"It ain't bragging if you done it"
A Decade of Quality Workforce Housing

A 10Th Anniversary Snapshot of the Georgia Low-Income Housing Tax Credit
(Presented by the Georgia Affordable Housing Coalition, September 7, 2010)

The Georgia Low-Income Housing Tax Credit law was enacted and signed into law in 2000 cranking an aggressive economic development generator which has placed thousands of high quality residences in communities where the local economy alone simply could not sustain such. The result: communities which seek to lure new industry and commerce now have residences where an expanded workforce can live safely, affordably and close to work.

Two promises were made by economic developers to members of the House Ways and Means Committee and Senate Finance Committee in 2000 when hearings were conducted preceding passage:

1. thousands of high quality multi-family residences would be built
2. the majority of the units would be outside of the Atlanta Metro area

Integrating the state low-income housing tax credit (LIHTC) alongside the existing federal LIHTC program, quality residences were added to local landscapes. The following is a list of fulfilled promises which signal a genuinely successful economic development program partially funded through the Georgia tax credit:

- 165 funded properties (116, or 70% outside of Metro Atlanta)
- 12,630 funded units (7,000 55% outside of Metro Atlanta)
- $1.7B in total development costs

(2005-2009 LIHTC data, Source: Department of Community Affairs, 9% credit projects funded by DCA).

There's more good news about the positive downstream effect: Using the 1.60 multiplier formulated by UGA in their 2004 study on the value of the Georgia LIHTC, the following local and state economic impact can be derived for the period 2004-2009:

- $3.8B in total economic impact
- Using the $8.36-per-credit dollar of incremental economic activity projected in the UGA study, this translates into $5.7B in incremental economic activity for this period

(Source of formula: Housing and Demographics Research Center, Dept of Housing and Consumer Economics, College of Family and Consumer Sciences and Dept. of Agriculture and Applied Economics.) (2005-2009 LIHTC data, Source: Department of Community Affairs, 9% credit projects funded by DCA).

What is the cost of the program to the State of Georgia? The cost is the loss of state income tax collections foregone through application of the state LIHTC balanced against the total economic and development benefit of the program. Relevant data includes:

- $691.8M net present value Georgia LIHTC 10-year stream
- $100.5M in annual state LIHTC allocated

The following represents tax credits allocated under the competitive application process administered by the Georgia Department of Community Affairs:

2000: 10,492,603
2001: 12,992,302
2002: 14,585,610
2003: 15,248,555
2004: 15,994,532
2005: 17,439,735
2006: 18,114,116
2007: 18,329,360
2008: 21,821,233
2009: 24,770,688
(Source: DCA)

For more information about the Georgia Low-Income Housing Tax Credit and the Georgia Affordable Housing Coalition, contact Maureen Mercer, GAHC Executive Director, at (404) 509-7177 or maureenmercer@comcast.net or James E. "Jet" Toney, GAHC Lobbyist, at 678-222-4222 or jet.toney@politics.org.

The Basics of Workforce (LIHTC) Housing

By Mike Smith, GAHC Board Member
& Jet Toney, GAHC lobbyist

Who

Low income housing tax credit (LIHTC) properties are high quality, multi-family residences rented at below market rates to working families and individuals. These rental properties are not "public housing," but rather are targeted at hard working families who, because of low wage rates, earn less than 60 % of the area median income. These well-maintained properties are most often referred to as "workforce housing."

What

Developers and investors (owners) compete for state and federal LIH tax credits. The Georgia Department of Community Affairs (DCA) administers the competitive process and assures compliance throughout the 15-year mandatory owner-participation period. In return for an award of a state and/or federal tax credit, the property owner must offer a majority of the units at rent levels significantly below market rates for properties of comparable quality. Rents are capped so as to be approximately 30% of the income of the tenants.

When

DCA annually administers the awarding of LIH tax credits. Upon receipt of an award of tax credits, the developer will sell them to outside investors and use the net proceeds to reduce the net effective cost of building the apartment property. Because of the rent restrictions, the property's Fair Market Value is less than the cost of construction and the funds raised by selling the tax credits reduce the "net effective cost" to equal the lower Fair Market Value. This lower "net effective cost" enables the developer to rent the units at below market rental rates over the entire 15-year compliance period.

Where

LIHTC properties are built throughout the state – in inner-cities, large towns and rural communities. However, to earn tax credits the development must be sited in a community where the commercial market is not meeting the housing needs of working families or where the local wage scale cannot support market-rate units. The passage of the state LIHTC in 2000 led to a specific 30% set-aside by DCA for "rural" projects which would not be feasible without the state credit.

How

The LIHTC program requires cooperation from many parties. Developers, investors, DCA staff and local officials must agree on the need for such residential properties and how to maintain the quality and financial viability of the development over the long term. Local assessors can play a key role in helping maintain the viability of the developments by using the "income" approach to determine property valuation. This income approach yields a Fair Market Value that automatically reflects the deed restrictions that the LIHTC program places on the property.

Why

There is a need to provide high quality housing for those non-welfare, working families whose wages are so low that they could not otherwise afford decent quality housing. These "working poor" are in many cases the backbone of our economy (teachers, firefighters, public employees, etc.), providing the goods and services that sustain our daily lives. Providing quality housing for this segment of our workforce improves the quality of life for them and their children and also helps Georgia compete for the new jobs needed to keep our state economy growing in today's highly competitive environment.

For more information on Georgia's affordable housing industry, contact Maureen Mercer at the Georgia Affordable Housing Coalition at (404) 509-7177.

Impact of Georgia Low-Income Housing Tax Credit Program
(some percentages stated through 2004 reflecting early positive impact of program)

Unanimously enacted in 2000 by the Georgia General Assembly and signed into law by then-Governor Roy Barnes, the Georgia Housing Tax Credit (O.C.G.A. 48-7-29.6) provides a dollar-for-dollar, 10-year credit against Georgia income tax liability for investors in affordable rental housing developments in Georgia that are also receiving the federal low-income housing tax credit. In cases where the investor is an insurance company, the Credit may be applied against its Georgia premium tax. The Credit is administered by the Department of Community Affairs (DCA), which is charged with financial underwriting, due diligence, and compliance monitoring. The Department shares filing and reporting duties with the Department of Revenue and the Commissioner of Insurance.

The net social benefit of the capital attracted by this Credit is the creation (or preservation) of safe, decent, sanitary, and affordable housing units marketed toward families and individuals with incomes below 60% of the area median income of their county of residence, and rents limited accordingly. As with the federal housing credit, there is a minimum 15-year compliance term on deals funded with the Georgia Credit in which the physical plant must remain in good condition and rent and income restrictions must remain in place. The Credit has been instrumental in providing additional workforce housing in exurban and rural areas where new businesses and industries are being located or expanded, residential facilities for Georgia's growing senior populations, and generally helping to spread the economic benefit of the federal credit over a greater number of developments throughout the state. It has also enhanced the economic viability of apartment homes financed through tax-exempt municipal bonds. A recent DCA report shows a 90% average annual increase in the total number of units created since the inception of the Credit. Contained within this figure are a 487% increase in the total number of senior housing units statewide (average annual production of 1,400 units), and a 96% increase in the number of rural properties (average annual production of 15 new or renovated developments).

Also reflected in the DCA report are increased development funds (108% since the Credit's inception; total development costs statewide will exceed $266 million in 2004) that ultimately flow to local economies in the form of construction contractors and subcontractors, material suppliers, other vendors such as architects and attorneys, and local governments in the form of taxes and impact fees. As the completed properties represent ongoing business concerns, cost of operations continue to contribute to the local economies through staff salaries and benefits, maintenance, taxes, insurance, and debt service to local banks.

Typically expressed as "cents on the dollar", the pricing of the Credit fluctuates, and is driven by the return to the ultimate investor on a time-value-of-money basis, as well as the demand for the Credit by business investors. Unlike the federal credit, which is subject to passive loss rules, individual investors can offset their entire Georgia income (or premium) tax liability with the Credit. The Credit can also be bifurcated, meaning that an investor can invest in the Georgia Credit without becoming the majority partner for federal tax purposes. As a relatively low number of corporate investors have had sufficient Georgia income tax liability in recent years to fully utilize the Credit, it has attracted pools of individual investors and smaller businesses that have set up funds to invest in one or a number of deals. The outlook is that as the market matures, investors become more educated about the federal and Georgia Credit programs, and the economy improves, demand for the Credit, and therefore the price, will increase. The result will be increased equity available per development, making it even more affordable for the developer and ultimately, the residents.

48-7-29.6.
(a) As used in this Code section, the term:
(1) 'Federal housing tax credit' means the federal tax credit as provided in Section 42 of the Internal Revenue Code of 1986, as amended.
(2) 'Median income' means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.
(3) 'Project' means a housing project that has restricted rents that do not exceed 30 percent of median income for at least 40 percent of its units occupied by persons or families having incomes of 60 percent or less of the median income, or at least 20 percent of the units occupied by persons or families having incomes of 50 percent or less of the median income.
(4) 'Qualified basis' means that portion of the tax basis of a qualified Georgia project eligible for the federal housing tax credit, as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended.
(5) 'Qualified Georgia project' means a qualified low-income building as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located in Georgia.
(b)(1) A state tax credit against the tax imposed by this article, to be termed the Georgia housing tax credit, shall be allowed with respect to each qualified Georgia project placed in service after January 1, 2001. The amount of such credit shall, when combined with the total amount of credits authorized under Code Section 33-1-18, in no event exceed an amount equal to the federal housing tax credit allowed with respect to such qualified Georgia project.
(2)(A) If under Section 42 of the Internal Revenue Code of 1986, as amended, a portion of any federal housing tax credit taken on a project is required to be recaptured as a result of a reduction in the qualified basis of such project, the taxpayer claiming any state tax credit with respect to such project shall also be required to recapture a portion of any state tax credit authorized by this Code section. The state recapture amount shall be equal to the proportion of the state tax credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal housing tax credit amount subject to recapture. The tax credit under this Code section shall not be subject to recapture if such recapture is due solely to the sale or transfer of any direct or indirect interest in such qualified Georgia project.
(B) In the event that recapture of any Georgia housing tax credit is required, any amended return submitted to the commissioner as provided in this Code section shall include the proportion of the state tax credit required to be recaptured, the identity of each taxpayer subject to the recapture, and the amount of tax credit previously allocated to such taxpayer.
(3) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed to be carried forward to apply to the taxpayer's next three succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.
(4) The tax credit allowed under this Code section, and any recaptured tax credit, shall be allocated among some or all of the partners, members, or shareholders of the entity owning the project in any manner agreed to by such persons, whether or not such persons are allocated or allowed any portion of the federal housing tax credit with respect to the

project.
(c) The commissioner and the state department designated by the Governor as the state housing credit agency for purposes of Section 42(h) of the Internal Revenue Code of 1986, as amended, shall each be authorized to promulgate any rules and regulations necessary to implement and administer this Code section.

33-1-18.
(a) As used in this Code section, the term:
(1) 'Federal housing tax credit' means the federal tax credit as provided in Section 42 of the Internal Revenue Code of 1986, as amended.
(2) 'Median income' means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.
(3) 'Project' means a housing project that has restricted rents that do not exceed 30 percent of median income for at least 40 percent of its units occupied by persons or families having incomes of 60 percent or less of the median income or at least 20 percent of the units occupied by persons or families having incomes of 50 percent or less of the median income.
(4) 'Qualified basis' means that portion of the tax basis of a qualified Georgia project eligible for the federal housing tax credit, as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended.
(5) 'Qualified Georgia project' means a qualified low-income building as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located in Georgia.
(b)(1) A tax credit against the taxes imposed under Code Sections 33-5-31, 33-8-4, and 33-40-5, to be termed the Georgia housing tax credit, shall be allowed with respect to each qualified Georgia project placed in service after January 1, 2001. The amount of such credit shall, when combined with the total amount of credit authorized under Code Section 48-7-29.6, in no event exceed an amount equal to the federal housing tax credit allowed with respect to such qualified Georgia project.
(2)(A) If under Section 42 of the Internal Revenue Code of 1986, as amended, a portion of any federal housing tax credit taken on a project is required to be recaptured as a result of a reduction in the qualified basis of such project, the taxpayer claiming any state tax credit with respect to such project shall also be required to recapture a portion of any state tax credit authorized by this Code section. The state recapture amount shall be equal to the proportion of the state tax credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal housing tax credit amount subject to recapture. The tax credit under this Code section shall not be subject to recapture if such recapture is due solely to the sale or transfer of any direct or indirect interest in such qualified Georgia project.
(B) In the event that recapture of any Georgia housing tax credit is required, any amended return submitted to the Commissioner as provided in this Code section shall include the proportion of the state tax credit required to be recaptured, the identity of each taxpayer subject to the recapture, and the amount of tax credit previously allocated to such taxpayer.
(3) In no event shall the total amount of the tax credit under this Code section for a

taxable year exceed the taxpayer's tax liability under Code Sections 33-5-31, 33-8-4, and 33-40-5. Any unused tax credit shall be allowed to be carried forward to apply to the taxpayer's next three succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(4) The tax credit allowed under this Code section, and any recaptured tax credit, shall be allocated among some or all of the partners, members, or shareholders of the entity owning the project in any manner agreed to by such persons, whether or not such persons are allocated or allowed any portion of the federal housing tax credit with respect to the project.

(c) The commissioner and the state department designated by the Governor as the state housing credit agency for purposes of Section 42(h) of the Internal Revenue Code of 1986, as amended, shall each be authorized to promulgate any rules and regulations necessary to implement and administer this Code section.

33-5-31.

(a) The surplus line broker shall remit to the Commissioner, on or before the fifteenth day of April, July, October, and January, at the time his or her quarterly affidavit is submitted, as a tax imposed for the privilege of doing business as a surplus line broker in this state, a tax of 4 percent on all premiums paid to the surplus line broker during the preceding quarter, less return premiums and exclusive of sums collected to cover state or federal taxes, on surplus line insurance subject to tax transacted by him or her during the preceding quarter as shown by his or her affidavit filed with the Commissioner.

(b) If a surplus line policy covers risks or exposures only partially in this state, the tax so payable shall be computed on the proportion of the premium which is properly allocable to the risks or exposures located in this state.

33-8-4.

(a) All foreign, alien, and domestic insurance companies doing business in this state shall pay a tax of 2 1/4 percent upon the gross direct premiums received by them on and after July 1, 1955. The tax shall be levied upon persons, property, or risks in Georgia, from January 1 to December 31, both inclusive, of each year without regard to business ceded to or assumed from other companies. The tax shall be imposed upon gross premiums received from direct writings without any deductions allowed for premium abatements of any kind or character or for reinsurance or for cash surrender values paid, or for losses or expenses of any kind; provided, however, deductions shall be allowed for premiums returned on change of rate or canceled policies; provided, further, that deductions may be permitted for return premiums or assessments, including all policy dividends, refunds, or other similar returns paid or credited to policyholders and not reapplied as premium for additional or extended life insurance. The term 'gross direct premiums' shall not include annuity considerations.

(b) For purposes of this chapter, annuity considerations received by nonprofit corporations licensed to do business in this state issuing annuities to fund retirement benefits for teachers and staff personnel of private secondary schools and colleges and universities shall not be considered gross direct premium.

33-40-5.

(a) All premiums paid for coverages within this state to risk retention groups shall be subject to taxation at the rate of 4 percent on all premiums paid or due and payable during the preceding quarter, less return premium. Risk retention groups shall be subject to interest, fines, and penalties for nonpayment or nonreporting as provided in Code Section 33-5-32 for surplus lines brokers.

(b) To the extent agents or brokers are utilized, they shall report and pay the taxes for the premiums for risks which they have placed with or on behalf of a risk retention group not chartered in this state.

(c) To the extent agents or brokers are not utilized or fail to pay the tax, each risk retention group shall pay the tax for risks insured within the state. Further, each risk retention group shall report all premiums paid to it for risks insured within the state.