

Bill Differences

The Affordable Housing Credit Improvement Act

The *Affordable Housing Credit Improvement Act (AHCIA)* ([S.1557](#) & [H.R.3238](#)) was reintroduced for the 118th Congress. In the Senate, the legislation is sponsored by Senators Maria Cantwell (D-WA), Todd Young (R-IN), Ron Wyden (D-OR), and Marsha Blackburn (R-TN). In the House of Representatives, the legislation is sponsored by Darin LaHood (R-IL-16), Suzan DelBene (D-WA-01), Brad Wenstrup (R-OH-02), Don Beyer (D-VA-08), Claudia Tenney (R-NY-24), and Jimmy Panetta (D-CA-19). The *AHCIA* would make significant strides towards addressing our nation's severe shortage of affordable housing. It would expand and strengthen the Low-Income Housing Tax Credit (Housing Credit), our nation's most successful tool for encouraging private investment in the production and preservation of affordable rental housing. The legislation is estimated to finance an additional 1.94 million affordable rental units over 10 years. The legislation was initially introduced in the second session of the 114th Congress in the Senate and has been reintroduced in both chambers in every Congress since.

This paper describes the material differences between the 118th Congress and the 117th Congress versions of the legislation. The *AHCIA* introduced in the 118th Congress is largely the same as the version in 117th Congress, but the bill's sponsors have made a small number of technical and other minor modifications to existing provisions. They also added a Sense of Congress provision related to data and transparency to both the Senate and House versions of the bill. Additionally, the Senate sponsors added a Sense of the Senate provision addressing land use and zoning to the Senate version. Unless otherwise noted in this paper, all provisions in the 117th Congress bills have carried over into the 118th Congress bills. With the exception of the land use and zoning Sense of the Senate provision, the bills in both chambers are identical companion legislation.

Section 307: Basis Boost for Properties Serving Extremely Low-Income Households—Technical Clarification of Existing Provision

Two technical clarifications to *AHCIA* Section 307 were identified as necessary to prevent ambiguity in congressional intent. The *AHCIA* provides a 50 percent basis boost to properties in which at least 20 percent of the units must be reserved for extremely low-income (ELI) households. However, the 117th Congress version did not clearly denote that these units must also be rent restricted such that they are affordable to households earning no more than 30 percent of area median income. The first clarification in the 118th Congress version of the *AHCIA* would ensure such units must be both income- and rent-restricted.

Secondly, the 117th Congress version was ambiguous regarding how an owner determines that it has met the threshold for achieving the ELI basis boost. It was unclear whether the 20 percent threshold applied to the unit fraction or the floor space fraction. Such ambiguity, if not clarified in statutory language, would necessitate IRS guidance, which may not be issued in a timely manner. The 118th Congress version of the *AHCIA* uses the unit fraction in this instance, which is consistent with how owners determine the applicable fraction for purposes of establishing the amount of Credit authority a project is eligible to receive.

Section 309: Elimination of Basis Reduction for Low-Income Housing Properties Receiving Certain Energy Benefits—Modification of Existing Provision to Reflect Recently Enacted Law

Section 309 of the 117th Congress version of the *AHCIA* would have eliminated the basis reduction for Housing Credit developments that also claimed the Section 45L New Energy Efficient Home Tax Credit, the Section 179D Energy Efficient Commercial Buildings Deduction, and the Section 48 Investment Tax Credit, allowing developers to build housing that is both affordable and energy efficient.

Last year, the *Inflation Reduction Act (IRA)* eliminated the Housing Credit basis reduction for Section 45L and Section 48, but not Section 179D. The 118th Congress version of the *AHCIA* has been modified to reflect this change of current law and retains only the elimination of the Housing Credit basis reduction associated with the Section 179D Energy Efficient Commercial Buildings Deduction.

Section 801: Data and Transparency—New Provision

The 118th Congress version of the *AHCIA* includes Sense of Congress language that suggests that, in addition to expanding and strengthening the Low-Income Housing Tax Credit through the provisions in the *Affordable Housing Credit Improvement Act*, subsequent steps should also be taken to share data and identify other ways to increase the transparency of the program. The House and Senate will work together with federal agencies to identify data sources that can be shared.

Section 801(b): Zoning & Land Use—New Provision in Senate Version Only

The Senate version of the 118th Congress includes, within the Sense of Congress provision, a section on the importance of discouraging discriminatory land use policies and removing barriers to making housing more affordable to further the original intent of the Housing Credit Program.