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STATE TAX CREDITS

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HISTORIC TAX CREDIT TOOL BOX

Legislative Progress on State HTCs Highlights Ongoing Value of Incentive

CINDY HAMILTON, HERITAGE CONSULTING GROUP

Among the most used and perhaps the most important tool in the historic tax credit (HTC) toolbox is the ability to twin the 20% federal HTC with the various state HTCs. In most states, this additional incentive can provide equity worth upward of 20% or even 25% of state tax credits that can be used in tandem with the federal HTC.

The state credit is frequently the differentiator between a project that doesn't make economic sense with the federal HTC alone and one that provides meaningful economic benefit. Thirty-eight states have enacted their own state HTC that can be used to incentivize the rehabilitation of historic buildings.

As updates and enhancements to the federal HTC incentive continue to be a priority for those in the industry, state HTC programs are also frequently updated, for better and worse. In 2022, for example, Minnesota's state Legislature adjourned without extending the state HTC. (The credit was subsequently reinstated.) The 2023 calendar year was no different, with positive and negative updates from around the country.

Minnesota

The loss of Minnesota's state HTC in 2022 had an immediate negative impact. With the sunsetting of the program in May of that year, HTC developments in the state were only eligible for the 20% federal HTC. The loss of the additional 20% state HTC that developers traditionally counted on resulted in unforeseen or unaccounted for financing gaps.

Following significant lobbying from those in the industry, the greater historic preservation community and other supporters of HTCs, Minnesota's 20% credit was reinstated in early 2023. The 2023 legislation did not include any updates or changes to the administration of the incentive. Significant to the new legislation was that the reinstated program enabled developments that began work between June 30, 2022, and July 1, 2023, to be eligible to use the program.

Indiana

Indiana became the 38th state to offer an HTC with legislation enacted in May. Before this point, Indiana only offered a credit for the rehabilitation of residential buildings, with an important stipulation being that the historic building be principally used or occupied by the taxpayer as their primary residence.

The new credit will be worth 30% of qualified rehabilitation expenditures (QREs) for nonprofit entities and a 25% credit for all other rehabs. At the time of publication, the state had not formally introduced the program regulations, funding or procedures. Like the 38 states that enacted HTC legislation before Indiana, the goal of the new program is to spur economic development across the state. When online, for profit developers will be able to twin the state HTC with the federal credit to further assist in closing the financing gap caused by the rehabilitation of historic buildings.

Louisiana

While Minnesota reenacted its prior credit and Indiana established its own, Louisiana enhanced the viability of its credit this past year. Before 2023, Louisiana required that buildings applying for the state HTC be in either a downtown development district or a cultural district. Often, these special districts, unique to Louisiana, needed to be established as part of the process. In doing so, an additional step was added, especially when buildings or complexes required listing in the National Register of Historic Places to be eligible for the federal HTC.

With Louisiana's updated legislation, enacted in June, buildings either individually listed in the National Register or contributing to a National Register-listed historic district now qualify for the state HTC. The change in the program's requirements reduces the number of steps necessary, particularly when no downtown or cultural district is present.

In future years, the changes should result in an increase in projects applying for the state credit, as well as projects seeking to twin the state and federal credits.

Ohio

Louisiana's enhancements, unfortunately, differ from changes to Ohio's state HTC. In January, the Ohio state legislature passed H.B.45. The controversial bill, which appropriated federal funds to numerous state programs, restricted the ability to twin the state HTC with low-income housing tax credits (LIHTCs).

The changes were felt almost immediately. In the present economy, the market is calling for increased housing units in cities across the country. As has been the case for decades, the need for low- and moderate-income housing is a high priority for nearly all communities.

Over the past few years, there has been a significant uptick in the number of HTC projects that result in the creation of affordable housing. Twinning HTCs, both federal and state, with LIHTCs, therefore, is common in developments across the nation. With H.B. 45 signed into law, a number of active projects were impacted and forced to seek alternative funding options to offset the unplanned for financing gap.

Florida

There was a significant push in Florida in 2023 to establish a state HTC. Florida is one of only two states in the South without a state HTC–the other being Tennessee. Though the bill did not pass, advocacy efforts, led by the Florida Trust for Historic Preservation, made great headway in illustrating the economic impacts of a state HTC incentive, with industry insiders believing a law could ultimately be passed in 2024.

The latest iteration of the bill provided for a 20% credit that could be coupled with the federal HTC. The bill also included a provision that increased the credit to 30% of QREs if the building was in a certified Florida Main Street community. This provision is like the proposed increase in the federal credit as part of the Historic Tax Credit Growth and Opportunity (HTC-GO) Act.

As Florida pushes to become the 39th state with an HTC program, the impact of the credit remains visible in communities across the country. In its 2022 annual report, the National Park Service explained that throughout the federal incentive's lifetime since 1977, nearly $123 billion in investments have been made to communities throughout the United States. Beginning with the enactment of the New Mexico state HTC program in 1984, the ability to twin state and federal credits has been invaluable in ensuring both the financial viability and desired economic impact that the programs seek to accomplish.

The establishment of Indiana's credit and push for a credit in Florida speak volumes to the continued impact HTCs have on communities. Their importance to economic development cannot be understated.

Cindy Hamilton is president of Heritage Consulting Group.

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