



April 24, 2007

H.R. 1675 - Preservation Approval Process Improvement Act of 2007

Floor Situation

H.R. 1675 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Melissa Bean (D-IL) on March 26, 2007, and ordered to be reported by the Financial Services Committee, by voice vote, on March 29, 2007.

This legislation is expected to be considered on the floor on April 24, 2007.

Background

Currently the Department of HUD requires a background check on individuals and entities participating in deals that involve HUD affordable housing program funds. HUD rule 2530 requires a certification form be filed regarding any previous participation the party or entity has had with HUD programs. The process is in place so that HUD is aware of participants who have not met prior obligations. In addition, the 2530 process helps assess "principals," taking account of any limited partner with a 25 percent or greater interest in a property, and officers, stockholders, and directors with holding of 10 percent or greater are required to submit their names and social security numbers, along with any previous individual record with HUD.

The current 2530 approval process has brought forth opposition from many industry groups claiming the process is overly burdensome, and that the disclosure requirements are unnecessary. While their role is passive and as such, they are not involved in the construction or operation of the property, passive investors do have some power over the general partner. Specifically, the passive investor disclosure requirements have raised concerns among individuals and groups who want to partake in affordable housing through the Low Income Housing Tax Credit (LIHTC) program.

The Low Income Housing Tax Credit (LIHTC or Tax Credit) program was created by the Tax Reform Act of 1986 as an alternate method of funding housing for low- and moderate-income households, and has been in operation since 1987. The Low-Income Housing Tax Credit (LIHTC) program is run by the IRS and allows companies to invest in low-income housing, while receiving 10 years of tax credits. The program works with state housing finance agencies to administer the program on a state level. Housing credit units are privately owned by developers and are run at a profit.

In December 2005, former Chairman Oxley (House Financial Services Committee) requested that HUD extend the opportunity for paper filing, and asked HUD to make clear why passive investors should be required to file. HUD then allowed paper filing until June 30, 2006.

In December 2006, HUD proposed a new rule per numerous inquiries from the House Financial Services Committee and other interested parties seeking regulatory relief. Industry insiders complained that the rule made filing more burdensome, and since then, HUD has not taken any evident steps to amend the proposal.

Summary

H.R. 1675:

- Requires the Secretary of HUD to suspend the mandatory processing of Previous Participation Certificates (form HUD-2530) through the APPS computer program and to permit paper filings of certificates until the Secretary –
 - Revises the December 2006 draft proposed regulations to eliminate the unnecessary burdens and disincentives for program participants; and
 - Submits the revised draft to the House Financial Services Committee and the Senate Banking, Housing and Urban Affairs Committee for review; and
- Requires the Secretary of HUD to immediately suspend all filing requirements under the Previous Participation Certificate process with respect to limited liability corporate investors who own or expect to own an interest under section 42 of the Internal Revenue Code of 1986.

**Note: H.R. 1675 Suspends the requirements of the Department of HUD regarding electronic filing of previous participation certificates and regarding filing of such certificates with respect to passive investors, who own or expect to own entities which area allowed, or are expected to be allowed, LIHTC credits.*

Cost

CBO estimates that implementing H.R. 1675 would have no significant effect on the federal budget and would not affect direct spending or revenues.

Staff Contact

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