	There are clear budgetary impacts to having a multi-year credit period that may limit effectiveness. I would be open to a short credit period but think the compliance should be the same as the federal program, i.e. 30 years minimum with incentives for longer.	7/10/2020 12:33 PM

Q10 Please indicate you believe each of the following should be true about a State Housing Tax Credit

Answered: 17 Skipped: 2



	YES	NO	TOTAL
It should be bifurcated (meaning a different investor can purchase the state or federal credits in deal)	100% 17	0% 0	17
It should be certificated (meaning the credits can be sold to a third party who is not an equity partner in the deal)	81% 13	19% 3	16
It should be eligible for use with competitive 9% credits	94% 15	6% 1	16
It should be eligible for use with 4% credits	94% 16	6% 1	17
It should be available to affordable housing properties NOT seeking federal LIHTC's	35% 6	65% 11	17
It should be capable of being claimed in Year1 (with ability to carryforward if needed) like the state historic credit	76% 13	24% 4	17
It should be simultaneous with the award for federal credits	94% 15	6% 1	16

Q11 Use this space if you would like to explain your responses to the items on this screen.

Answered: 7 Skipped: 12

#	RESPONSES	DATE
1	Same as above. Mirror the Federal LIHTC.	7/20/2020 4:01 PM
2	Certificated credits would probably making selling credit easier/expand pool of investors - but need to be mindful of tax implications - increase in taxable income/tax implications for transfer of certificated credits. How does that impact economics of the deal for both investors and developers? Likely easier to go with non-certificated credits. Depending on responses to this survey, the workgroup should probably dedicate some time to discuss this specific issue. 4% vs. 9% - this probably goes to the question posed during the first workgroup meeting: what's the specific goal that we are trying to achieve.	7/19/2020 11:34 AM
3	I am always wary of unintended consequences. I seek a structure that encourages a developer to expand the number of units affordable to households at the very low end of the affordability scale. I would lament this fundings use simply as a means to decrease risk in a project.	7/15/2020 10:49 AM
4	Some of these do not lend themselves well to a binary choice-- sometimes the answer would be "it depends" (e.g., the questions about use with 4% and 9% federal credits-- I guess that under certain circumstances I would say yeas to each and under other circumstances I would say no to each-- it really has more to do with whether the policy objective is being achieved-	7/13/2020 2:54 PM
5	Again, the notion of a state LIHTC without the federal is basically preposterous. The concept is not worth any further consideration at all.	7/10/2020 3:05 PM
6	While the state credit could be used to lower rents somewhat for communities targeting families at incomes above 60% AMI, I think there is more impact when this is used along with the federal credit. This would encourage the state credit to be used with 4% tax credit communities, which can now serve up to 80% AMI under the new income averaging regulations.	7/10/2020 2:34 PM
7	This could be a great boost to the existing LIHTC program, but it should not replace it. The current LIHTC program has years of QAP conditions that reflect the needs of the state. This tool should not be de-linked.	7/10/2020 12:34 PM

Q12 In your best judgement, what is a minimum annual amount of state housing credit that would make the program feasible?

Answered: 14 Skipped: 5

#	RESPONSES	DATE
1	10 million	7/20/2020 5:25 PM
2	10 million minimum	7/20/2020 4:54 PM
3	It should equal the federal amount +	7/20/2020 4:42 PM
4	$15MM	7/20/2020 4:01 PM
5	Ideally should mirror federal allocation but that probably isnt financially feasible.	7/19/2020 11:34 AM
6	the state program should be funded as a percentage of the Federal program. The State program should incentivise the Federally funded projects to provide a quality unit to a household at or below 30% AMI.	7/16/2020 8:21 AM
7	$10 million	7/15/2020 12:43 PM
8	$20 million	7/15/2020 9:56 AM
9	11 million	7/15/2020 9:45 AM
10	$15mm	7/13/2020 2:58 PM
11	Every little bit helps, of course, but without crunching some numbers, I can't state a minimum amount that would ensure program feasibility. In concept, we need to have a large enough program to entice participation from both developers and investors alike. If the allocation becomes hyper-competitive, that creates a disincentive to spend the extra time to understand the program and apply.	7/10/2020 3:32 PM
12	Program wide, $10 million. For a particular project, $1 million total.	7/10/2020 3:09 PM
13	$4M	7/10/2020 12:42 PM
14	Anything helps, but 30% of federal amount available each year is a good minimum.	7/10/2020 12:14 PM

Q13 Use this space for any input regarding the concept of credit recapture as it might relate to a state housing credit.

Answered: 11 Skipped: 8

#	RESPONSES	DATE
1	Developer will end up guaranteeing...given the history of the federal program, I think recapture is unlikely	7/20/2020 5:25 PM
2	Recapture for non compliance	7/20/2020 4:42 PM
3	Same as Federal LIHTC	7/20/2020 4:01 PM
4	sync with the Federal recapture rules; anything else may complicate the legal structure and drive up transaction costs.	7/19/2020 11:34 AM
5	This program needs to be impactful for those that are the hardest to house. The credit recapture period needs to be structured to attract investors. I would propose 1-3yr recapture period.	7/16/2020 8:21 AM
6	align with state historic	7/15/2020 9:56 AM
7	I think that if the recapture provisions are similar to the federal credit the state investor could rely on the federal compliance monitoring	7/13/2020 2:58 PM
8	Credit recapture is a complicated and important issue. On one hand, having recapture extend to the investors creates the risk and the 'skin in the game' that is a pillar of the LIHTC program's success. On the other hand, extending recapture to investors will reduce the investor pool by scaring away some investors and introducing a risk premium, both of which might lower pricing. Also remember that investors in the federal LIHTC put this risk back on the project sponsor in the form of enforceable (and often personal) guarantees. This arrangement has worked well for many years now, but perhaps we can also look to the historic credit program for empirical guidance.	7/10/2020 3:32 PM
9	The only way for it to work would be for Virginia Housing to submit any Forms 8823 to the state agency responsible for taxation. The latter could determine whether to impose any recapture.	7/10/2020 3:09 PM
10	Like the federal LIHTC program, it seems like a 15 year recapture period makes sense.	7/10/2020 12:42 PM
11	Recapture should be subject to rules that are similar to those in effect for the federal credit.	7/10/2020 12:14 PM

Q14 Use this space for any input regarding a cap on the amount of credits any one deal should get (or an annual amount of credits any taxpayer can claim).

Answered: 12 Skipped: 7

#	RESPONSES	DATE
1	allocate credit by AMI, no cap per deal.	7/20/2020 5:25 PM
2	I think it should be a cap on both?	7/20/2020 4:42 PM
3	This is a VHDA decision. Some states match the allocation of Federal LIHTC, but it would be easy to make it less at the time of allocation.	7/20/2020 4:01 PM
4	annual developer limits similar to those imposed by VHDA in the QAP for Federal LIHTC. Lets not limit universe of potential investors by limiting how many credits the investors can claim.	7/19/2020 11:34 AM
5	the program should provide a balance between offering a significant enough credit to a project to entice investors but be able to service a meaningful number of projects across the Commonwealth.	7/16/2020 8:21 AM
6	Should be comparable to caps for LIHTC.	7/15/2020 12:43 PM
7	cap the percent of units in the deal that will be deeply targeted with the use of the state credit -- ie up to 10%	7/15/2020 9:56 AM
8	no opinion, other than it is important that it be enough to make a difference and capped at a level that distributes a scarce resource to achieve policy objectives	7/13/2020 2:58 PM
9	There should certainly be a mechanism that will insure that no one deal should get too many credits, and that amount will likely be dependent upon the amount of credit allocated to the program. Likewise, there should be a per taxpayer cap that would not allow a single buyer to buy the entire state allocation as that would discourage other investors and subject the program to disruption if that one buyer were to not need credits later. Limiting a single purchaser to no more than 25% of the state pool would insure that the market has at least four participants, which would seem to create healthy competition.	7/10/2020 3:32 PM
10	All questions like this should be addressed in the QAP, not state law.	7/10/2020 3:09 PM
11	I don't have a fixed opinion. Perhaps VHDA could use it as a blend within the existing 9% program to stretch that resource further? Then it would be geographically disbursed, that is, deals would either get 9% credits or the equivalent amount of state credits, so all regions/pools benefit. And it wouldn't matter if one or two deals got the entire pool (which may be easier to administer), because everyone benefits from a larger blended pool. Harder to create a perception of fairness or geographic distribution with the 4% program, although you might if you tied this to twinned projects.	7/10/2020 12:42 PM
12	I do not believe there is a need for a cap.	7/10/2020 12:14 PM

Q15 Please explain if you, or anyone in your affiliated organization has performed any financial modeling related to existing (in other states), or proposed state housing credits.

Answered: 12 Skipped: 7

#	RESPONSES	DATE
1	NO	7/20/2020 5:25 PM
2	NONE	7/20/2020 4:42 PM
3	Yes. I have modeled several deals in Georgia.	7/20/2020 4:01 PM
4	No.	7/20/2020 11:48 AM
5	HBAV has not conducted financial modelin, but several organizations have expressed interest in providing economic impact analysis/financial modeling; HBAV does have several economic impact analysis from other state credit programs.	7/19/2020 11:34 AM
6	N/A	7/16/2020 8:21 AM
7	Yes, have done financial modeling for Illinois state credit.	7/15/2020 12:43 PM
8	no	7/15/2020 9:56 AM
9	Not yet, but it is on our agenda as part of this process.	7/10/2020 3:32 PM
10	I and many of my coworkers do so often.	7/10/2020 3:09 PM
11	no	7/10/2020 12:42 PM
12	Yes. Our organization has done extensive modelling using the Georgia credit. We have also modeled and applied for the SC state credit, and have done modelling using a proposed Kentucky credit.	7/10/2020 12:14 PM

Q16 What input you would like considered regarding credit pricing that may be affected in the structure of a state housing credit?

Answered: 11 Skipped: 8

#	RESPONSES	DATE
1	Accelerated credit = higher price	7/20/2020 5:25 PM
2	Credit pricing should be able to be negotiated	7/20/2020 4:42 PM
3	Let the market determine the price. It depends on how many banks/companies have VA tax liability.	7/20/2020 4:01 PM
4	The easier to syndicate, the higher the credit pricing; if you can bifurcate the state credit, then the pricing will be lower because some federal investors may have no use of the state credit and in some cases, probably wont be willing to pay for them.	7/19/2020 11:34 AM
5	I would model the programs pricing like the federal program.	7/16/2020 8:21 AM
6	Would be interested in reaching out to potential investors to get a better understanding of what they would be willing to pay for the state credit.	7/15/2020 12:43 PM
7	take the credit in year 1	7/15/2020 9:56 AM
8	Efficiency is paramount - the higher the price paid by investors, the greater the impact for families on the ground.	7/10/2020 3:32 PM
9	The main variable at this stage is the number of years it flows: more stretched out, the lower the price (and lower fiscal impact). There are other considerations, but they are outside the scope of program creation.	7/10/2020 3:09 PM
10	differentiated pricing over a 1/5/10 year credit period. also, how do folks handle the recapture structure and does that impact pricing?	7/10/2020 12:42 PM
11	Allowing bifurcation will provide the best opportunity to maximize pricing.	7/10/2020 12:14 PM

Q17 Use this space for any additional thoughts, suggestions or information you think would be important in considering the structure of a state housing credit.

Answered: 6 Skipped: 13

#	RESPONSES	DATE
1	Give priority to rural areas, Nonprofit Agencies and Public Agency	7/20/2020 4:49 PM
2	As mentioned on the first call, the Georgia credit seems to be widely praised and successful. Not to sound like a broken record, but simplicity of program is vital - there are alot of different policy objectives and many ways to structure the program -but we need to be mindful of the fact that Virginia had this program before and it did not work + Virginia's current budget realities: even legislators/finance staff that are supportive of the LIHTC concept will want to see results. Lets create a program that is attractive for investors/housing providers from Day 1 and grow the program over time as it demonstrates its value. There has been some discussion of including a homeownership aspect to this program - although I think that's a worthy objective, I do not believe it's feasible for the workgroup to examine/discuss all the specifics before the Sept deadline - and to the point above, I think we should work to implement a program that can achieve some results before looking to expand it.	7/19/2020 11:45 AM
3	At risk of sounding like the preverbal broken record, I think the reimplementation of a State financed Tax Credit could be fundamental to creation and preservation of housing affordable to the poorest Virginians. I don't want to look back and lament losing an opportunity to serve the least of these. Subsidizing developments that construct or preserve these units is crucial. I anticipate our society will experience an explosion of change at the conclusion of the unexpected circumstances we're now experiencing. Part of the explosion will be growth in the housing market as it adjust to whatever the new reality turns out to be. Housing those at or below 30% AMI has to be part of new structure. The State Tax Credit can be a substantive means in doing so. I recommend a bold awards formula that is explicit in increasing a projects funding chances where it shows the number of units supporting households <30%AMI increasing.	7/16/2020 8:21 AM
4	Kudos to our General Assembly for passing this legislation!	7/10/2020 3:33 PM
5	-make it as simple as possible -only use with the federal -allow bifurcated investors -award and set policies via the QAP -timing is a trade-off between price and fiscal impact -if possible under state constitution, allow underwriting -transition period can be a challenge (effective date) -allows ~70% less federal LIHTC/award, yet the same equity -helps bond deals, although Va. leads with hybrids	7/10/2020 3:12 PM
6	This is a really good poll. Captures the discussion and key elements. Would be helpful to hear where the priorities are in terms of lower income targeting, urban/rural, opportunity/public housing. Hard to do it all (unless, you just blend this into the 9% program and this new tool could just reflect the full VHDA QAP priorities). I think we really need to understand the State's willingness to forward allocate tax credits. If there is none, we need to focus on how to structure a strong program using immediate credit delivery.	7/10/2020 12:45 PM

Appendix B: Fiscal Impact/Taxes Forgone

Statewide Gross Tax Forgone Based on a 10-Year Credit Period And Awarded for 10 Years

Award Year	*1*	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*	*11*	*12*	*13*	*14*	*15*	*16*	*17*	*18*	*19*	*20*	Total
1																					
Yearly Cost to State	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	
Total State Tax Forgone		$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$0	$0	$0	$0	$200
2																					
Total Cost to State	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$0	$0	$0	$0	
Total State Tax Forgone		$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$0	$0	$0	$200
3																					
Total Cost to State	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$0	$0	$0	
Total State Tax Forgone		$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$0	$0	$200
4																					
Total Cost to State	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$0	$0	
Total State Tax Forgone		$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$0	$200
5																					
Total Cost to State	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$0	
Total State Tax Forgone		$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	$200
6																					
Total Cost to State	$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$0	
Total State Tax Forgone		$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	$200
7																					
Total Cost to State	$0	$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$0	
Total State Tax Forgone		$0	$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	$200
8																					
Total Cost to State	$0	$0	$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$0	
Total State Tax Forgone		$0	$0	$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	$200
9																					
Total Cost to State	$0	$0	$0	$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$0	
Total State Tax Forgone		$0	$0	$0	$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	$200
10																					
Total Cost to State	$0	$0	$0	$0	$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$0	
Total State Tax Forgone		$0	$0	$0	$0	$0	$0	$0	$0	$0	$20	$20	$20	$20	$20	$20	$20	$20	$20	$20	$200
Total Gross State Tax Creit Forgo	$0	$20	$40	$60	$80	$100	$120	$140	$160	$180	$200	$180	$160	$140	$120	$100	$80	$60	$40	$20	$2,000

Note: Values are in millions of dollars and are not adjusted for inflation.

Appendix C: HB 810

2020 SESSION

ENROLLED

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to direct the Department of Housing and Community Development and the Virginia Housing Development Authority to convene a stakeholder meeting on the establishment of a Virginia opportunity tax credit program.

[H 810]

Approved

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Department of Housing and Community Development (the Department) and the Virginia Housing Development Authority (the Authority) shall convene a stakeholder advisory group to develop draft legislation establishing a Virginia housing opportunity tax credit program for the purpose of providing incentives for the utilization of private equity in the development and construction of affordable housing in the Commonwealth and regulations for implementing such program. The stakeholder advisory group shall also conduct financial modeling to determine the fiscal impact to the Commonwealth of various levels of funding for a Virginia housing opportunity tax credit. The stakeholder advisory group shall determine the most effective and efficient way to administer the program in conjunction with the federal Low-Income Housing Tax Credit Program.*

§ 2. The stakeholder advisory group shall consist of individuals with expertise in land development, construction, affordable housing, real-estate finance, tax credit syndication, the federal Low-Income Housing Tax Credit Program, or other areas of expertise as determined by the Department and the Authority. The stakeholder advisory group shall also include representatives from the Department and the Authority.

§ 3. The stakeholder advisory group shall receive support from the staff of the Department and the Authority.

§ 4. The stakeholder advisory group shall report its recommendations to the Governor, the Secretary of Commerce and Trade, the Director of the Department of Housing and Community Development, and the commissioners of the Virginia Housing Development Authority by September 1, 2020.

ENROLLED

HB810ER