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Partner

Novogradac & Company LLP

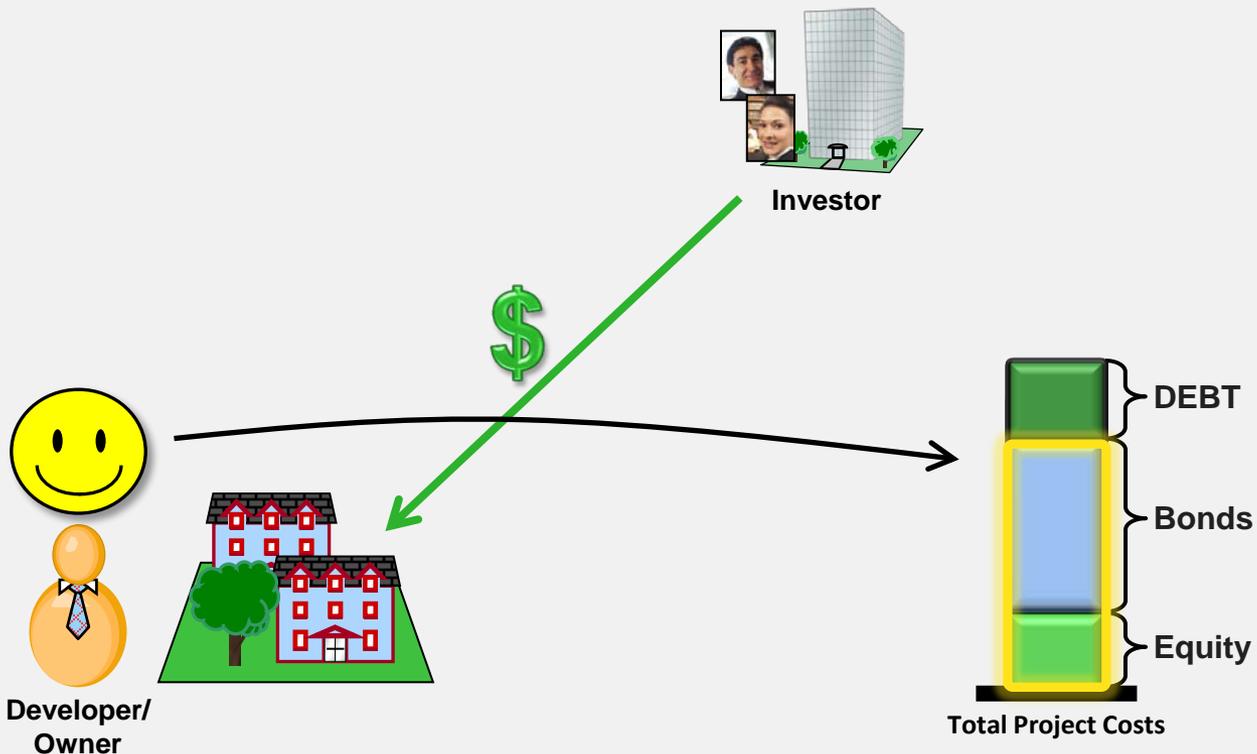
charlie.rhuda@novoco.com

Intro

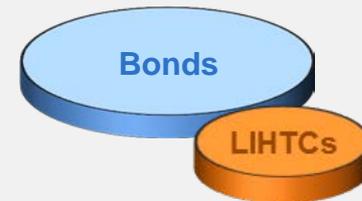


IRC

Section 142(d)
Section 42



Low-Interest Debt



Outline

Tax-Exempt Bond Overview

Players in a Bond Transaction

Bond Financing Timeline

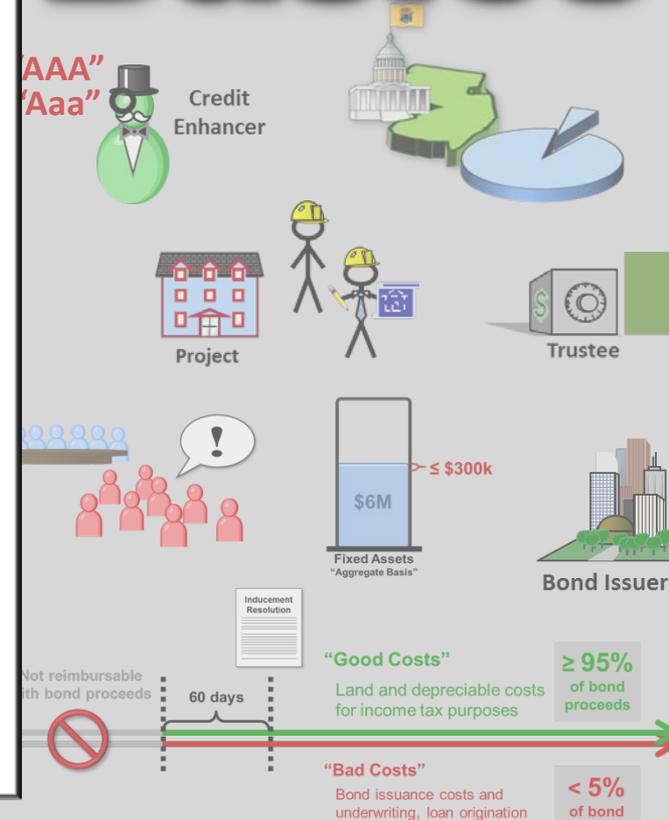
4% Low-Income Housing Tax Credits

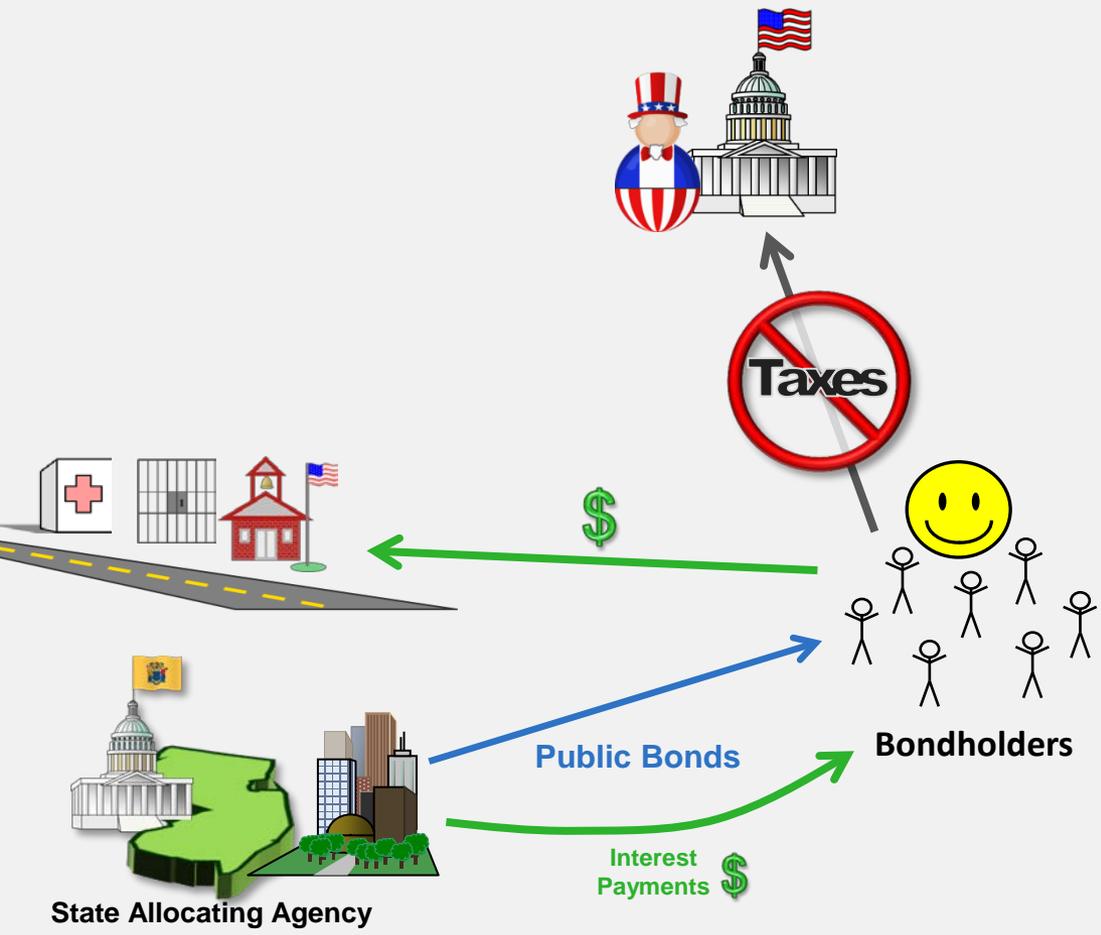
Major Bond Rules

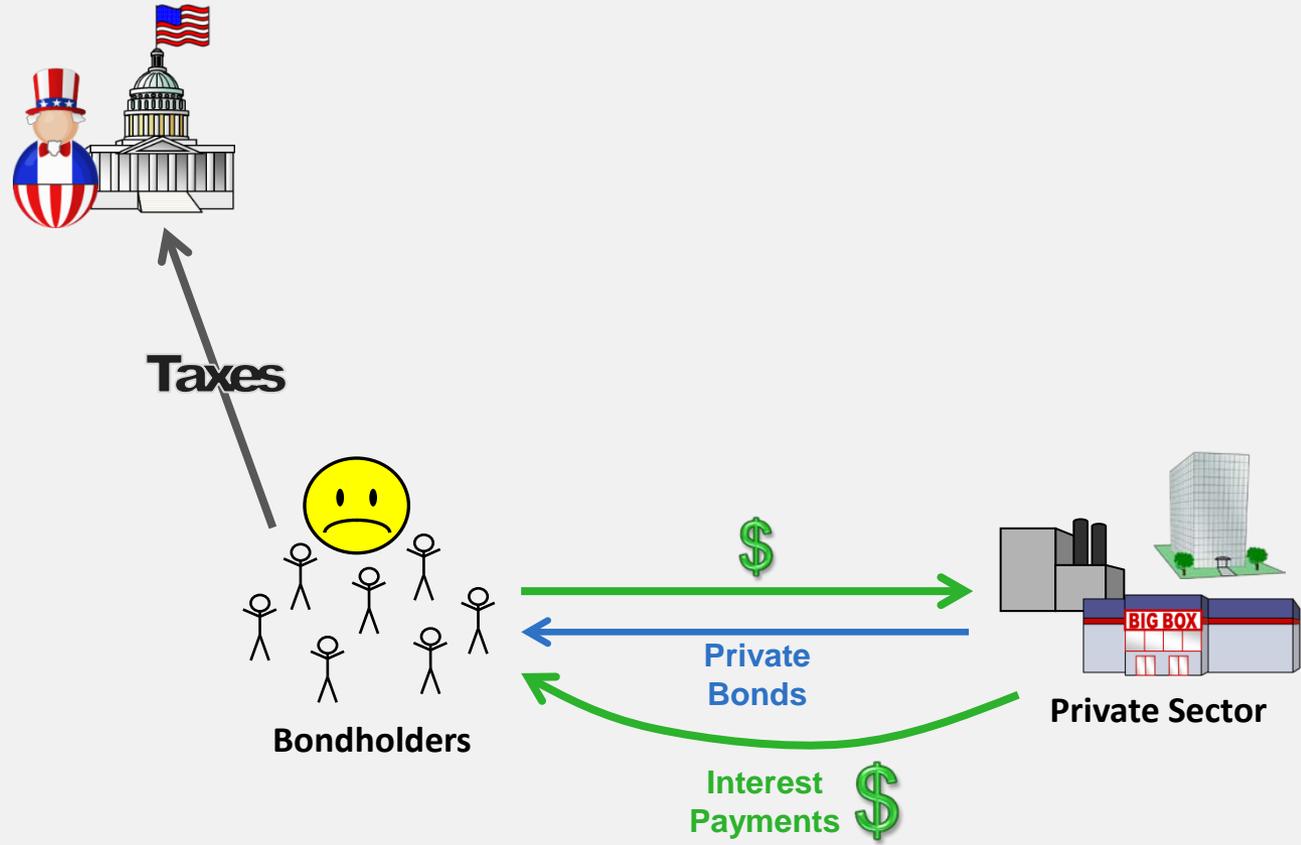
Multi-Building Election



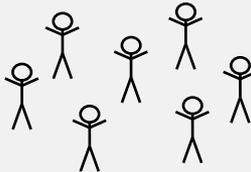
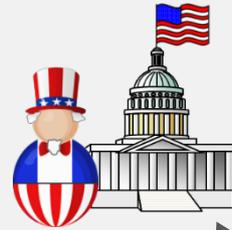
Private Activity Bond and Four Percent Low-Income Housing Tax Credit Basics







NJ population: 2014
 Approx 8.9 mil
 x **\$100**
 Approx **\$890 mil**



Bondholders

IRC Section 142(d)



State Allocating Agency

Bonds



Private Activity Tax-Exempt Bonds

Greater of \$100 per capita OR \$296,825,000



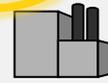
Multi-Family Rental Housing



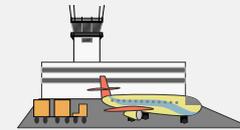
Student Loans



Single-Family Housing



Industrial Development



Airports

Outline

Tax-Exempt Bond Overview

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Bond Financing Timeline

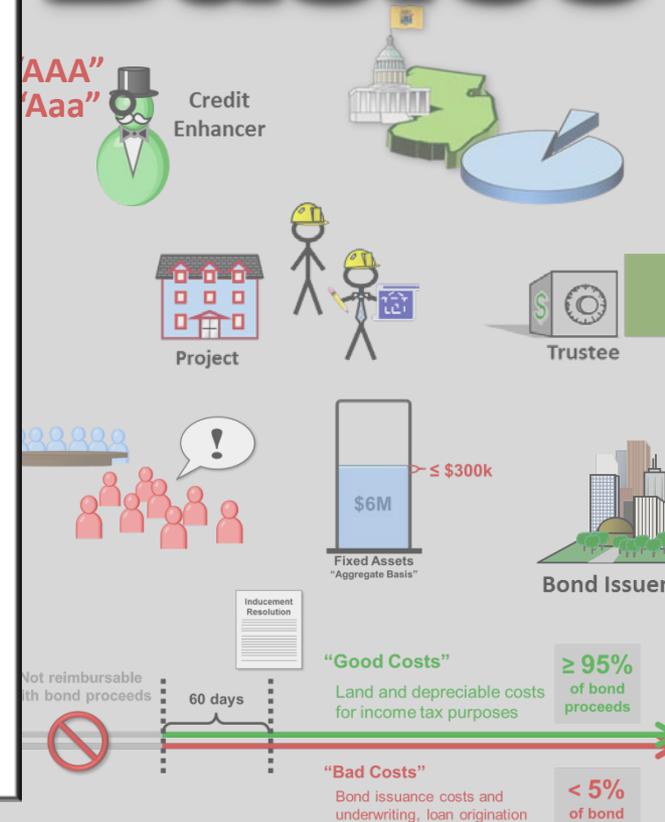
4% Low-Income Housing Tax Credits

Major Bond Rules

Multi-Building Election



Private Activity Bond and Four Percent Low-Income Housing Tax Credit Basics

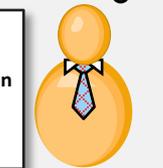
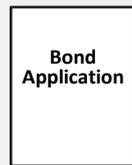




State Allocating Agency

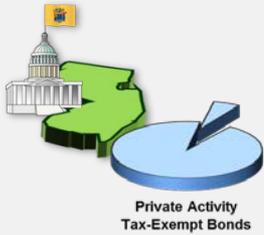


**Private Activity
Tax-Exempt Bonds**



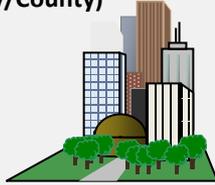
**Developer/
Owner**



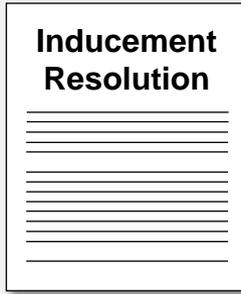


Private Activity
Tax-Exempt Bonds

(City/County)



Bond Issuer

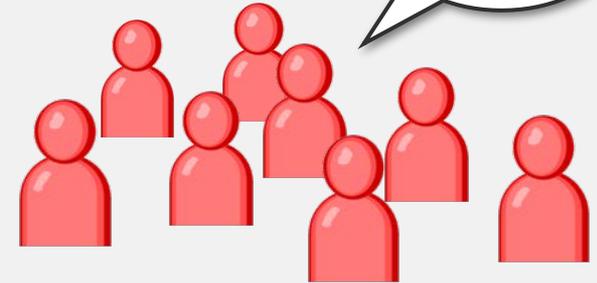
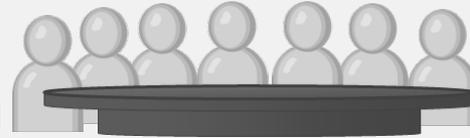


Inducement
Resolution

Public hearing or "TEFRA" requirement

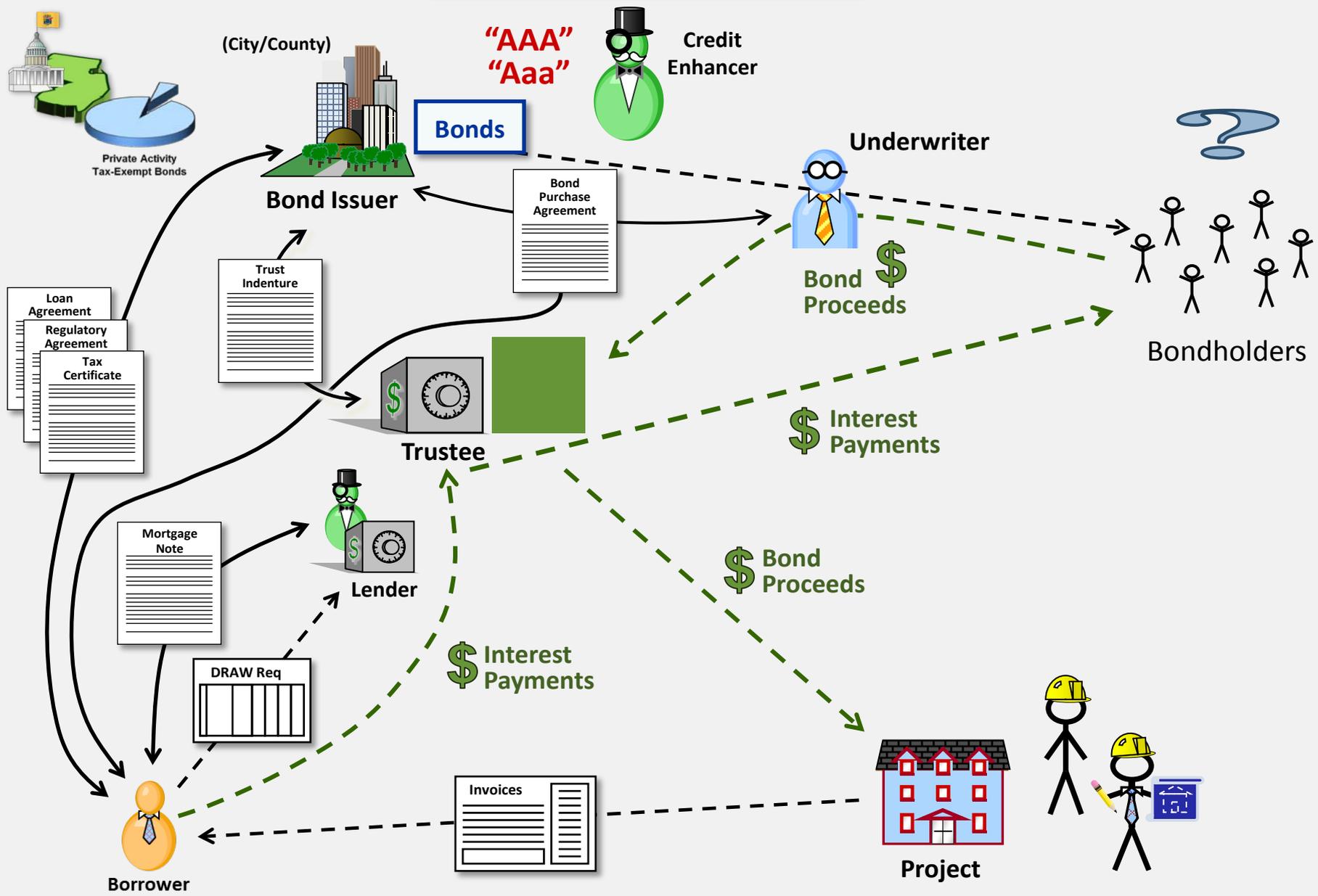


At least
14 days
prior to hearing

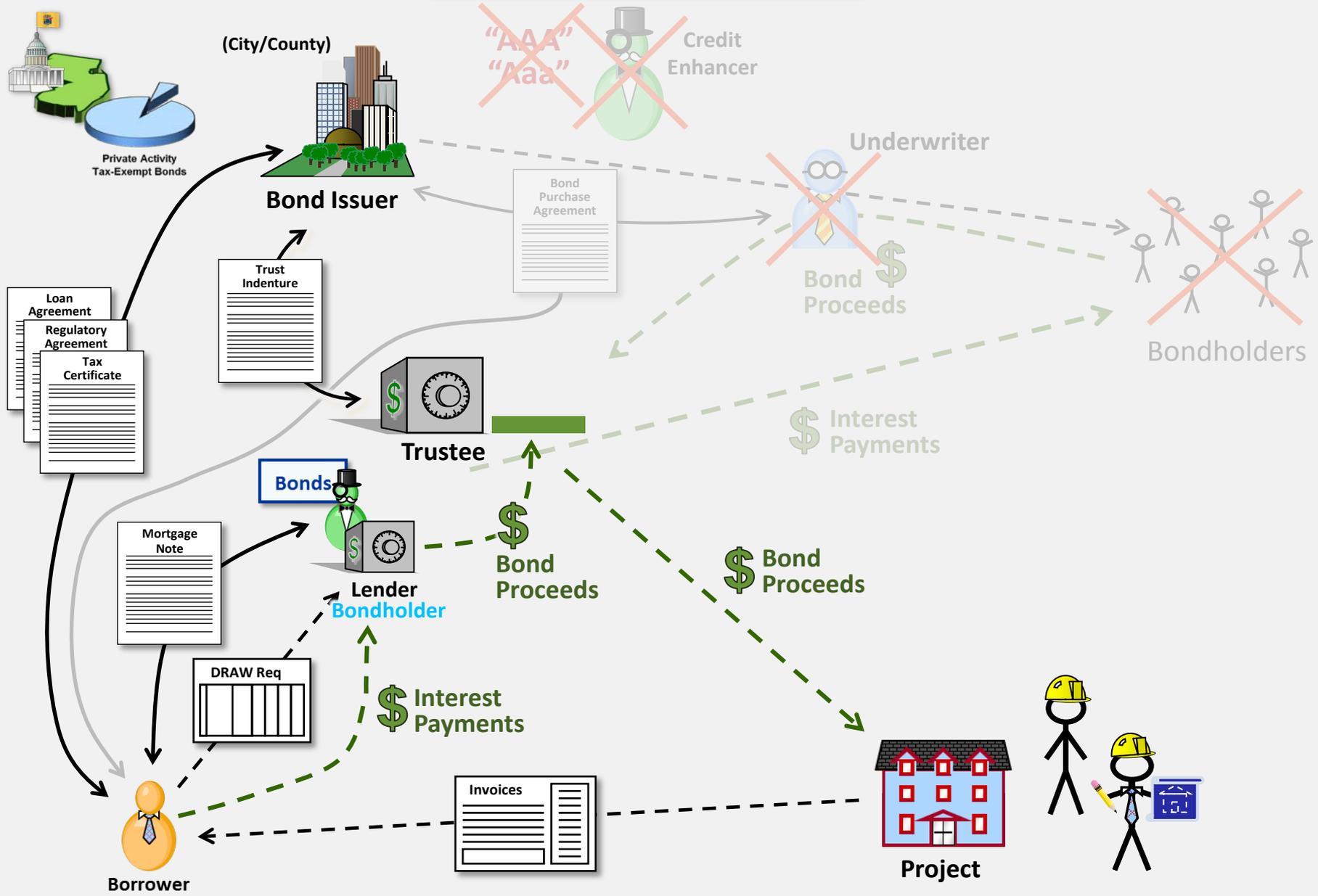


Borrower

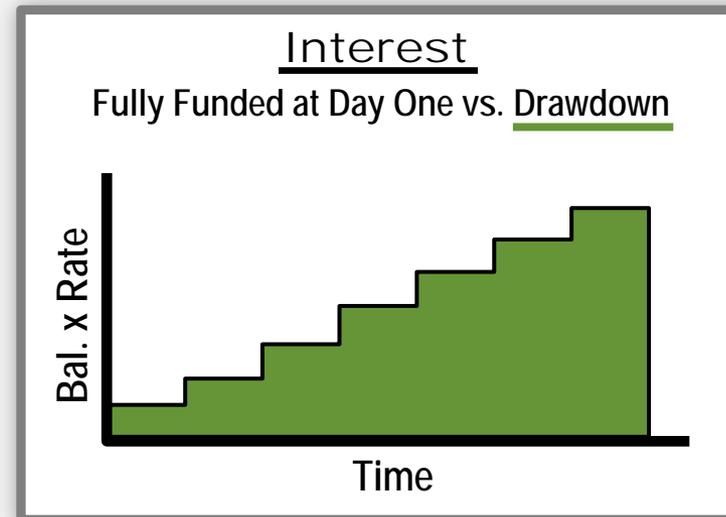
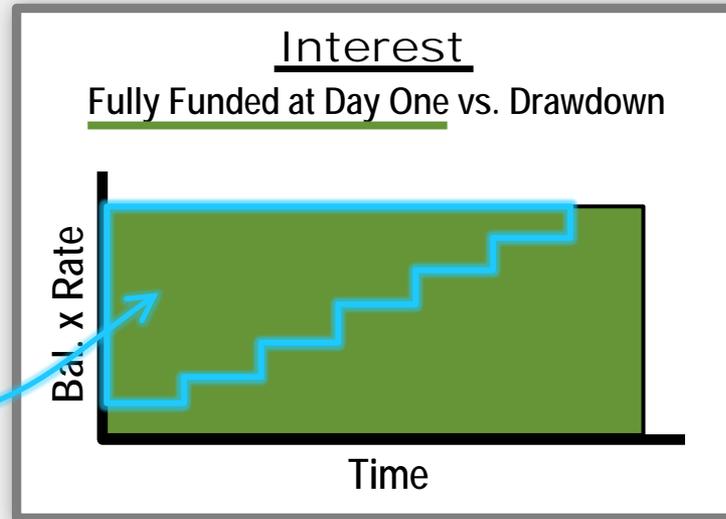
Public Bond Issue



Direct Bond Issue



Additional interest expense for fully-funded-at-day-one bond issue



Outline

Tax-Exempt Bond Overview

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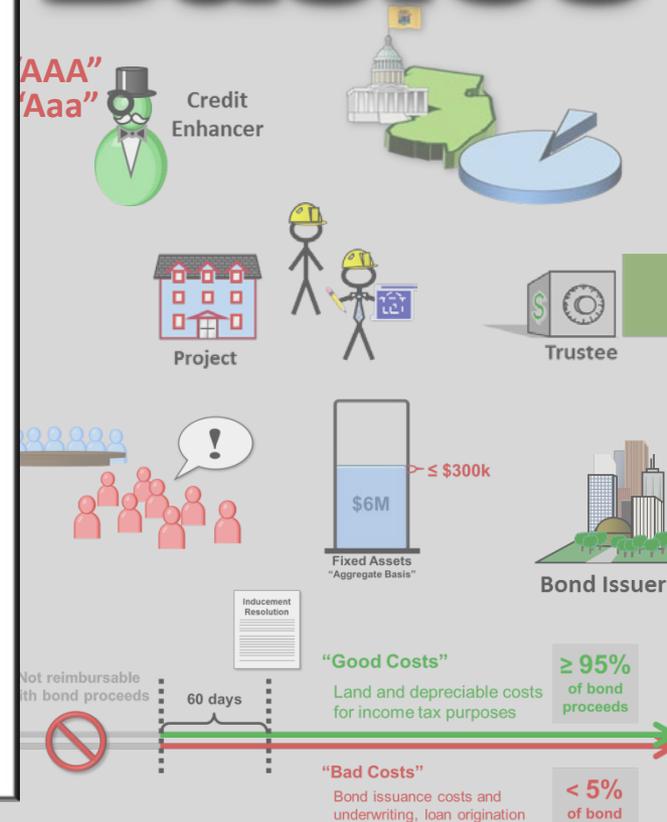
4% Low-Income Housing Tax Credits

Major Bond Rules

Multi-Building Election

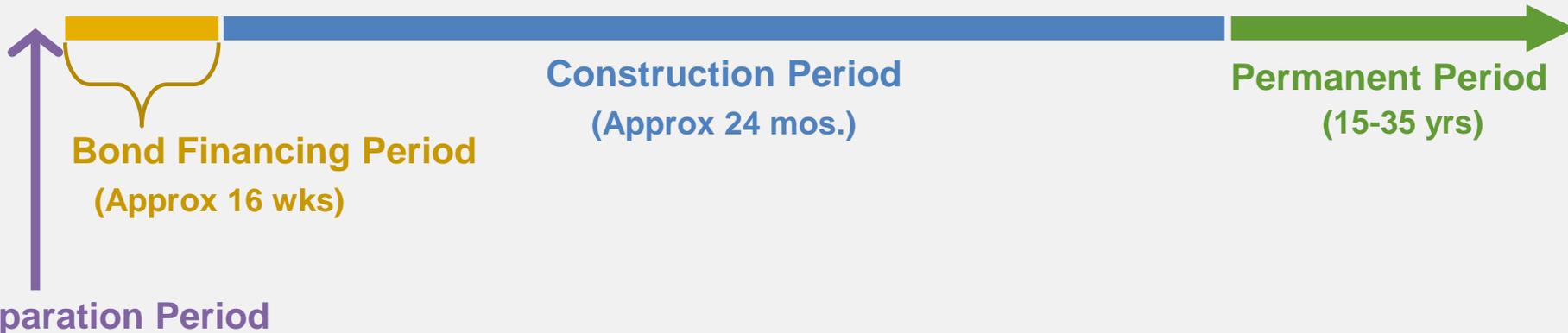


Private Activity Bond and Four Percent Low-Income Housing Tax Credit Basics



Bond Financing Time Line
(For discussion purposes only; not meant to be a rigid timeline)

Preparation Period		Identify Banker/Lender, Issuer, Bond Counsel, Financial Advisor	
		Pass Inducement Resolution	Expenditures within 60 prior to this date eligible to be reimbursed with bond proceeds
Bond Financing Period	Week 1	Apply for Bond Volume Allocation	
	Week 4	Assemble Bond Finance Team	Issuer, Bond Counsel, Lender, Investment Banker, Bond Credit Enhancer, Bond Trustee, LIHTC Tax Credit Partner
	Week 6	Receive Bond Volume Allocation	
	Week 7	Kick-Off Meeting/Call	
	Week 9	Circulate Draft Documents	
	Week 11	Publish TEFRA Notice	Must be published at least 14 days prior to TEFRA Hearing
	Week 13	Hold TEFRA Hearing	
	Week 13	Submit Substantially Final Documents to Issuer	
	Week 14	Issuer Approves Bond Resolution Authorizing the Sale and Issuance of the Bonds	
	Week 15	Sell Bonds	
Week 16	Close Financing	First LIHTC Equity Contribution made	





Assemble Bond Finance Team



Kick-Off Meeting/Call



Hold TEFRA Hearing



Submit Substantially Final Documents to Issuer

Inducement Resolution

Bond Application

Receive Bond Volume Cap Allocation

Apply for Bond Volume Cap Allocation



Circulate Draft Documents

Publish TEFRA Notice



Issuer Approves Bond Resolution

Sell Bonds

Bonds

Close Financing

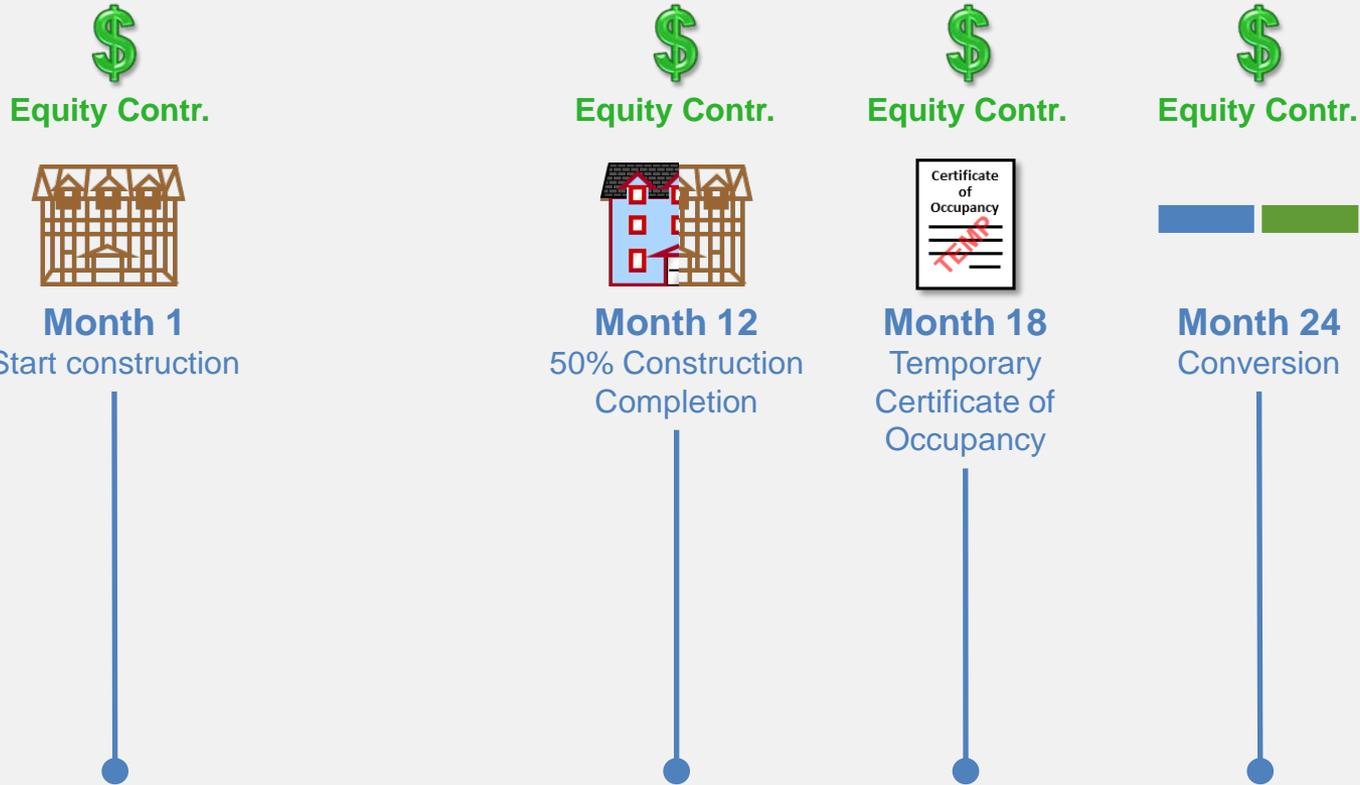
1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16



**Bond Financing Period
(Approx 16 wks)**

Preparation Period

Example Equity Contribution Schedule



Outline

Tax-Exempt Bond Overview

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Bond Financing Timeline

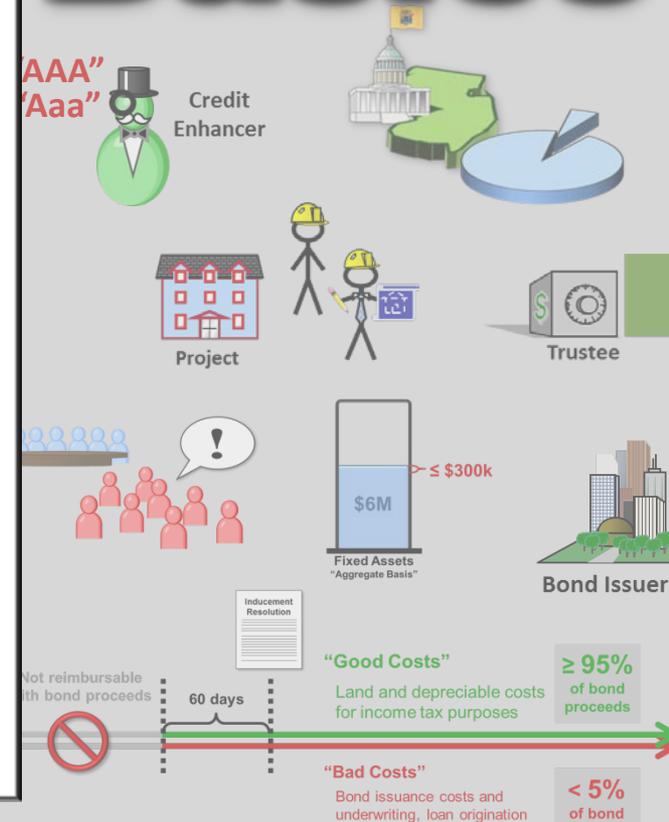
4% Low-Income Housing Tax Credits

Major Bond Rules

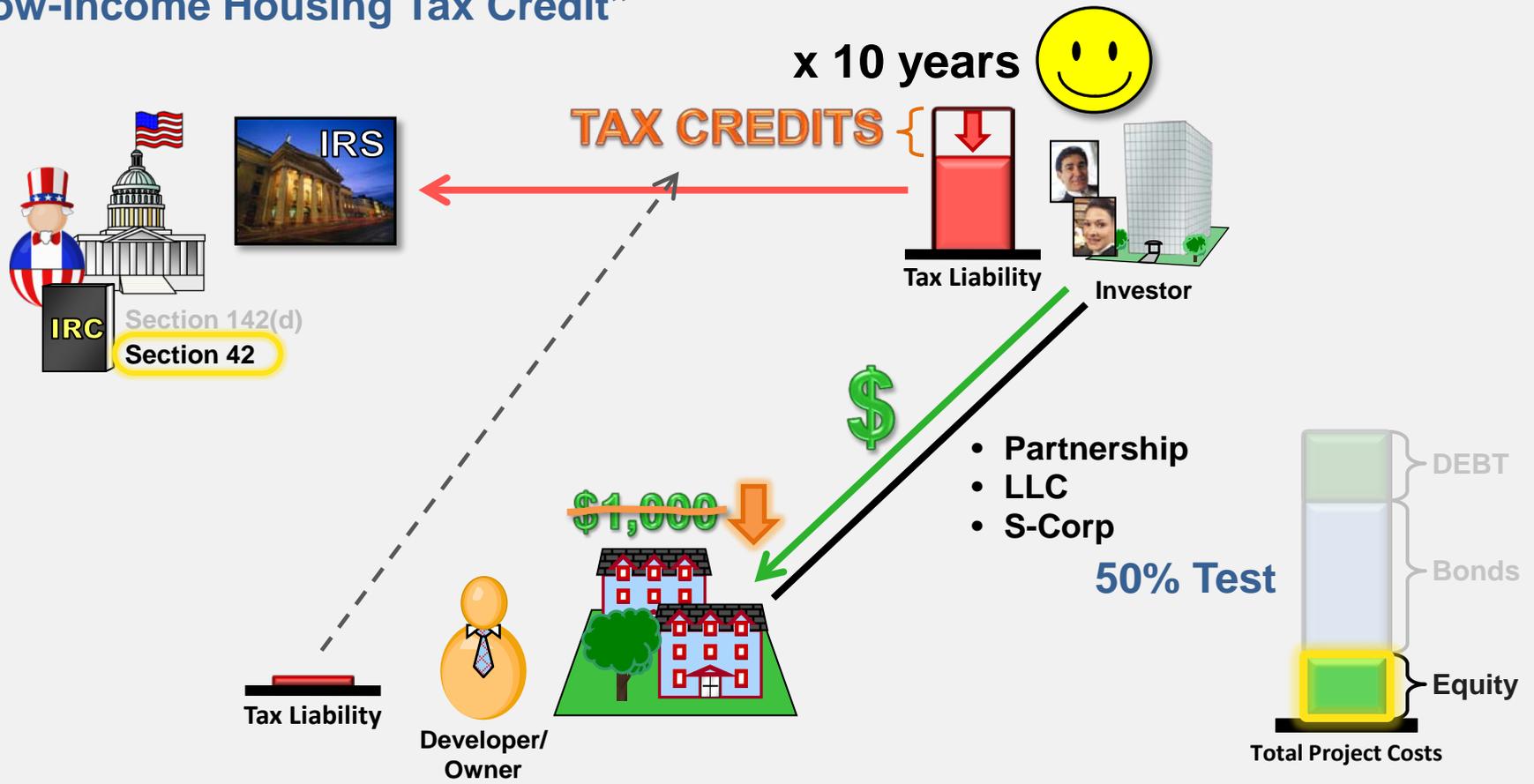
Multi-Building Election



Private Activity Bond and Four Percent Low-Income Housing Tax Credit Basics



“Low-Income Housing Tax Credit”

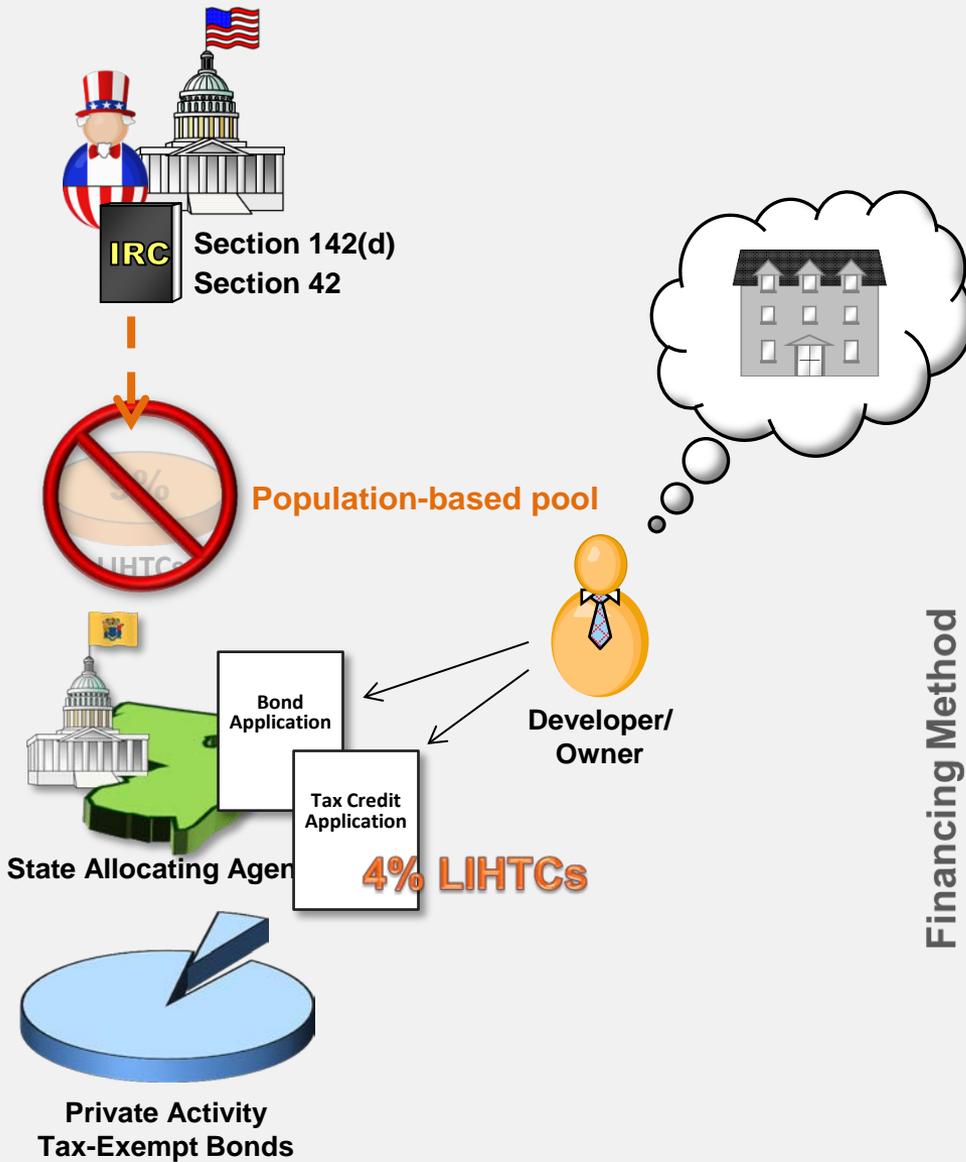


Low-Interest Debt



- Income limits
- Rent limits
- Suitability for occupancy

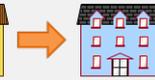




Construction Method

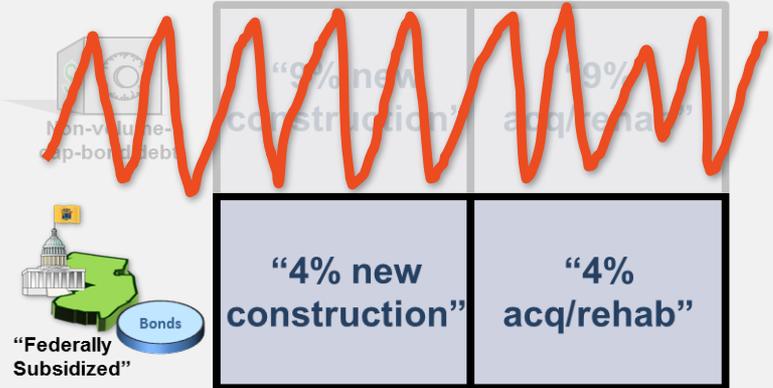


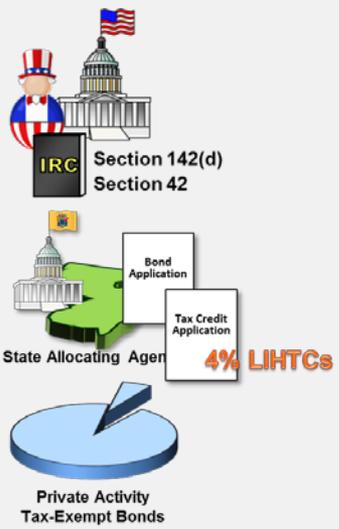
New Constr.



Acq/Rehab

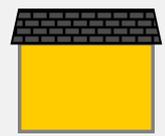
Financing Method



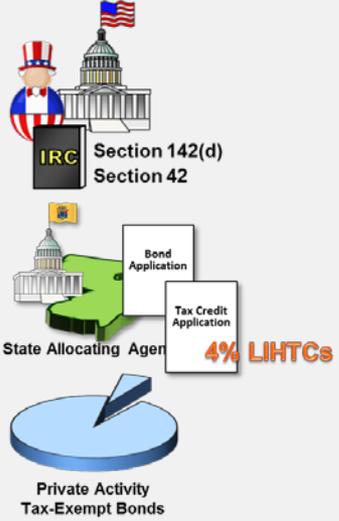


Developer/
Owner

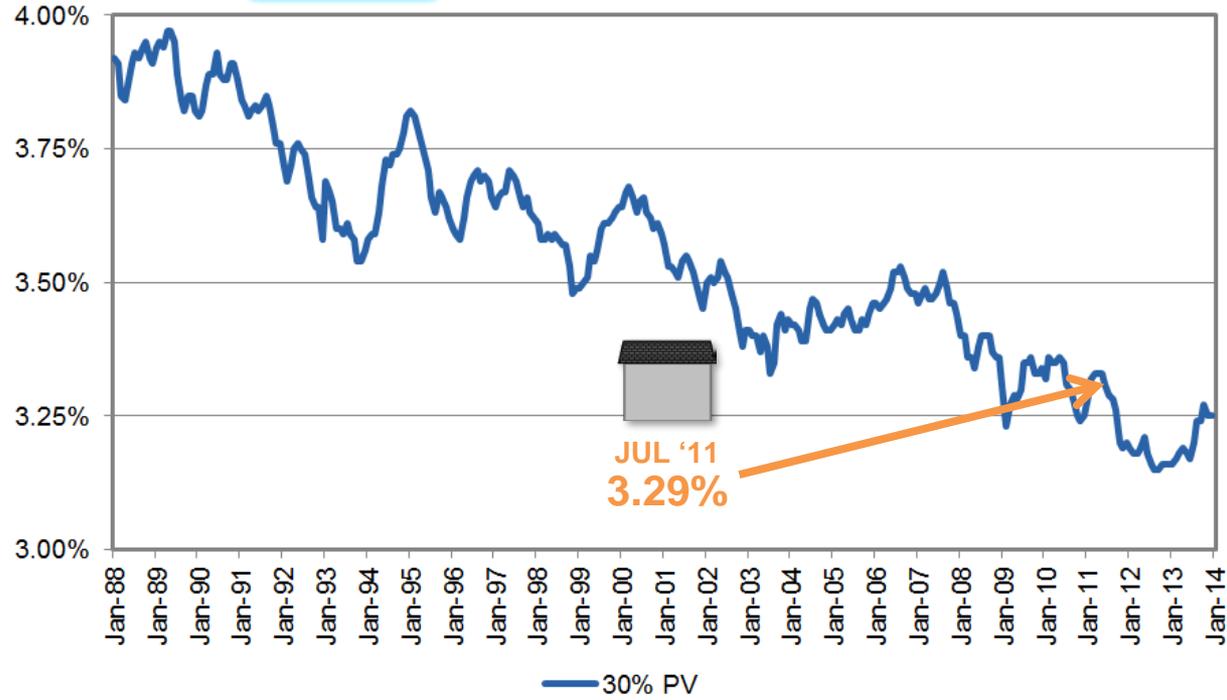
Total project costs = \$11 Mil



Eligible basis	\$ 10 Mil
<u>Applicable fraction</u>	<u>x 100%</u>
Qualified basis	\$ 10 Mil
<u>Tax credit percentage</u>	<u>x</u>
Annual tax credits	\$
<u>Ten years</u>	<u>x 10</u>
Total tax credits	\$

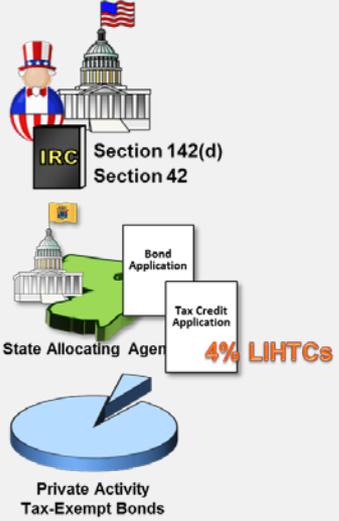


Low-Income Housing Tax Credit: 30% PV (4%) Tax Credit Percentage

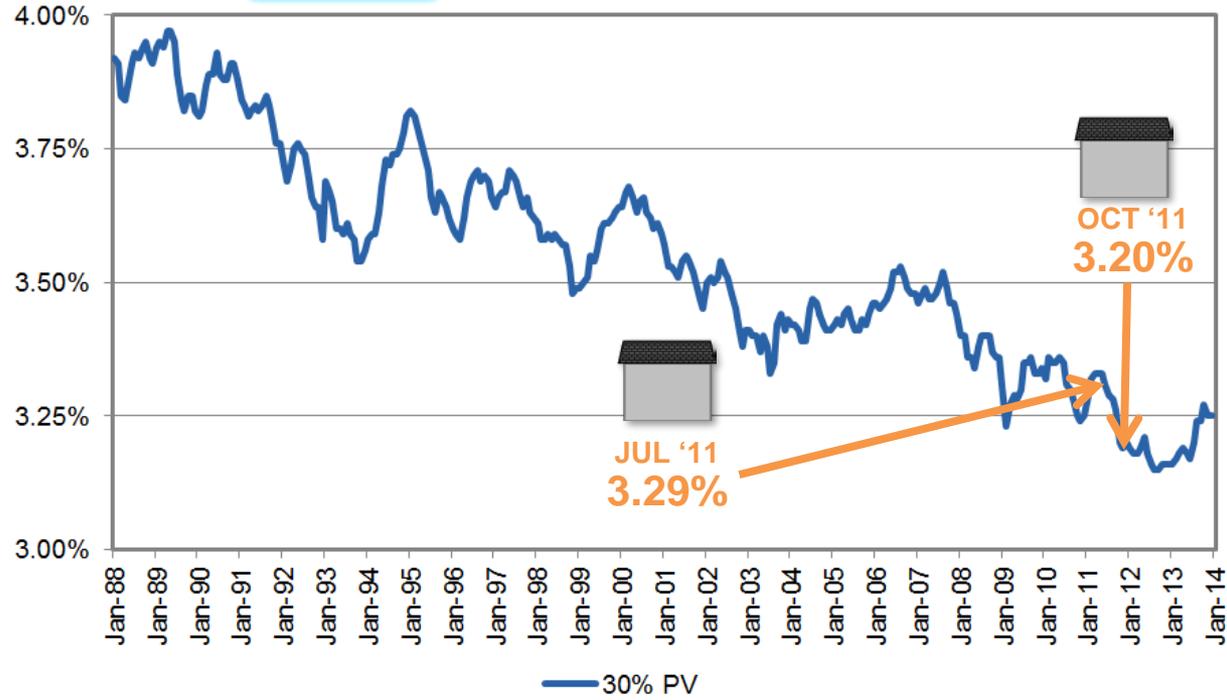


\$3.0mil
PV of Total Credits = 30% x QB

Qualified basis	\$	10 Mil
<u>Tax credit percentage</u>	<u>x</u>	<u>3.29%</u>
Annual tax credits	\$	329k
<u>Ten years</u>	<u>x</u>	<u>10</u>
Total tax credits	\$	3.29 Mil



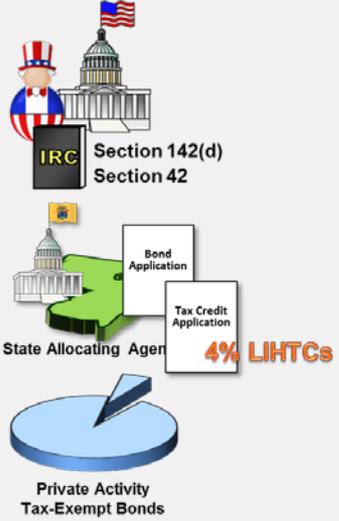
Low-Income Housing Tax Credit: 30% PV (4%) Tax Credit Percentage



\$3.0mil

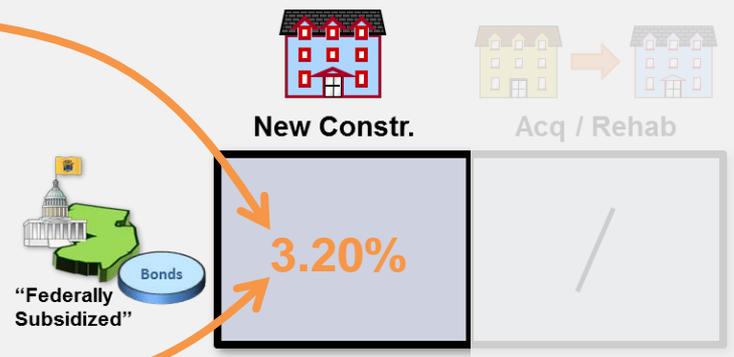
PV of Total Credits = 30% x QB

Qualified basis	\$ 10 Mil
<u>Tax credit percentage</u>	<u>x 3.20%</u>
Annual tax credits	\$ 320k
Ten years	x 10
Total tax credits	\$ 3.20 Mil



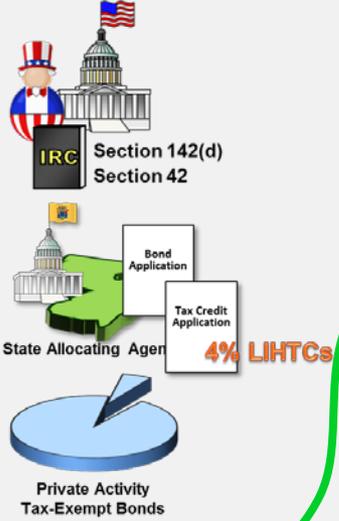
Bond closing
(By election)

Month placed
in service
(Default)



Total project costs = \$11 Mil

Eligible basis	\$	10 Mil
<u>Applicable fraction</u>	<u>x</u>	<u>100%</u>
Qualified basis	\$	10 Mil
<u>Tax credit percentage</u>	<u>x</u>	<u>3.20%</u>
Annual tax credits	\$	320k
<u>Ten years</u>	<u>x</u>	<u>10</u>
Total tax credits	\$	3.20 Mil



Month acquisition placed in service

Credit Percentages	
Nov '12	3.16%
Dec '12	3.16%
Jan '13	3.16%
Feb '13	3.17%
Mar '13	3.18%
Apr '13	3.19%
May '13	3.18%
Jun '13	3.17%
Jul '13	3.20%
Aug '13	3.24%
Sep '13	3.24%
Oct '13	3.27%
Nov '13	3.25%
Dec '13	3.25%
Jan '14	3.26%
Feb '14	3.27%
Mar '14	3.26%
Apr '14	3.25%

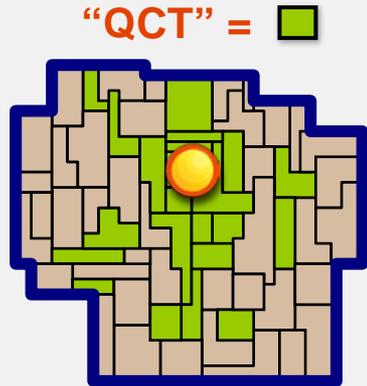
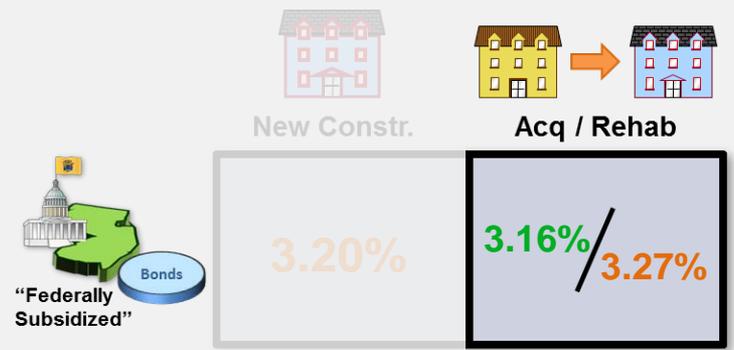
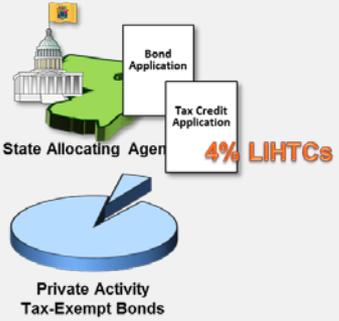
Month rehab completed (Default)

IRC Section 42(b)(1)



Total project costs = \$11 Mil

	Acq	Rehab
Eligible basis	\$ 4 Mil	\$ 6 Mil
Applicable fraction	x 100%	x 100%
Qualified basis	\$ 4 Mil	\$ 6 Mil
Tax credit percentage	x 3.16%	x 3.27%
Annual tax credits	\$ 126k	\$ 196k
Ten years	x 10	x 10
Total tax credits	\$ 1.26 Mil	\$ 1.96 Mil
\$3.22 Mil		



Total project costs = \$11 Mil

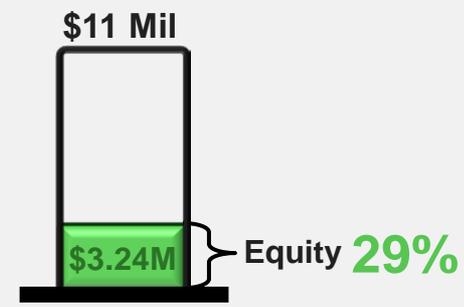
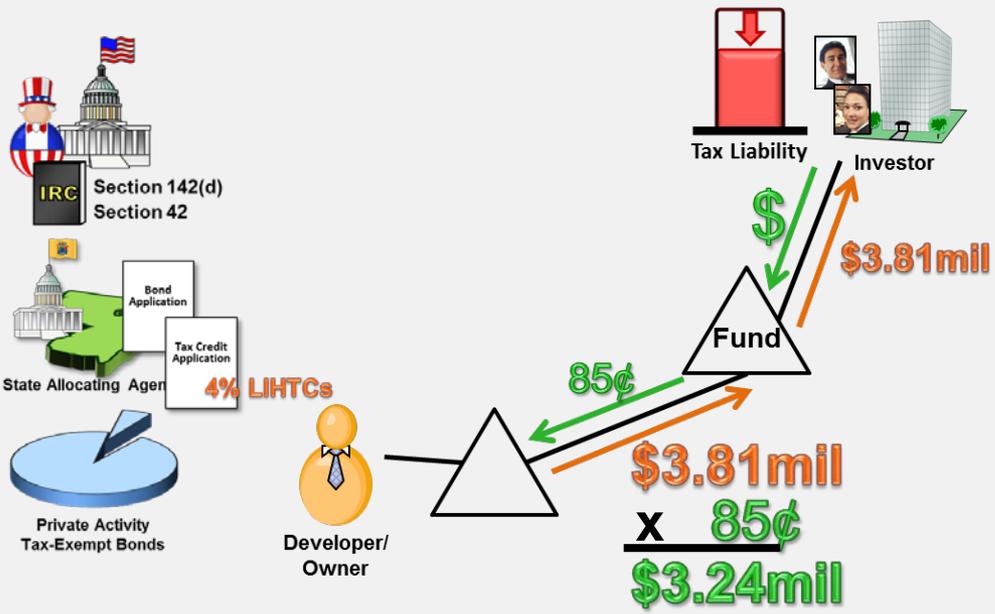
↑30%

	Acq	Rehab
Eligible basis	\$ 4 Mil	\$ 7.8 Mil
Applicable fraction	x 100%	x 100%
Qualified basis	\$ 4 Mil	\$ 7.8 Mil
Tax credit percentage	x 3.16%	x 3.27%
Annual tax credits	\$ 126k	\$ 255k
Ten years	x 10	x 10
Total tax credits	\$ 1.26 Mil	\$ 2.55 Mil

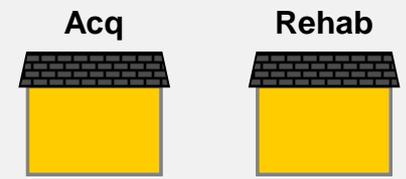
\$3.81 Mil

30% Eligible Basis Boost

- Available to...
 - Projects located in **Difficult Development Areas (DDAs)**, which are areas that have “high construction, land, and utility costs relative to area median gross income.” IRC §42(d)(5)(C)(iii)
 - Projects located in **Qualified Census Tracts (QCTs)**, which are census tracts “in which 50 percent or more of the household have an income which is less than 60 percent of the area median income for such year or which has a poverty rate of at least 25 percent.” IRC §42(d)(5)(C)(ii)
 - **NOT APPLICABLE TO BOND/4% DEALS:** 9% projects not already in a DDA or QCT that the state allocating agency chooses to award up to the 30% basis boost so that the project may be “financially feasible.” Housing and Economic Recovery Act of 2008 (HERA)

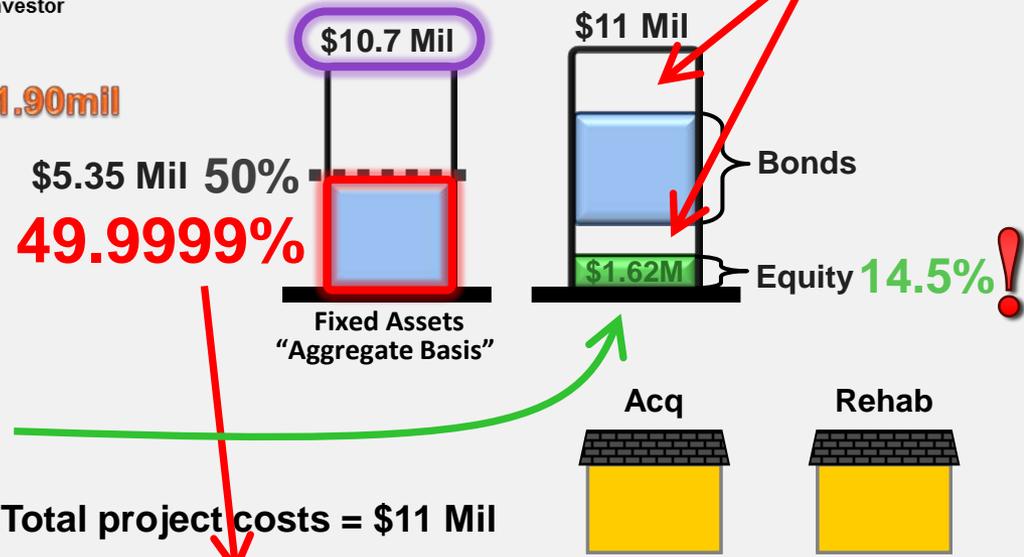
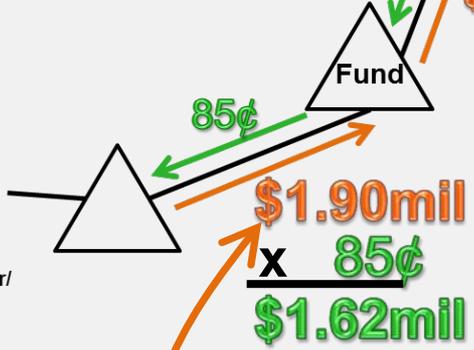


Total project costs = \$11 Mil



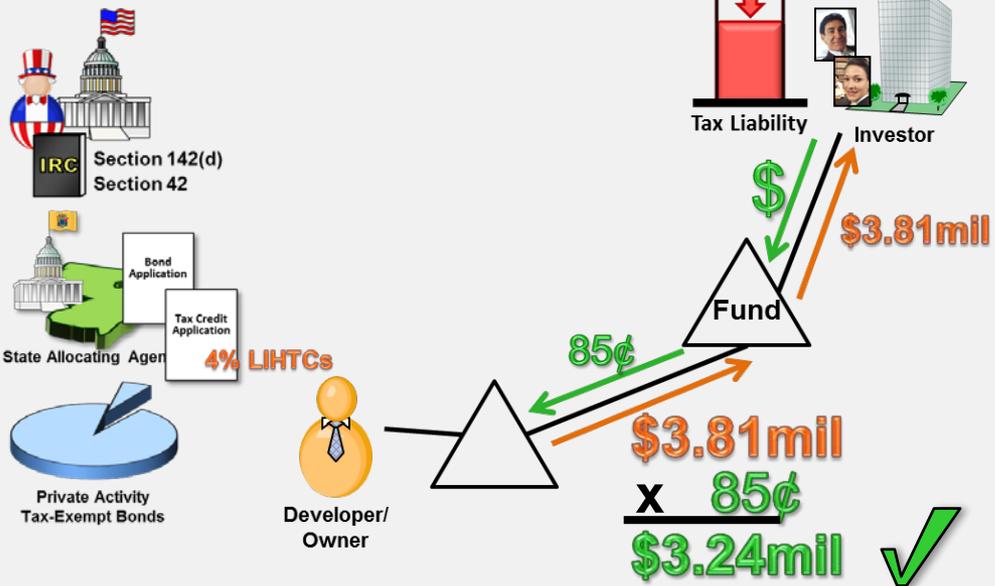
Eligible basis	\$ 4 Mil	\$ 7.8 Mil
<u>Applicable fraction</u>	<u>x 100%</u>	<u>x 100%</u>
Qualified basis	\$ 4 Mil	\$ 7.8 Mil
<u>Tax credit percentage</u>	<u>x 3.16%</u>	<u>x 3.27%</u>
Annual tax credits	\$ 126k	\$ 255k
<u>Ten years</u>	<u>x 10</u>	<u>x 10</u>
Total tax credits	\$ 1.26 Mil	\$ 2.55 Mil

\$3.81 Mil

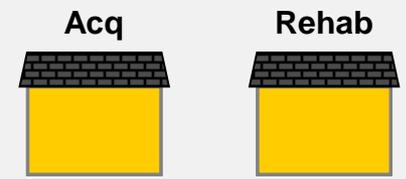


Eligible basis	\$ 4 Mil	\$ 7.8 Mil
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Qualified basis	\$ 4 Mil	\$ 7.8 Mil
Tax credit percentage	x 3.16%	x 3.27%
Annual tax credits	\$ 126k	\$ 255k
Ten years	x 10	x 10
Total tax credits	\$ 1.26 Mil	\$ 2.55 Mil

49.9999% ~~\$3.81 Mil~~
\$1.90 mil



Total project costs = \$11 Mil



Eligible basis	\$ 4 Mil	\$ 7.8 Mil
<u>Applicable fraction</u>	<u>x 100%</u>	<u>x 100%</u>
Qualified basis	\$ 4 Mil	\$ 7.8 Mil
<u>Tax credit percentage</u>	<u>x 3.16%</u>	<u>x 3.27%</u>
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Total tax credits	\$ 1.26 Mil	\$ 2.55 Mil

\$3.81 Mil

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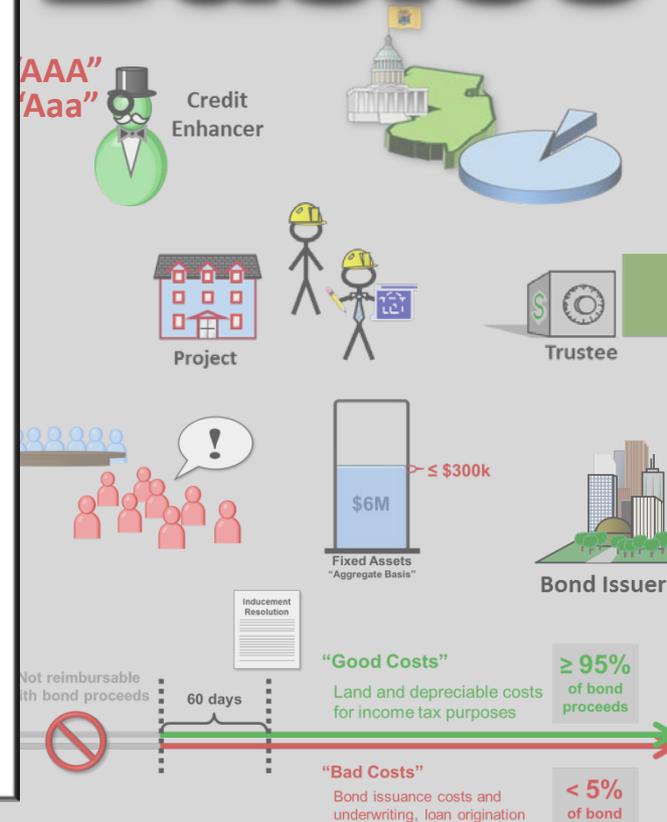
4% Low-Income Housing Tax Credits

Major Bond Rules

Multi-Building Election



Private Activity Bond and Four Percent Low-Income Housing Tax Credit Basics



2% “Cost of Issuance Limitation”



Bond issuance costs (BIC) paid from bond proceeds \leq \$120k

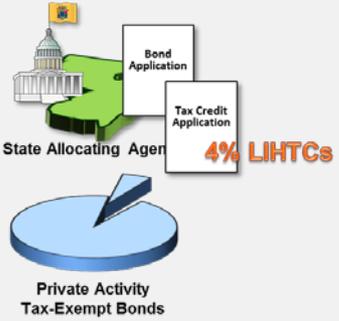
(\$6 mil x 2%)

Fixed Assets
“Aggregate Basis”



“Good Costs/Bad Costs”

95% of proceeds must be used for “good costs”



Good Costs
Land and depreciable costs for income tax purposes



\$5.7 mil

! < 25% Land

Fixed Assets
“Aggregate Basis”

“Good Costs/Bad Costs”

95% of proceeds must be used for “good costs”



≤ \$300k

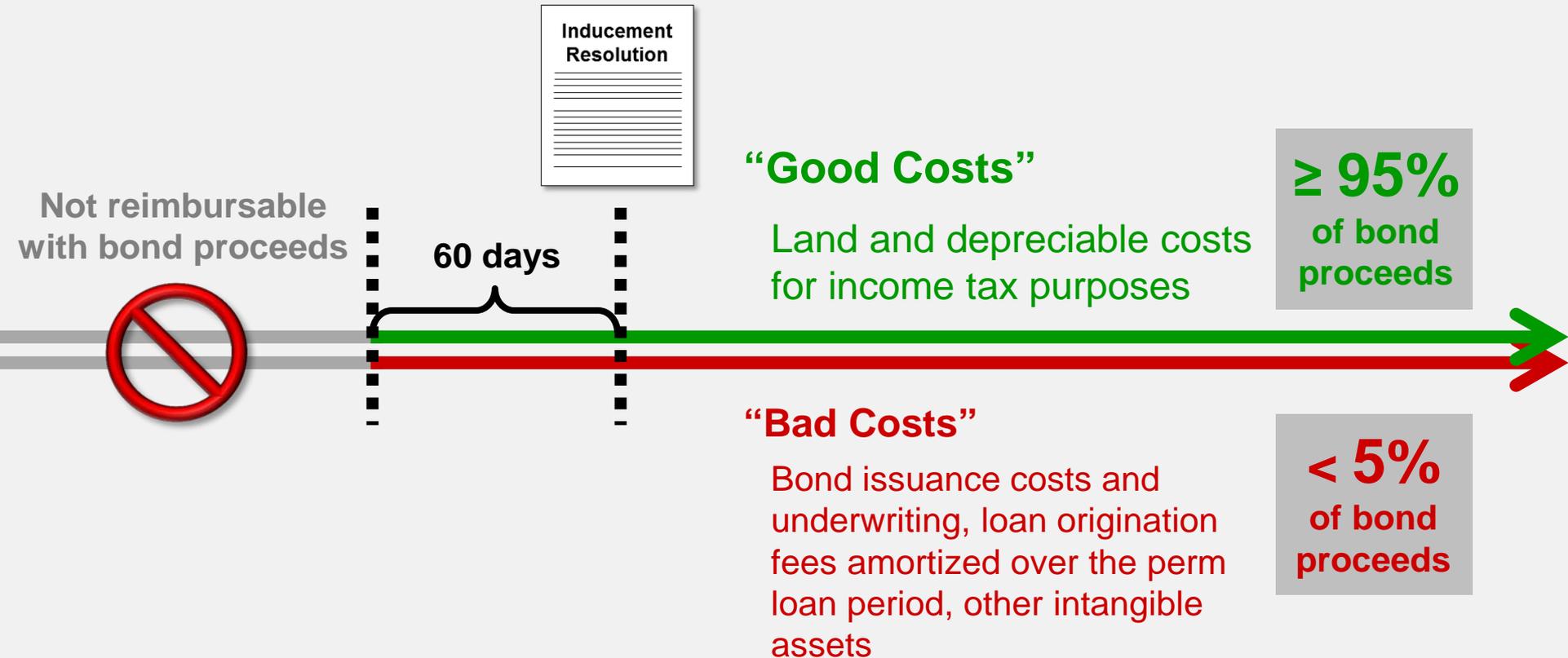
Fixed Assets
“Aggregate Basis”

Bad Costs

- Bond issuance costs and underwriting
- Loan origination fees amortized over the perm loan period
- Other intangible assets

“Good Costs/Bad Costs”

95% of proceeds must be used for “good costs”



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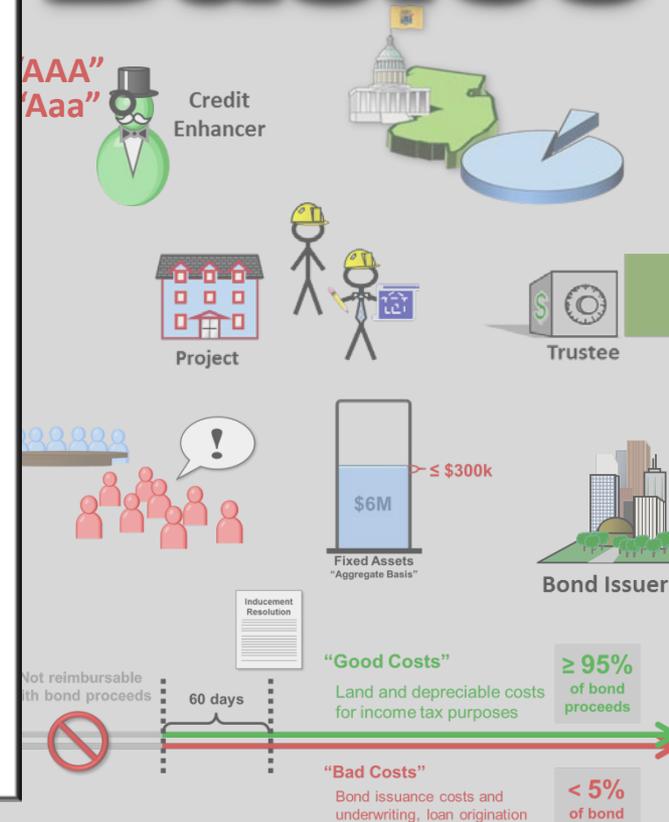
4% Low-Income Housing Tax Credits

Major Bond Rules

Multi-Building Election



Private Activity Bond and Four Percent Low-Income Housing Tax Credit Basics



Multiple Building Projects

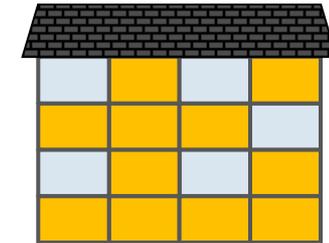
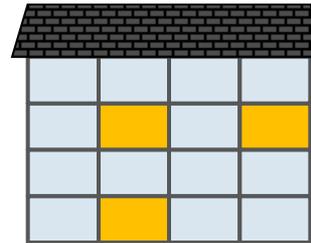
Combined
43.75%

18.75%

68.75%

Building A

Building B



Low-income qualified

Form **8609** Low-Income Housing Credit Allocation and Certification

OMB No. 1545-0088

Check Allocation of Credit

Check Addition to Qualified Basis Amended Form

A Address of building (do not use P.O. box) (see instructions)

B Name and address of housing credit agency

C Name, address, and TIN of building owner receiving allocation

D Employer identification number of agency

E Building identification number (BIN)

TIN

1a Date of allocation

b Maximum housing credit dollar amount allowable

1b

2 Maximum applicable credit percentage allowable (see instructions)

2 %

3a Maximum qualified basis

b If the eligible basis used in the computation of line 3a was increased, check the applicable box and enter the percentage to which the eligible basis was increased (see instructions)

Building located in the Gulf Opportunity (GO) Zone, Rita GO Zone, or Wilma GO Zone

Section 42(d)(5)(B) high cost area provisions

3b 1 %

4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-)

4 %

5 Date building placed in service

6 Check the boxes that describe the allocation for the building (check those that apply):

a Newly constructed and federally subsidized b Newly constructed and not federally subsidized c Existing building

d Sec. 42(e) rehabilitation expenditures federally subsidized e Sec. 42(e) rehabilitation expenditures not federally subsidized

f Not federally subsidized by reason of 40-50 rule under sec. 42(f)(2)(E) g Allocation subject to nonprofit set-asides under sec. 42(h)(5)

Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined this form and to the best of my knowledge and belief, the information is true, correct, and complete.

Signature of authorized official

Name (please type or print)

Date

Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? Yes No

to reduce eligible basis by disproportionate costs of non-low income units under section 42(d)(8)(B)? Yes No

10 Check the appropriate box for each election:

Caution: Once made, the following elections are irrevocable.

a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) Yes No

b Elect not to treat large partnership as taxpayer (section 42(i)(5)) Yes No

c Elect minimum set-aside requirement (section 42(j)) (see instructions) 20-50 40-50 25-40 (N.Y.C. only)

d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions) 15-40

Under penalties of perjury, I declare that the above building continues to qualify as a part of a qualified low-income housing project and meets the requirements of Internal Revenue Code section 42. I have examined this form and attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature

Taxpayer identification number

Date

Name (please type or print)

Tax year

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 63881U Form 8609 (Rev. 12-2008)

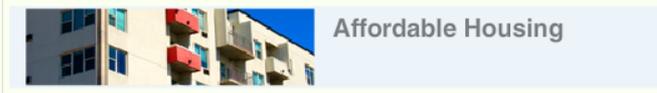
Form 8609, Line 8b

- LIHTC
- IRS Guidance
- Private Letter Rulings
- Technical Advice Memoranda
- IRS Information
- IRS Notices
- Internal Revenue Manual
- Treasury Regulations
- Treasury Department
- Revenue Rulings
- Field Service Memoranda
- General Counsel
- SBSE Memoranda
- Memoranda Understanding
- Revenue Procedures
- Announcements

- LIHTC
- State Agencies
- State Caps and Deadlines
- QAPs and Applications
- IRS Guidance
- Other Guidance
- Compliance
- State LIHTC Programs
- Court Rulings

Home / [Low Income Housing](#) / [Lihtc](#)

Low-Income Housing Tax Credit: IRS Guidance



Private Letter Rulings

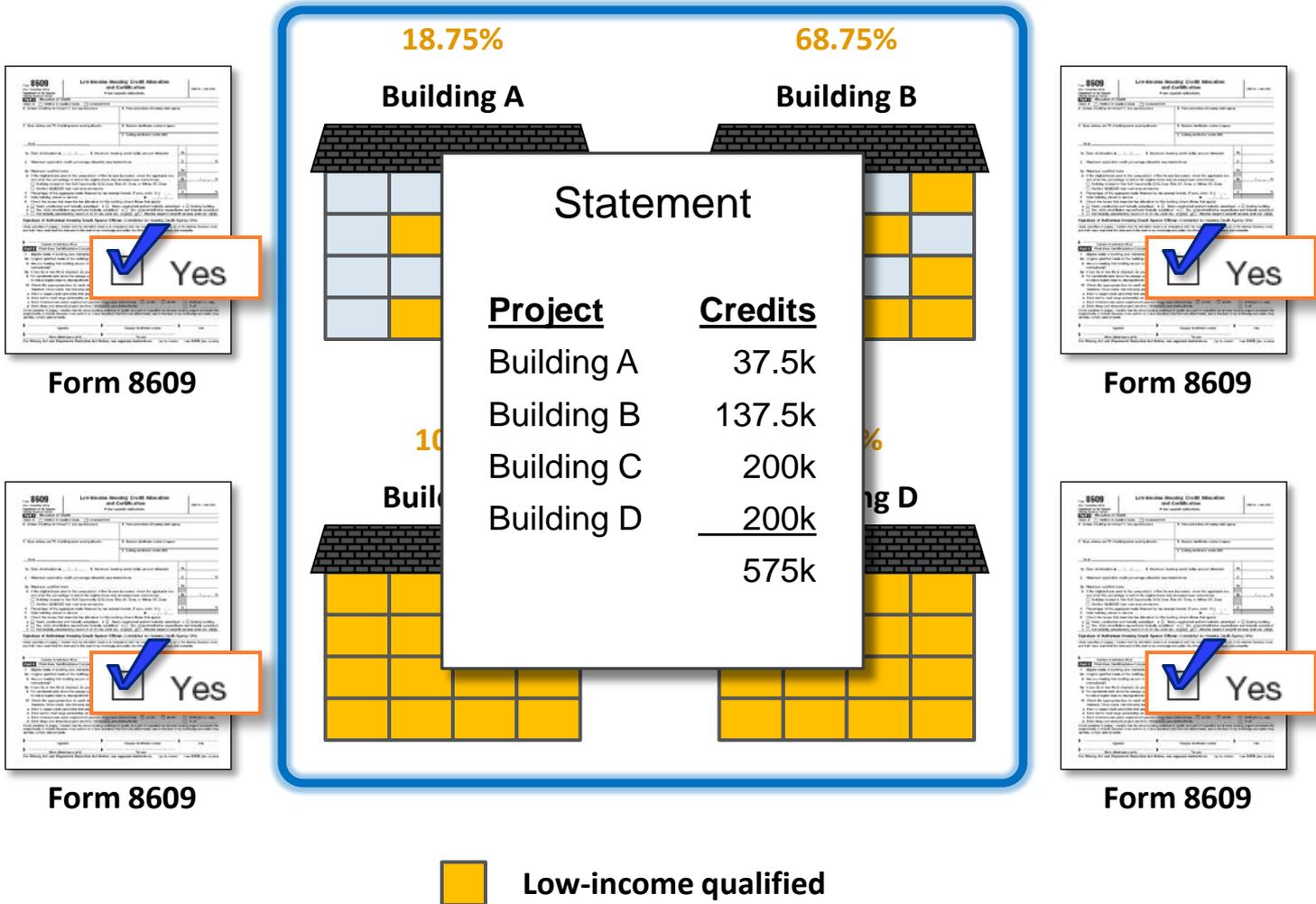
- 2009**
- [PLR 200926022](#) - 50 Percent Exception to the Definition of Tax-Exempt Use Property
 - [PLR 200923008](#) - Low-Income Units Considered Continuously Rented, Occupied During Renovations
 - [PLR 200916007](#) - Permanent Offsite Costs and Eligible Basis
- 2008**
- [PLR 200841003](#) - Historic Building and Addition are One Property for Purposes of Sec. 168(h)(1)(B)(iii) 35% Threshold Test
 - [PLR 200838013](#) - Waiver of 10-year holding period for existing buildings under Section 42(d)(2)(B) granted
 - [PLR 200821029](#) - Extension of Time to file Form 8693, Low-Income Housing Credit
 - [PLR 200821028](#) - Extension of Time to file Form 8693, Low-Income Housing Credit
 - [PLR 200821027](#) - Extension of Time to file Form 8693, Low-Income Housing Credit
 - [PLR 200820011](#) - Energy Credits and Tax-Exempt Bond Financing
 - [PLR 200807010](#) - Extension of time granted for making election
- 2007**
- [PLR 200738002](#) - Complete redemption of private activity bonds
 - [PLR 200738001](#) - Extension of Time Granted to Make the Election



Q&A From the Accountants' Corner

"A taxpayer can let each building stand on its own, or choose to include some or all of the buildings in the project."

"Project"



“Project”

“Project”

18.75%

68.75%

Building A

Building B

Form 8609

Form 8609

100%

100%

Building C

Building D

Form 8609

Form 8609

Statement

Project 1

Credits

Building A

37.5k

Building C

200k

237.5k

Project 2

Credits

Building B

137.5k

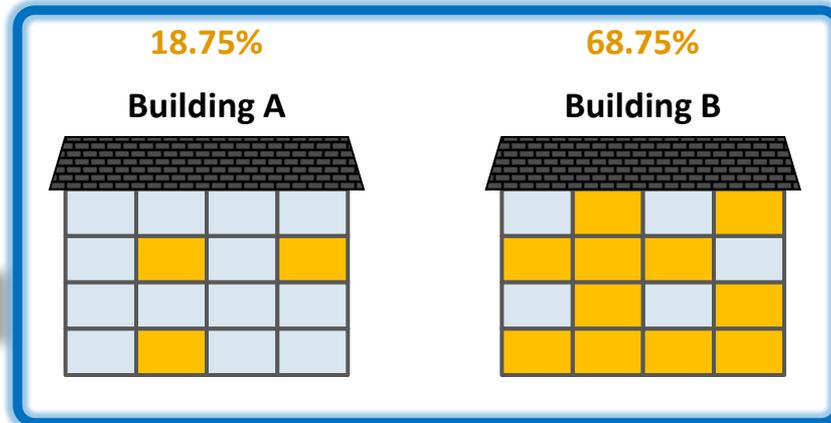
Building D

200k

337.5k

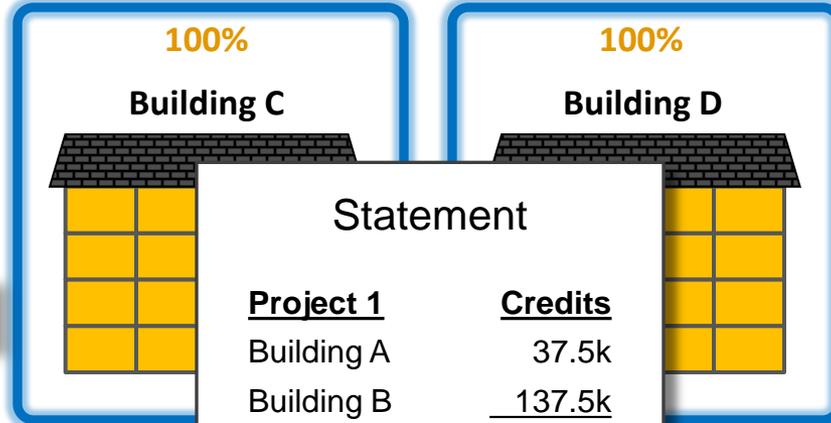
“Project”

Form 8609



Form 8609

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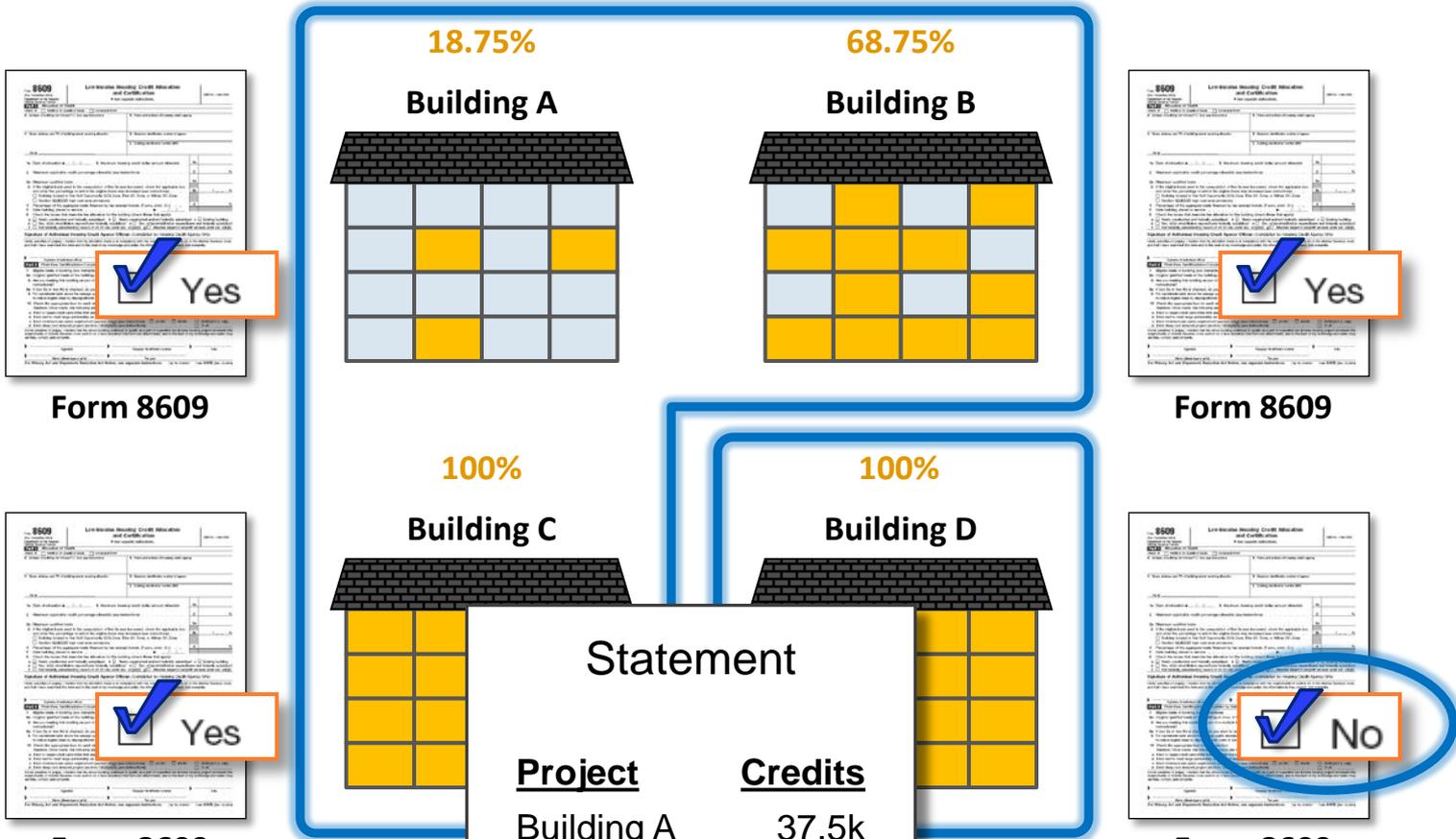


Form 8609

Statement

<u>Project 1</u>	<u>Credits</u>
Building A	37.5k
Building B	<u>137.5k</u>
	175k

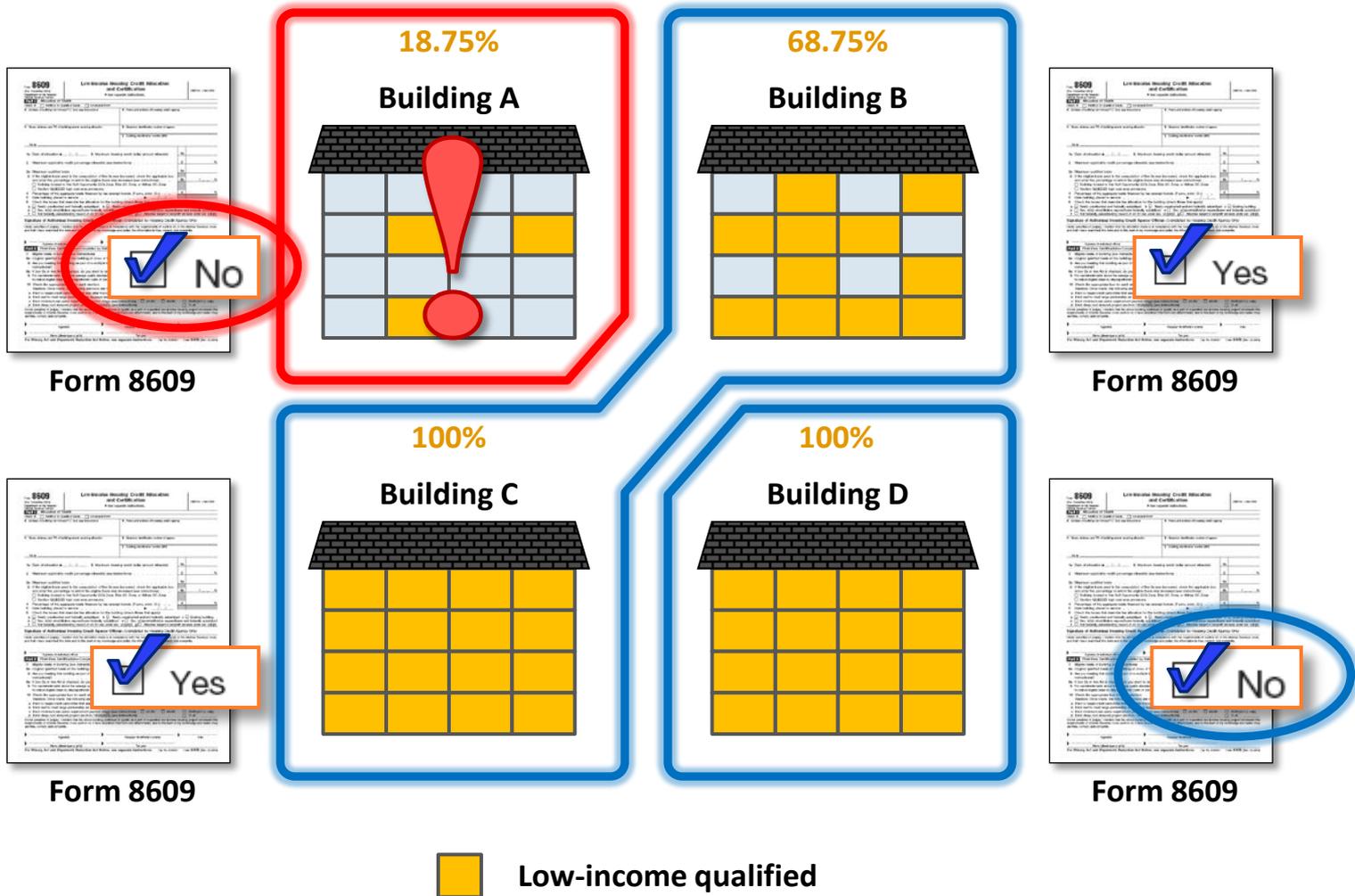
“Project”



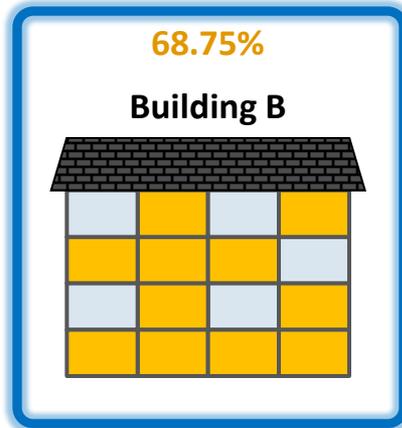
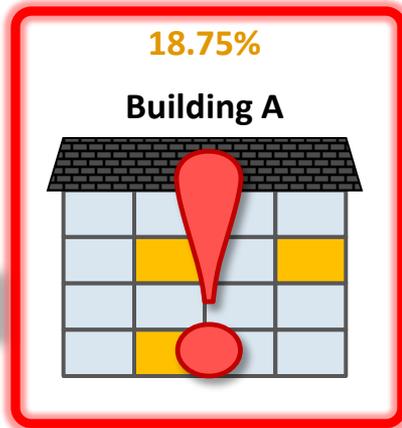
Statement

<u>Project</u>	<u>Credits</u>
Building A	37.5k
Building B	137.5k
Building C	<u>200k</u>
	375k

“Project”

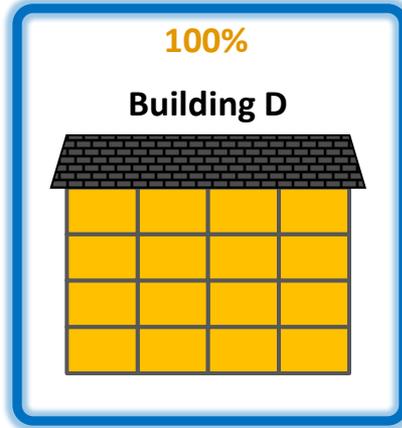
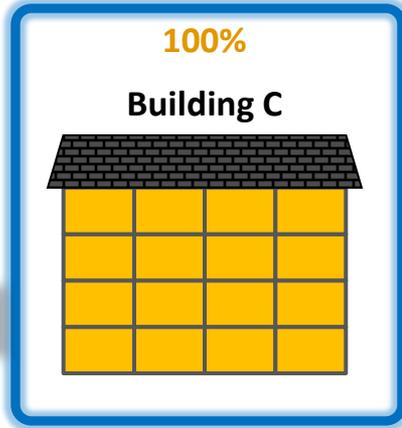


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 Low-income qualified

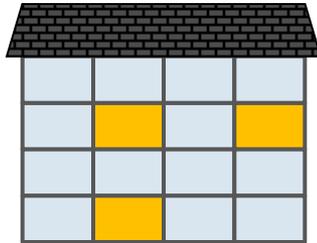
“Project”

“Project”

Form 8609

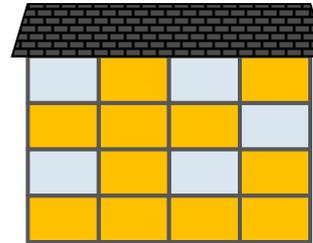
18.75%

Building A



68.75%

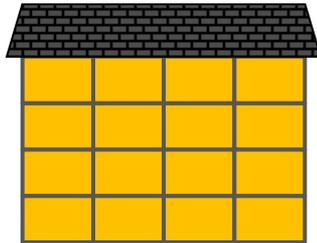
Building B



Form 8609

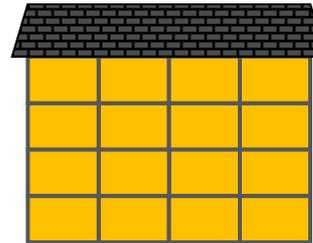
100%

Building C



100%

Building D

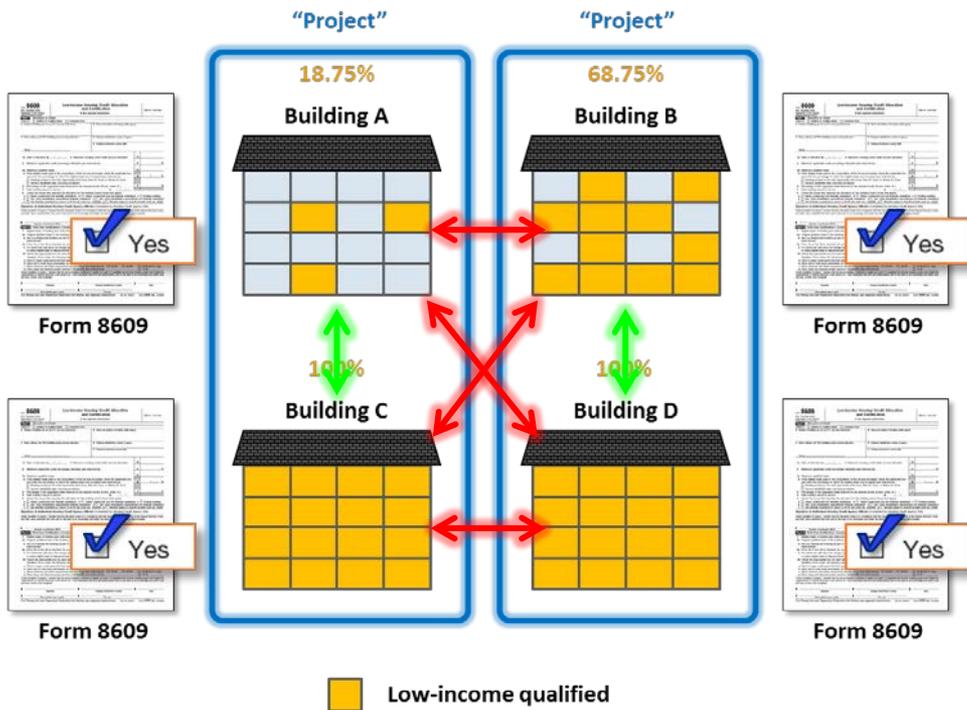


Form 8609

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Low-income qualified



Tenant transfers

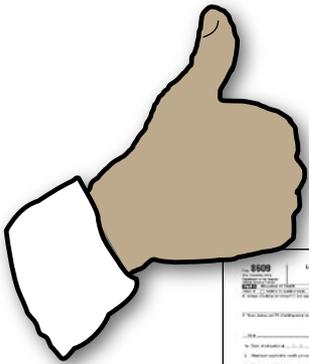
- Between buildings in the same “project”
 - units swap status; **no new certification required**
 - watch sizes for applicable fraction
- Between “projects”
 - It’s like a new move-in; **have to complete an initial income certification again**

SEC. 3010. EXCEPTION TO ANNUAL CURRENT INCOME DETERMINATION REQUIREMENT WHERE DETERMINATION NOT RELEVANT.

(a) **IN GENERAL.**—Subparagraph (A) of section 142(d)(3) is amended by adding at the end the following new sentence: “The preceding sentence shall not apply with respect to any project for any year if during such year no residential unit in the project is occupied by a new resident whose income exceeds the applicable income limit.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to years ending after the date of the enactment of this Act.

Housing and Economic Recovery Act of 2008



Annual recertifications required

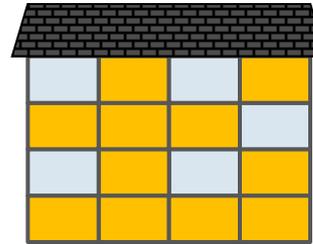
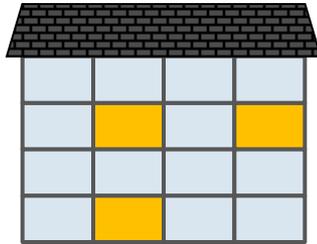
“Project”

18.75%

68.75%

Building A

Building B



Form 8609

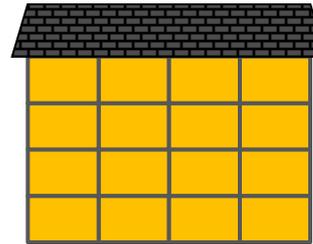
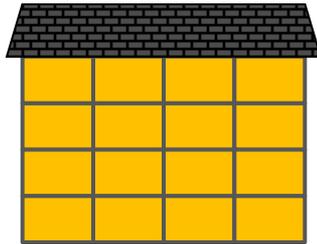
Form 8609

100%

100%

Building C

Building D



Form 8609

Form 8609

“Project”



Low-income qualified

Annual recertifications NOT required



Charles A. Rhuda III, CPA

Partner

Novogradac & Company LLP

charlie.rhuda@novoco.com