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State Historic Tax Credits in the Year 2020

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In a year of unexpected twists and turns, state historic tax credits (HTCs) are no exception. In a normal year, state HTCs are impacted by lesser ups and downs of the state budget process, but as the need for economic stimuli and the appearance of confidence grows more urgent, it has been a year of surprises and reform for some of these programs.

Recent analysis by the Urban Institute's State and Local Finance Initiative begins to paint the picture of the budget woes states face in the wake of the novel coronavirus pandemic that has gripped the country since March. The bottom line: COVID-19 could create a \$200 billion shortfall for state treasuries in America. Among the havoc is increased unemployment, leading to lower personal income and sales tax, the devastation of the tourism industry and collapsing oil markets. Meanwhile, funding for education, health care systems and many other essential programs is critical, but suffering budget cuts nonetheless.

Some state leaders argue that federal funding is badly needed, but initial legislation such as the Coronavirus Aid, Relief and Economic Security

(CARES) Act excludes the use of federal funding for budget deficits, leaving states to fend for themselves.

California

The Urban Institute report states that when compared to the previous year, from March to May, tax revenue in California dropped 42 percent. One of the hardest-hit states, the cause is linked to the progressive tax reforms of the state that are great when the economy is working, but risky in times of economic turmoil.

The highly anticipated California HTC looks like it will have to continue being anticipated as the state Legislature has not appropriated funds to the program for the coming fiscal year. The 20 percent credit (25 for certain projects such as affordable housing) was set to begin in January 2021, but the

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opportunity has passed for it to be included in the state's FY 2020-2021 budget. Advocates are confident that the credit will be included in the FY 2021-2022 budget with a legislative champion in California Sen. and President Pro Tempe Toni Atkins, D. Atkins introduced the bill that created the HTC (S.B. 451) in February 2019 and has expressed her commitment to seeing it through.

Georgia

Urban Institute reports a 16 percent decrease in state tax revenue (March to May) in the Peach State. Advocates of the Georgia state HTC were sent into action in June when the state Senate made changes to H.B. 1035, a bill created to extend the program. The changes would have repealed the HTC program and reduces the state low-income housing tax credit by 50 percent. That bill was tabled June 25 in the Georgia Senate after several favorable committee reviews.

The outcome of this effort is yet to be determined and advocates in the state, particularly affordable housing developers, are anxiously awaiting to see what comes next. This tension is not new in Georgia, where the funds for the state HTC for larger projects have long been fully allocated and new projects have not been able to use them in trying to make their capital stack pencil out.

Louisiana

Earlier this year, the retention and extension of the highly popular Louisiana commercial HTC seemed to be making progress through the legislature (H.B. 4) when a Senate amendment was made in early June to cut the credit amount in half—to 10 percent—and create an aggregate program cap of \$75 million per year. Legislators were facing a March-to-May tax revenue reduction of 28 percent, largely created because of plunging oil prices.

Given that the 20 percent state HTC program averaged more than \$93 million from 2017 to 2019, this would have sent developers in the state into a frenzy to figure out financing for future projects in an already-uncertain market. Luckily, advocacy from groups like the Louisiana Historic Tax Credit Coalition was successful in restoring the credit to 20 percent through Dec. 31, 2026. An aggregate cap that will begin in 2021 was created that is set at \$125 million per year. Projects will receive commitments on a first-come, first-served basis and unused credits will roll over to the next fiscal year.

Mississippi

Mississippi seems to have fared better from March to May than many other states, with a revenue reduction of only 16 percent. The Mississippi Legislature delivered good news in July with the passage of H.B. 1729. This bill extends the state HTC program to 2030 from 2020 and increases the funding pool from an aggregate cap of \$12 million per year to a program aggregate cap of \$180 million (or \$18 million a year). This bill also includes the ability to obtain a refund for 75 percent of excess credit in the year placed in service in lieu of the 10-year carryforward. These changes should make Mississippi more attractive to developers looking to use HTCs.

Difficult Choices

While HTC advocates around the country are preparing for new legislative sessions, elected officials will be grappling with the hardest choices many will have faced in their tenure and looking for support from the federal government to elevate some of this financial stress. A temporarily increased federal HTC—from 20 to 30 percent as proposed by the Moving Forward Act, which passed the House of Representatives July 1—could be funding that state's desperately need to keep real estate development moving forward.

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Another focus of federal spending during the pandemic has been housing. As millions of Americans have lost their jobs and the unknown factor of how devastating the long-term economic effects will be from a virus that is still spreading, the affordable housing crisis will become even more critical. HTCs can serve as an important equity tool for many affordable housing developers and public housing authorities.

The added benefit of HTCs is the proven positive economic benefit from their use, but the short-term tax roll may be a threat to many of these programs for the foreseeable future. With 30 years of success, the truth still remains that they have the potential to play a massive role in creating jobs, inject much-needed economic development into stagnate real estate and ultimately instill confidence in communities. ❖

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