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Combining Tax Exempt Short-Term Cash Backed Bonds with FHA Insured Loans for Affordable Apartment Financings*

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Fort Worth Skyline

Combining Tax Exempt Short-Term Cash Backed Bonds with FHA Insured Loans for Affordable Apartment Financings

August 5, 2022

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*** The concepts discussed in this presentation also apply to Rural Development Loans guaranteed by the USDA, which can also be funded through the sale of GNMAs wrapping the loan in the taxable GNMA market.**

I. **TAX EXEMPT SHORT-TERM CASH-BACKED BONDS – WHY WE USE THEM AND HOW THEY WORK**

II. **STRATEGIES AND STRUCTURES TO MEET AND BEAT THE COMPETITION**

III. **U.S. MULTIFAMILY PRIVATE ACTIVITY BOND VOLUME: INCREASING SCARCITY**

IV. **MULTIFAMILY RENTAL PRIVATE ACTIVITY BOND FINANCING IN TEXAS**

V. **FORWARD LOCKING RATES THROUGH 223(f) LOANS IN A RISING RATE ENVIRONMENT**

I. TAX EXEMPT SHORT-TERM CASH-BACKED BONDS – WHY WE USE THEM AND HOW THEY WORK

- Short term cash backed tax exempt bonds are a tax exempt bond financing structure we have used **to satisfy the 50% Test relating to 4% low income housing tax credits ("4% LIHTC")** since the financial crisis in the fall of 2008.

- This structure is **used primarily for 100% affordable multifamily rental housing projects** where all or substantially all of the units are rented to tenants whose incomes (for a family of four*) do not exceed 60% of Area Median Income for a 4-person family.

- **4% LIHTC** often **funds 35% to 40% of total development costs** on these projects.

- FHA loan proceeds fund the balance.

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* The targeting test is adjusted up or down roughly six percentage points for larger or smaller family sizes. Under Section 42 of the Code rents charged must also be restricted to 30% of this income limit.

THE 50% TEST

- **The 50% Test:** To be eligible for the full value of the 4% LIHTC on the affordable units in these projects, the Borrower **must finance at least 50% of eligible basis in the building and land with volume limited tax exempt private activity bonds** under Section 142(d) and **keep these bonds outstanding until the project's placed-in-service date** (receipt of a certificate of occupancy for new construction or completion of rehab for acq/rehab financings).

- **Why the 50% Test?**: Congress wanted projects receiving the 4% LIHTC subsidy to pass the **same hurdles one has to pass to be eligible for private activity bonds.**

- In short, the 50% Test assures that these projects receive a **thorough, local vetting and approval of public purpose** and that they will address local needs of the community where the project is located.

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Flash Back: Long-Term Tax Exempt Municipal Bonds – How We Financed Affordable Multifamily Housing Before the 2008 Financial Crisis

- Before the financial crisis in 2008, it was axiomatic that funding the debt side of these deals with **long-term tax exempt bonds** produced **lower interest rates (by 50-100 basis points or more)** than a taxable sale of the GNMAs wrapping the loans.
- Why? Because the **buyers of tax exempt muni bonds** don't pay federal (and often don't pay state) income tax on municipal bonds.

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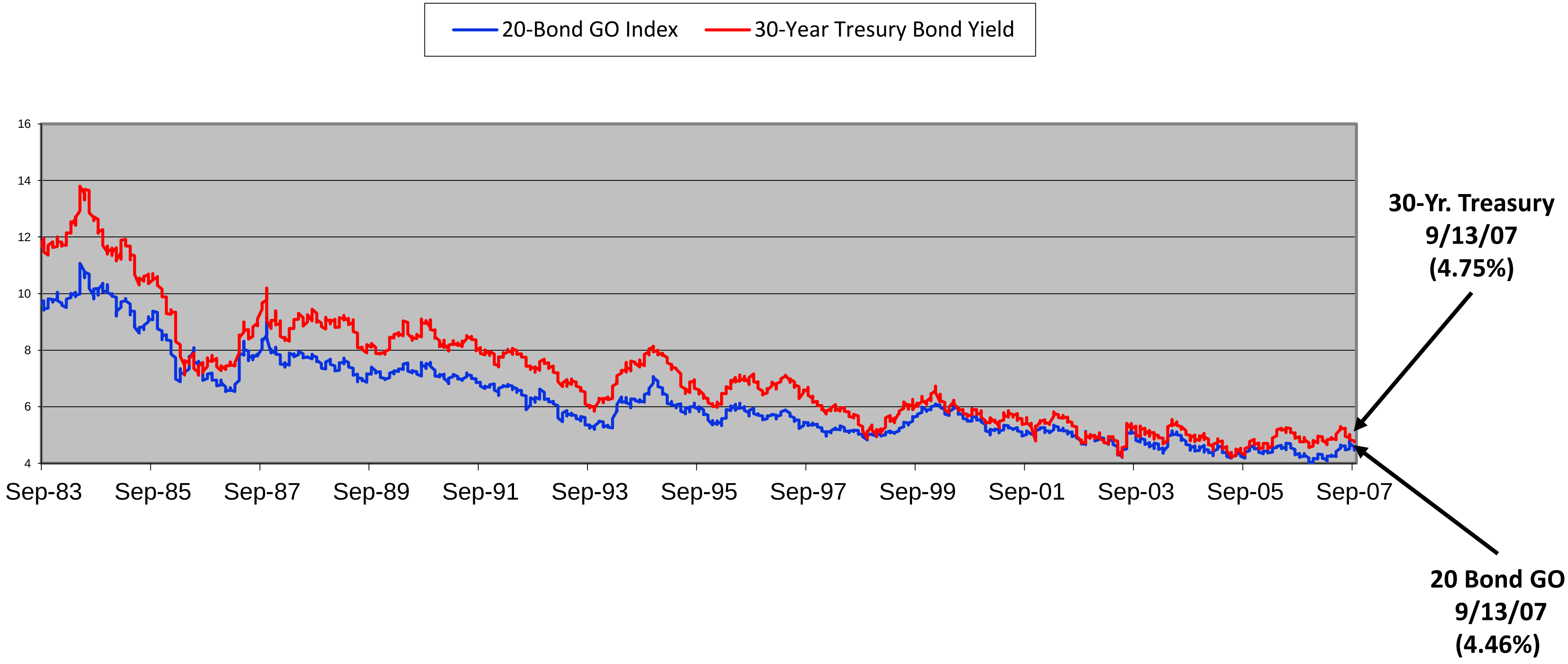
Pre-2008 Tax Exempt and Taxable Rates

Bond Buyer 20-Bond GO Index vs. 30-Year U.S. Treasury



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- Typical pre-2008 long-term interest rates:

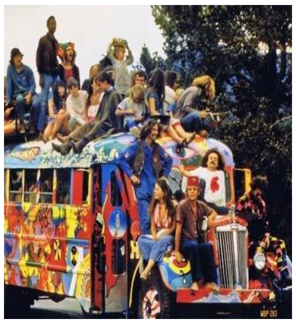
AAA Rated **Taxable** Bond –	**6.0**%
AAA Rated **Tax Exempt** bond –	**5.0**% (~85% of taxable)
Savings –	**1.0**% or 100 basis points!!!

Long-Term Tax Exempt Muni Bonds – Major Benefits and Disadvantages

- **Two Major Benefits**:
  - **1. Qualified for 4% LIHTC**;
  - **2. Before 2008, Lower Mortgage Rate** (50-100 basis points) than taxable GNMA.
- **Two Major Disadvantages**:
  - **1. Large (4 – 8%) negative arbitrage deposit** for **fully funded bonds** for new **construction/sub rehab (e.g., §221(d)(4))** deals;
  - **2. Ongoing** issuer, trustee, and rebate **fees (8 – 10 to 40 or 50 basis points!) for 35 or 42 years.**
- **Given the lower interest rates, this structure** using **long-term municipal bonds** backed by GNMAs **was used to provide financing for thousands of projects** for **almost four decades through 2008.**

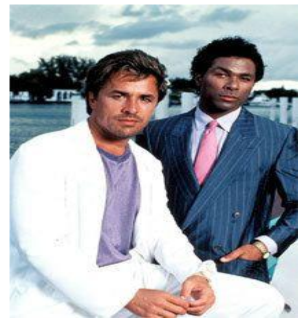
Through the…

‘60s

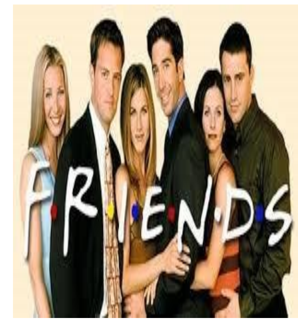


‘70s

‘80s



‘90s



Early ‘00s

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It’s just the way it was, until…

It wasn’t!!!

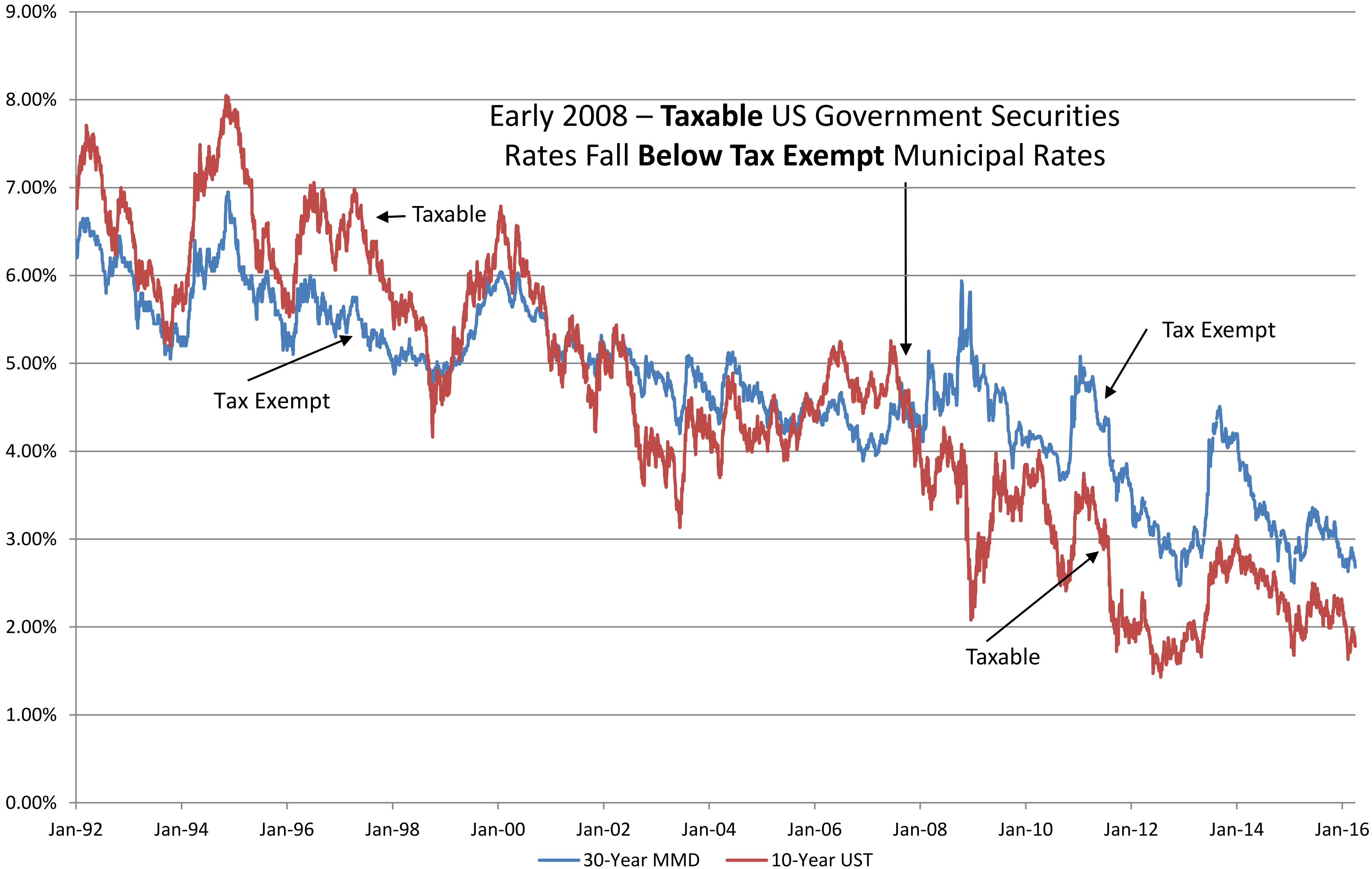
2008 – The Extinction Event



The Post-2008 World of Upside Down Rates

- In the **fall of 2008, hundreds of billions of dollars of AAA-rated debt securities became worthless** or worth only pennies on the dollar – almost **unprecedented destruction of trust** in the long-term debt markets.
- Result: **Long-term debt investors all over the world fled to the safety of U.S. Treasury bonds versus any other long-term credit in the debt markets.**
- At the same time, **yields on tax exempt municipals soared to new heights** as concerns about credit quality and liquidity mounted.
- The following charts plot an **amazing development** – **long-term rates** on **federally taxable U.S. Treasury Bonds and GNMAs** fell to levels **substantially below** those on **all other credits, including** rates on **long-term AAA-rated tax exempt municipal bonds**.

Long-Term Rate Comparison: 30-Year MMD (Tax-Exempt) Versus 10-Year Constant Maturity Treasury (Taxable)



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TODAY (Post-2008)

- The **interest rates on taxable GNMAs remain** substantially **below** those of tax exempt long-term muni bonds backed by GNMAs.
- **In this upside down interest rate world, why not just borrow in the taxable markets** through the sale of taxable GNMAs. **Why use tax exempt bonds at all?**
- **Remember Slide 5: The 50% Rule!** The Borrower is required to **finance 50% of the project's eligible basis in the buildings plus land** with **tax exempt private activity bonds,** and keep these tax exempt bonds outstanding until Project's placed-in-service date **to prime the vital 4% LIHTC – 40% of total development cost.**
- **Think: Flunk the 50% Test → No 4% LIHTC = No Deal!**

Solution:

Buy Short-Term Bonds!

- Issue **Short-Term Cash Backed Tax-Exempt Bonds**, **equal to 50% of project's eligible basis in the buildings plus land* with a maturity comfortably beyond the targeted placed-in-service date** (to provide for rehab or construction delays).

- **Sell GNMAs (wrapping the FHA Loan)** in the taxable GNMA market.

- **Pay off the tax exempt Bonds on the placed-in-service date.**

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*Note: This may be greater than or lower than the taxable loan amount. Most developers aim for 52-55% of such aggregate basis to provide a cushion. The **short-term cashed backed bond structure often produces a lower bond amount**, which lowers bond financing costs.

CASH COLLATERALIZED TAX EXEMPT BOND STRUCTURE

- **Two funds** established under Bond Trust Indenture and **invested in U.S. Treasury securities**:
  - a **“Project Fund”** in which all the **tax exempt bond proceeds** are deposited, and
  - a **“Collateral Fund”** in which FHA Lender advances are deposited.
- Financings structured so that as each dollar of tax exempt bond proceeds is disbursed from the Project Fund to pay project costs, an equal amount of “replacement proceeds” -- the FHA Lender advances -- must be simultaneously deposited into the Collateral Fund. The **principal of the Bond issue thus remains 100% cash collateralized**.

CASH COLLATERALIZED TAX EXEMPT BOND STRUCTURE

- This "cash" collateralization of principal plus locked in U.S. Treasury investment rates enables the financing to obtain an **Aaa rating** on the short-term Bonds from Moody's or an AA+ from Standard & Poor's, based on the rating of the underlying investments, **without any claim against the real estate and without other credit enhancement.**
- **When** the project loan has been fully funded, rehabilitation or construction has been completed and the **project has been placed in service** the **tax exempt bonds are redeemed.**
- We have a simple funds flow diagram that explains this.

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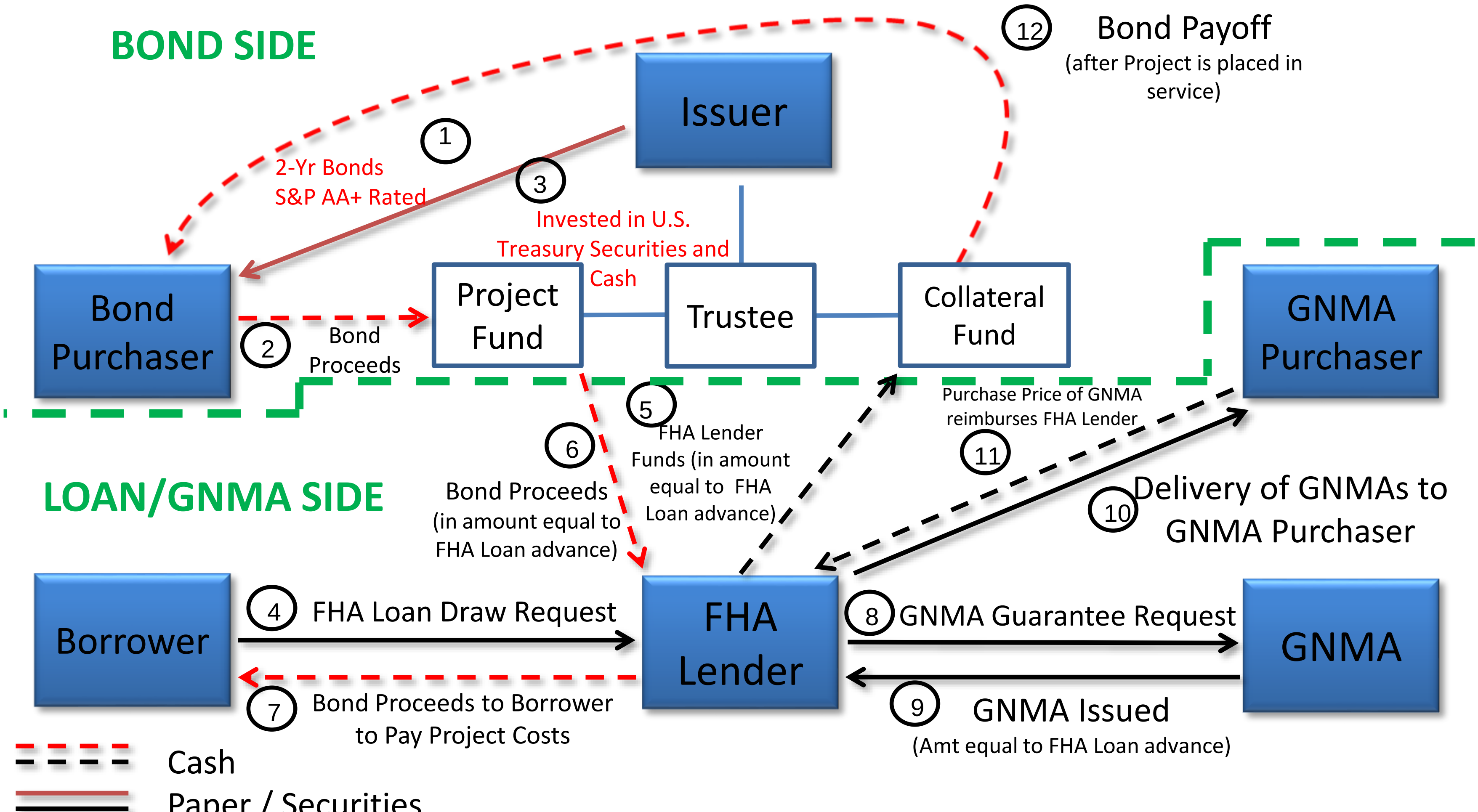
Taxable GNMA Sale with Tax Exempt Short-Term Cash Backed Bonds Interactive Flow Chart



Just Kidding!!!*

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*For those who really want to do a deep dive, we can provide you with an interactive version of this detailed diagram!

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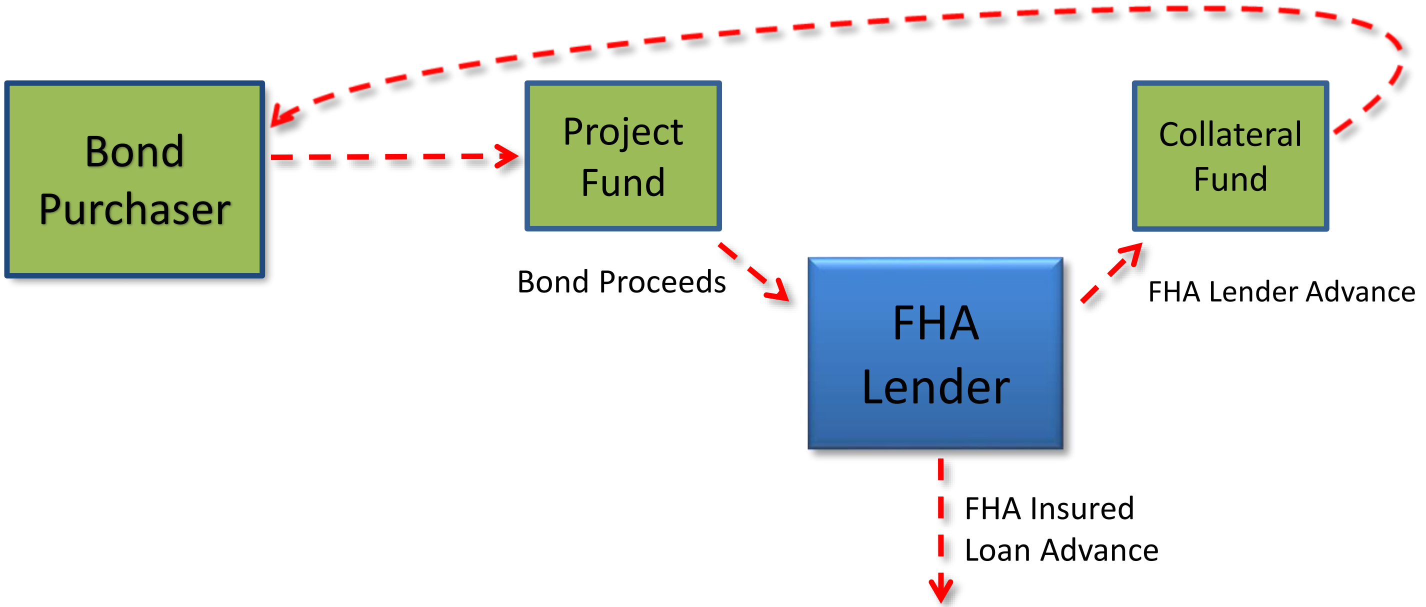

Project Placed in Service

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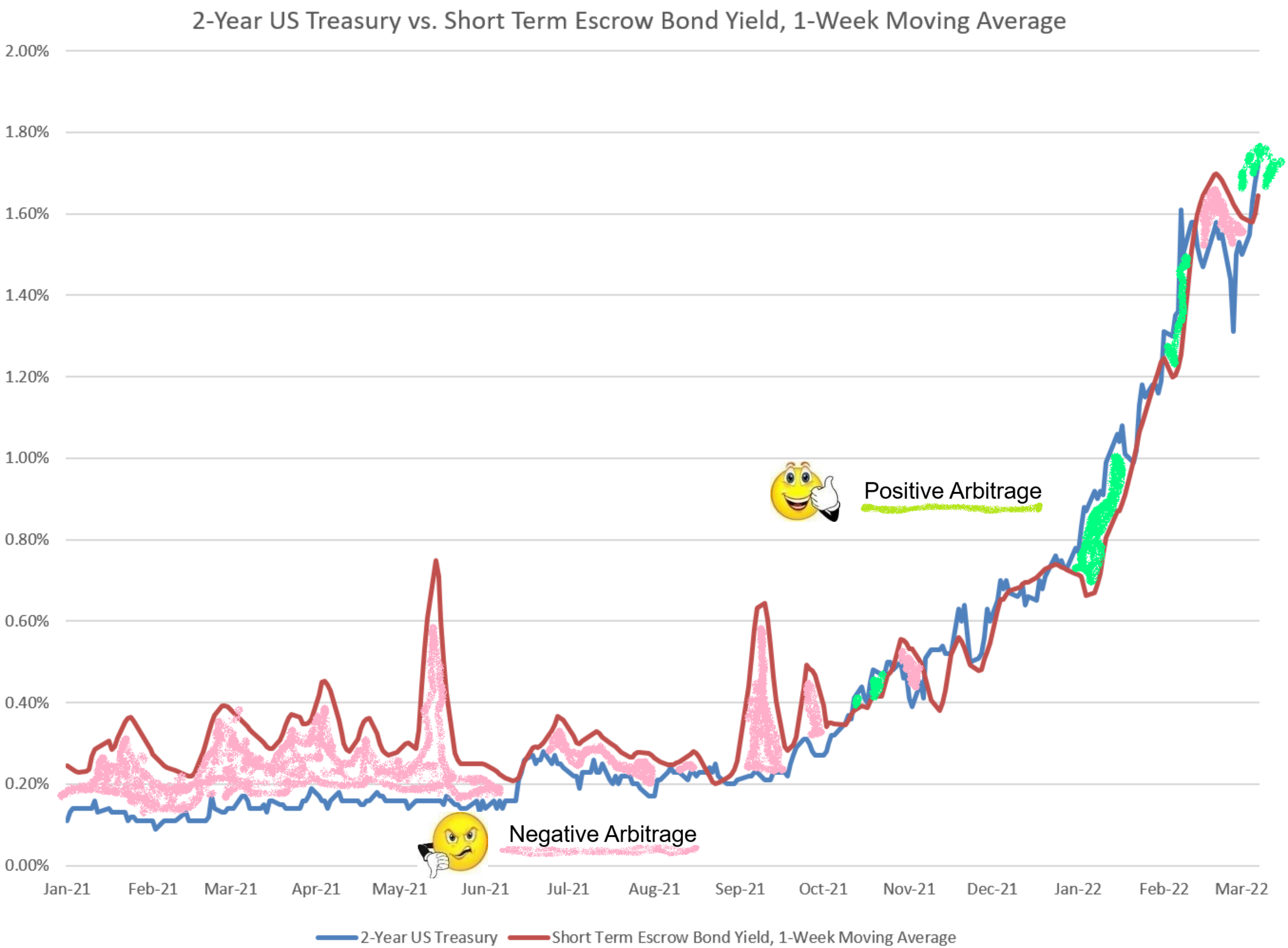
- In almost all jurisdictions, we can now **invest bond proceeds in U.S. Treasury securities** which **earn interest through a** 3-year bond maturity, or earlier, *e.g.*, **2 years, mandatory tender date**, **at a rate which at this time yields about 3.00% -- slightly higher than a current bond coupon of about 2.95%.**

- **This results in no negative arbitrage**, which otherwise would be required to be funded upfront.



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Funding the "Collateral Gap"

- In most cases, the FHA Loan amount will exceed the 50% Test tax exempt bond amount.
- In some cases, the tax exempt bond amount will be larger, producing a "gap in the collateral needed to assume the bonds are 100% cash collateralized.
- This is NO PROBLEM. We can pledge:
  - Tax Credit Equity Installments recognized as a "subordinate loan";
  - Other Subordinate Loan proceeds
  - Project Sale proceeds pledged back by Seller of the land and/or building.

SAMPLE TRANSACTION

New Construction/Sub Rehab:

3-Year Bonds, with 24-Month Mandatory Tender

Expected Placed-In-Service Date	18 Months
Initial Mandatory Tender Date	24 months*
Stated Bond Maturity	36 Months
Bond Sale	Public offering (only) of S&P AA+ rated or Moody's Aaa—rated Bonds
Interest Earnings from Eligible Investments	3.00%
Initial Bond Coupon Rate	2.95%
Net Negative Arbitrage	$0

* Bonds are sold to the 24-month mandatory tender date. If delays are encountered on placing project in service then bonds can be remarketed to new buyers providing up to 12 additional months before tax exempt debt goes away. More recently, especially on new construction/sub rehab projects, longer mandatory tender dates (*e.g.*, 30 or 36 months) and maturities (*e.g.*, 36 or 48 months) have been used.

ALL-IN BORROWING RATES ON THE FHA INSURED LOAN
(The "Real" Construction/Permanent Loan)

		Moderate Rehab/	Sub Rehab-New Cons/
Mortgage Loan Interest Rate			
	GNMA Pass Through Rate	**4.00**%	**4.55%**
	3rd Party Fees	N/A	N/A
	Servicing + GNMA Fee	0.25%	0.25%
	Total **ML Rate**	**4.25**%	**4.80**%
	Add: MIP	**0.25%**	**0.25%**
	Total **All-in Borrowing Cost**	**4.50%**	**5.05%**

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August 1, 2022

All-In Borrowing Rate Comparison to Other Affordable Debt Executions

SUMMARY OF BORROWING/ UNDERWRITING RATES
PRINCIPAL TAX EXEMPT DEBT PRODUCTS FOR 100% AFFORDABLE PROJECTS

	Estimated Actual All-In Borrowing and Perm Period Underwriting Rate		
	November 2021	Today	Approximate Increase (Basis Points)
1. Bank or Other Private Placement			
-Mod Rehab	**3.10% to 3.50%**	**4.50% to 4.85%**	**+138**
-Sub Rehab/New Cons			
Cons Period	**2.50% to 2.75% Floating**	**3.80% to 4.20% Floating***	**+138**
Perm Period	**3.50% to 4.10%**	**5.00% to 5.50%**	**+145**
2. Freddie Mac "TEL" Program (Mod Rehab, Sub Rehab, New Cons)	**Similar to Bank or Other Private Placements above**	**Similar to Bank or Other Private Placements above; perhaps a bit lower for mod rehab**	
3. Fannie Mae "M.TEBS" Structure	**3.30% to 3.50%****	**4.90% to 5.30%**	**+170**
4. Short-Term Cash Backed Tax Exempt Bonds with Taxable Loan Sale			
FHA §223f Mod Rehab	**2.85%**	**4.50%**	**+165**
FHA §221(d)(4) Sub Rehab / New Cons	**3.40%**	**5.05%**	**+165**

In November of 2021, the 10-year U.S. Treasury rate hovered around a 1.50% level, versus about 3.0% in recent weeks, or about 150 basis points higher. The all-in borrowing/underwriting rates all of the affordable executions have increased by similar amounts. In the case of Fannie Mae M.TEBs and FHA executions, they have increased a bit more, reflecting widening spreads, which could come back down a bit if the 10-year rate continues to plateau in the months ahead.

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* 200 to 225 basis points over 30-day SOFR.
** The "Forwards" M.TEBs structure entails about 2 points of negative arbitrage, most of which is offset by higher 4% LIHTC Basis.

Short Term Cash Backed Tax Exempt Bond Financing
100% Affordable Project – FHA Insured Loan
Sources and Uses of Funds

- Assume: Total Development Cost $20,000,000
- Assume: $11,000,000 FHA Insured Loan (55%)
- Assume: Tax Exempt Bond Amount $10,000,000 (54% of Basis)*

Sources		
FHA Loan Proceeds*	$11,000,000*	(55%*)
Federal 4% Tax Credit Equity	8,000,000	(40%)
Subordinated Loan from City	600,000	(3%)
Deferred Developer Fee	400,000	(2%)
Total:	**$20,000,000**	**(100%)**

Uses		
Land	$3,200,000	(16%)
Construction Costs	14,000,000	(70%)
Financing Fees (Bond COI, FHA Fees; Other)	1,000,000	(5%)
Other “Soft” Costs	1,400,000	(7%)
Deferred Developer Fee	400,000	(2%)
Total:	**$20,000,000**	**(100%)**

* To satisfy the 50% Test, we will issue $10.8 million of tax exempt bonds (54% of basis). This is often less than the taxable loan amount ($11 million or above) but maybe a greater or lower amount. We will flow $10 million of the FHA lender funds through the Bond Indenture out to the Borrower. The balance ($1 million in our example) goes directly from the FHA lender to the Borrower as discussed below.

BOND COSTS OF ISSUANCE
($10 Million Tax Exempt Bond Issue)*

Issuer	$62,500
Bond Counsel	65,000
Financial Advisor to Issuer or Issuer's Counsel	25,000
Underwriter	100,000
Underwriter's Counsel	50,000
Rating Agency	5,000
Trustee	5,000
Total Cost of Issuance	**$312,500**
Negative Arbitrage	**$0**
Total Cost of Bond Financing	**$312,500****

*Certain of these items may vary greatly from deal to deal, including issuer fees.
** 3.1% of Bond issue; would be about 1.5% of total development cost.

RESULTS OF STRUCTURE

Major Advantages:

1. **Qualifies for 4% LIHTC.**
2. **Lowers Mortgage Rate 40 to 50 basis points or more.**
3. **Avoids huge (6-8%) negative arbitrage deposit** on new construction/sub rehab (§221(d)(4)) deals, if financed with long-term GNMA backed municipal bonds.
4. **Eliminates on-going issuer/administrative fees after 1-3 years; huge benefit** where issuers charge major (25-50 basis points) ongoing fees as long as bonds are outstandin

Major Disadvantages:

0. **None.**

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REMEMBER AND SELL!!!
UNIQUE ADVANTAGES OF FHA LOANS

- **FHA** insured loans are the **only available credit enhancement which is non-recourse during pre-Conversion phase –** all others (Private Placement, Fannie Mae, Freddie Mac) require deep pocket General Partner guarantees during this phase.*
- On a sub rehab/new construction loan, there is a cost certification at final endorsement, but there is **no post-closing new loan underwriting**; differs from sub rehab/new construction private placement and Fannie/Freddie deals where there is a **new loan underwriting and possible loan downsizing** and required loan equalization payment based on DSC **at "Conversion."**
- In the **2008** financial crisis, at least **one major affordable apartment development firm** filed for Chapter 11 bankruptcy due to the **inability to make these payments**.

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*Note: Some guaranties will be required in connection with the 4% LIHTC on these financings.

ADVANTAGES OF FHA LOANS – CONFIRMED

- **FHA loans are a 35 or a 40-year level payment loan amortization with no balloon; versus a 16 to 18-year balloon** on almost all other major executions (Bank Private Placement, Fannie Mae M.TEBs or Freddie TEL).
  - In light of events over the past six months, **we now live in a more dangerous world** with perhaps greater uncertainty and potential volatility than we have seen in many years.
  - **Does** an affordable housing **developer** really **want** (i) the **re-underwriting risk** and (ii) **the balloon risk** described above **throughout its portfolio?**
  - Over the past several years, **one major affordable developer – Vitus Development** – has **converted the vast majority of its pipeline** – over 12 projects and 3,500 units in 2021 – to FHA from bank private placements and other executions, in large part to lessen these risks in its portfolio.

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FHA LOANS – ADVANTAGES

- **FHA loans offer greater prepayment flexibility** – closed for 2 years to 108% decreasing 1% per year thereafter to par v. yield maintenance of 12% or higher declining over a longer period (e.g., 15 years) for all others (Bank Private Placements, Fannie Mae, Freddie Mac).
- FHA loan **qualifies acquisition rehab projects for exemption from 10-year hold rule** under Section 42. No other execution does this.

FHA LOANS – ADVANTAGES

- **One loan versus two loans** – covering construction and permanent phase – **with two lenders (and two sets of lawyers!)** under certain other structures.
- **Competitive** Construction / Perm Phase **All-In Borrowing Rate**.
- **Eliminates potentially high ongoing Bond related fees (Issuer, Trustee, Rebate) in 2-3 years** versus 16-18 or more years.
- **Potentially lower tax exempt debt amount and related issuance costs** – Bonds no larger than 54% of eligible basis plus land.

DISADVANTAGES OF FHA EXECUTION

- **Davis Bacon Wages** for **§221(d)(4)** a disadvantage in some, but not all, markets.

- Especially in high cost markets, **many projects require a construction loan** that is **much larger than** the supportable **permanent debt.** A portion of the larger **construction loan often provides critical "bridge" financing** to later tax credit equity installments and subordinate loan pay-ins.

- **Private placement sponsors and bank construction lenders on Fannie/Freddie sub rehab or new construction financings will readily provide such a larger construction loan** since the entire construction loan is secured by a first deed of trust; **with FHA**, on the other hand, **no lien on real estate is permitted to secure a tax credit or other bridge loan**.

- Instead, **on FHA loans the bridge loan** (either taxable or in the form of subordinate tax exempt bonds if needed to satisfy the 50% rule) must be **secured by a pledge of tax credit equity installments, deep pocket general partner guarantees of completion and payment and/or possibly a pledge of general partnership interests**. Such debt may be more difficult to place, but this has been done on many financings, as discussed below.

THREE DEBT STRUCTURING TECHNIQUES TO MEET AND BEAT THE COMPETITION AND SATISFY THE 50% TEST

- **Three debt structuring techniques** can make FHA loans more competitive with other executions and help satisfy the 50% Test.
    1. Taxable and Tax Exempt **Tax Credit Equity Backed Bridge Loans**
    2. Taxable and Tax Exempt **Seller Take Back Debt**
    3. Tax Exempt **Cash Surplus Backed Bonds**

1. TAX CREDIT EQUITY BACKED BRIDGE LOANS AND BONDS

- **On** financings involving an **FHA loan, any bridge loan** must be **secured by a pledge of tax credit equity installments, deep pocket general partner guarantees of completion and payment and/or possibly a pledge of general and/or limited partnership interests**. Such debt can have no claim on the Project and is subordinate to the FHA Loan and payable only from the sources described above, **or** by **another bridge lender**.
- Such tax credit equity bridge loans may take one of **two forms**:

A. Taxable Bridge Loan

- A taxable bridge loan is sometimes provided by the **tax credit syndicator or another bridge lender,** backed by the collateral described above.

B. Tax Exempt Tax Credit Equity Backed Subordinate Bonds

- **A Tax Exempt** Tax Credit Equity Backed Subordinate Bond issue, secured by the collateral described above can also be used.
  - If meeting the 50% test is a challenge, Tax Exempt Tax Credit Equity Backed Subordinate Bonds can sometimes be **delivered to the syndicator** to help meet that test*.
  - A number of our underwriter clients can also structure a **Publically Offered** Tax Exempt Tax Credit Equity Backed Subordinate Bond issue to provide this type of bridge financing on relatively attractive terms.
  - Such a separate series of tax exempt bonds can involve **additional documentation costs.**
  - But, this will lower the size of tax exempt short-term cash-backed bond issue.

*These bonds may be taxable to the syndicator, but they will nonetheless count for purposes of meeting meet the 50% test.

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2. SELLER TAKE BACK DEBT

The **need for** taxable or tax exempt **bridge loan** financing can often be **eliminated or reduced,** and other financing gaps can be closed, through the use of **"Seller Take Back Debt."**

A. Taxable Seller Take Back Note

- Under this approach, a simple "**Taxable Seller Take Back Note**" is executed by the Borrower and **delivered to the Seller** in lieu of cash, in payment of a portion of the project purchase price. This is often used to **maximize the purchase price** on **RAD transactions and other preservation deals,** where the **new borrower** has been set up by or **has a close relationship with the housing authority or profit-motivated project seller**.
- A **robust purchase price** also **increases the** federal and state **tax credits** available to the purchaser.
- A **simple Taxable Seller Take Back Note** can **dramatically reduce the need for cash at closing.**

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B. Tax Exempt Subordinate Seller Take-Back Bonds

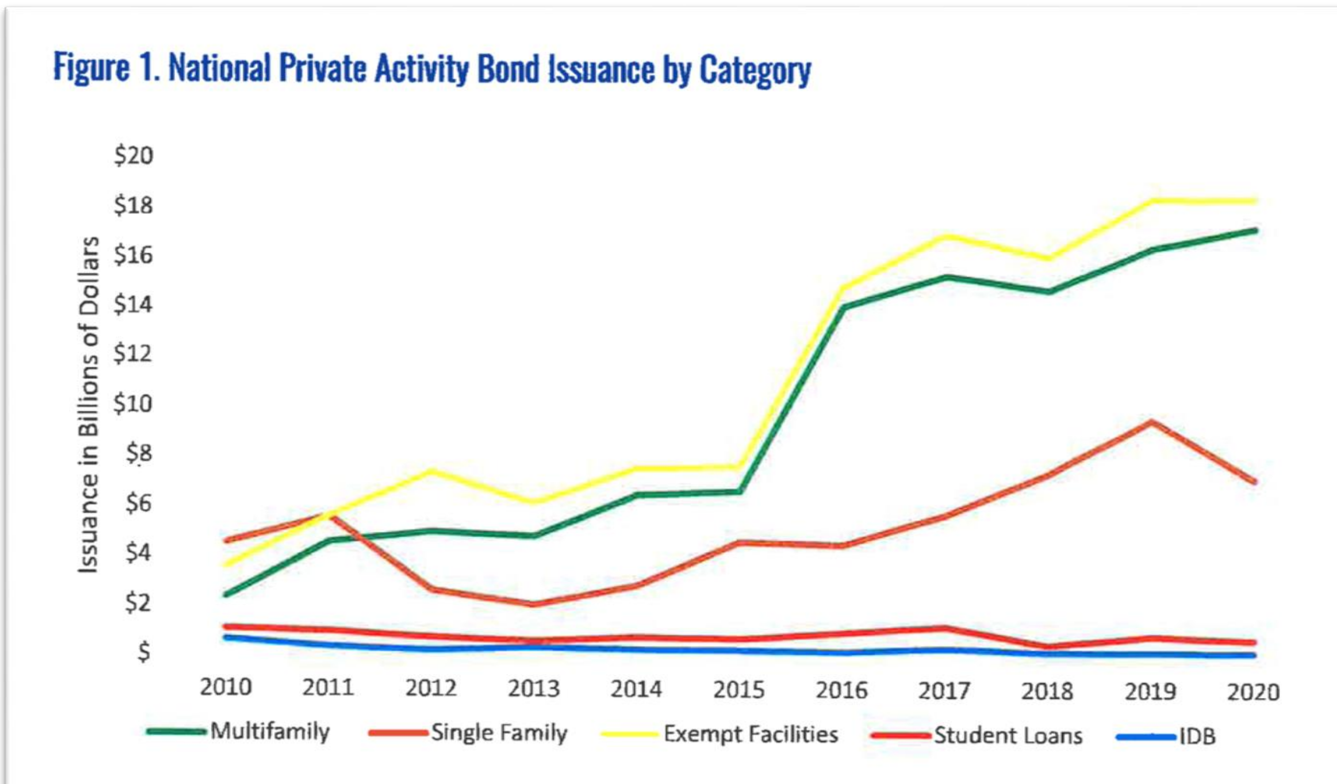
- As an **alternative**, the seller take-back note or a portion thereof can also be effectively **converted to tax exempt debt by having** the **issuer** of the other tax exempt bonds issued to meet the 50% test also **issue Tax Exempt Subordinate Seller Take-Back Bonds,** backed by a surplus cash note from the Borrower. **Disadvantage: 2 sets of tax exempt bond documents. Advantage: No underwriting or origination fee on these tax exempt bonds** since they are acquired by the seller.
- Especially **if the Seller is a for-profit entity**, this also **makes the seller take back terms more attractive** to the Seller (interest is tax exempt), and these Bonds count as tax exempt debt for **satisfying the 50% Test**, if needed. This **can reduce the size of a Series A Tax Exempt Cash Backed Bonds**, lowering the associated costs and reducing negative arbitrage on those bonds if that is an issue.
- Moreover, the subordinate tax exempt bonds can be **delivered to the Seller** as partial consideration of the transfer of the project **without cash changing hands,** reducing or eliminating the need for bridge financing and putting the FHA execution on a more even footing with private placements and other competitive executions.

3. TAX EXEMPT CASH SURPLUS BACKED BONDS

- To address funding gaps, it may be possible to structure and sell **tax exempt subordinate bonds secured by a pledge of surplus cash from the Project** as defined in the FHA Regulatory Agreement. Such bonds typically also entail a debt service reserve fund typically sized to cover the maximum annual debt service on the bonds **and**/or a **guaranty of the bonds by a deep pocket general partner of the Borrower**.
- **Such bonds are generally structured as term bonds** set to mature, depending on the availability of moneys available from surplus cash term bonds, after the FHA insured loan has been fully amortized. In today’s market, they might be expected to bear interest at tax exempt rates of 6.0 to 10.0%. While these rates are higher than most tax exempt bond rates, they are much lower than the yields which would be required to fill these gaps from equity funding sources.

III. U.S. MULTIFAMILY PRIVATE ACTIVITY BOND VOLUME: INCREASING SCARCITY

- According to the Council of Development Finance Agencies ("CDFA"), tax exempt multifamily bond volume rose from just over $6 billion in 2015 to about $17 billion in 2020, as shown in the chart below.
- This was an annual **increase in the use of PAB volume for multifamily of over 25% per year** over this **five-year period**.



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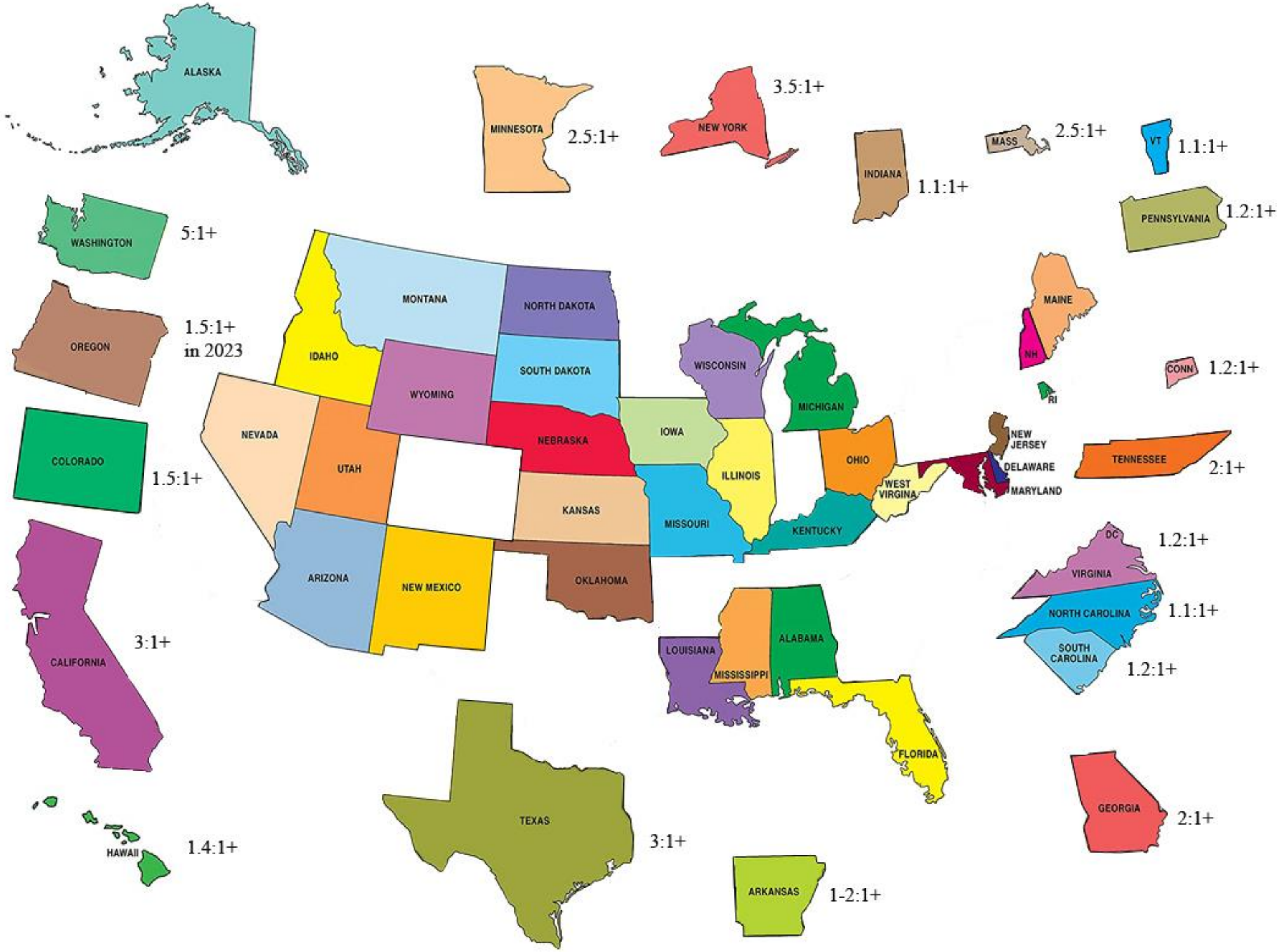
- This means that in a rapidly **increasing number of states**, the **demand** for multifamily volume now **exceeds** any **carryforward** PAB volume in the state **and** the state's **annual PAB allocation**.

August 1, 2022



* NGO estimates based on published data, supplemented by conversations with industry colleagues active in tax-exempt multifamily bond and loan financings in our nationwide practice.

- Possibility of reducing the 50% Test to a 25% Test.
  - Uncertain at this time; anyone's guess.
  - Is one of 18 or 20 provisions in the Affordable Housing Credit Improvement Act originally introduced in 2016.
  - Two provisions have been previously adopted:
    - Making 4% LIHTC a true 4%.
    - Income averaging (but IRS regulations still forthcoming).
  - Remaining provisions died with Build Back Better last fall.

- Two main outstanding goals:
  - Increase the 9% tax credit by 50%.
  - Lower the 50% Test to 25%.
- Current version co-sponsored by over one-third of House and Senate.
- Hope to attach to an "extenders" bill late fall or early 2023.
- Anyone's guess as to whether this will be successful.
- If not, try to include in any tax legislation later in 2023.
- For now, probably best not to assume passage.

2022 State Annual PAB Ceiling: $3.25 Billion

- **Important Cautionary Note: Texas has a VERY complex Private Activity Bond Volume Allocation system**, and most of it is statutory. The following is a **very general** summary of certain aspects of the volume allocation process, but of necessity **omits many important elements. Developers**, lenders and others contemplating a financing using private activity bonds for financings in Texas **should confer on this process with Texas attorneys, accountants, financial advisers and others experienced in these financings** well in advance of the October deadline for lottery applications in the year before the year in which they hope to close their financings.

Summary: 2022 Multifamily Residential Rental Housing Volume Demand/Supply As of 7/1/22

Demand:	$6.45 billion
Supply:	$1.73 billion
Current Over-Subscription Ratio	3.7 : 1
After Expected Give-Backs:	3.0 : 1

Before August 15

Division of Annual PAB Allocation		
Single Family Mortgage Bonds (SC1)	32.5%	$1,047,503,707
Other (State voted, IDB, Enterprise Z) (SC2, SC3)	12.0%	389,768,821
Qualified Residential Rental Project Bonds (SC4)	26.25%	852,619,297
Other Issues That Require Allocation (SC5)*	29.50%	958,181,685
		$3,248,703,510

* Includes some residential rental (MF) through Public Facilities Corporations ("PFC's"); see following slide.

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State of Texas
2022 Private Activity Bond Allocation Program

As of 7/1/2022

	TOTAL	SC 1 MRB's	SC 2 State Voted	SC 3 IDBs	SC 4 TSAHC - MF	SC 4 TDHCA - MF	SC 4 Local HFC's MF	SC 5 All Other
	100.00%	32.25%	10.00%	2.00%	2.6250%	5.250%	18.375%	29.50%
2022 STATE CEILING	**$ 3,248,073,510**	**$ 1,047,503,707**	**$324,807,351**	**$ 64,961,470**	**$ 85,261,930**	**$ 170,523,859**	**$ 596,833,508**	**$ 958,181,685**
ELIGIBLE REQUESTS TO DATE	$ 6,763,380,380	$ 410,400,000	$150,000,000	$ -	$ 89,000,000	$ 691,420,000	$2,711,350,881	$2,711,209,499
RESERVATIONS TO DATE	$ 3,212,650,380	$ 410,400,000	$150,000,000	$ -	$ 89,000,000	$ 153,500,000	$ 840,540,881	$1,569,209,499
CERTIFIED TO DATE	$ 2,784,108,635	$ 403,858,255	$150,000,000	$ -	$ 89,000,000	$ 149,500,000	$ 717,540,881	$1,274,209,499
ALLOCATIONS TO DATE	$ 219,922,988	$ -	$100,422,988	$ -	$ -	$ 31,000,000	$ 13,500,000	$ 75,000,000
RESERVATIONS RELEASED	$ 1,131,077,012	$ 410,400,000	$ 49,577,012	$ -	$ -	$ 4,000,000	$ 210,400,000	$ 456,700,000
UNSATISFIED REQUESTS	$ 3,550,730,000	$ -	$ -	$ -	$ -	$ 537,920,000	$1,870,810,000	$1,142,000,000
CURRENT AVAILABLE ALLOCATION 2022	$ 1,406,948,031	$ 1,047,503,707	$224,384,363	$ 64,961,470	$ 4,961,930	$ 21,023,859	$ 28,865,516	$ 15,247,186
CARRYFORWARD 2019	$ 25,000,000	$ 25,000,000.40	$ -	N/A	$ -	$ -	$ -	$ -
CARRYFORWARD 2020	$ 405,462,029	$ 232,004,381	$ -	N/A	$ -	$ -	$ 80,000,000	$ 93,457,648
CARRYFORWARD 2021	$ 1,196,705,647	$ 1,020,949,325	$ -	N/A	$ -	$ -	$ 96,213,061	$ 79,543,262
	$ 3,034,115,708	$ 2,325,457,413.35	$224,384,363	$ 64,961,470	$ 4,961,930	$ 21,023,859	$ 205,078,577	$ 188,248,096

Source: Texas Bond Review Board, www.brb.state.tx.us (Please contact BRBPAB@brb.texas.gov for general inquiries).

Until August 15 "Collapse"

Division of Annual MF Volume (SC4) Allocation

20%	to TDHCA
10%	to TSHAC
70%	to Housing Finance Corps (by population)*

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* On March 1, local HFC allocations are reordered across all 13 regions to take into account regions whose allocated volume has not been fully awarded by February 28 or 29.

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Regional Breakdown
of
SC4 – Local HFCs (MF)

- Region 3 includes Dallas, Fort Worth

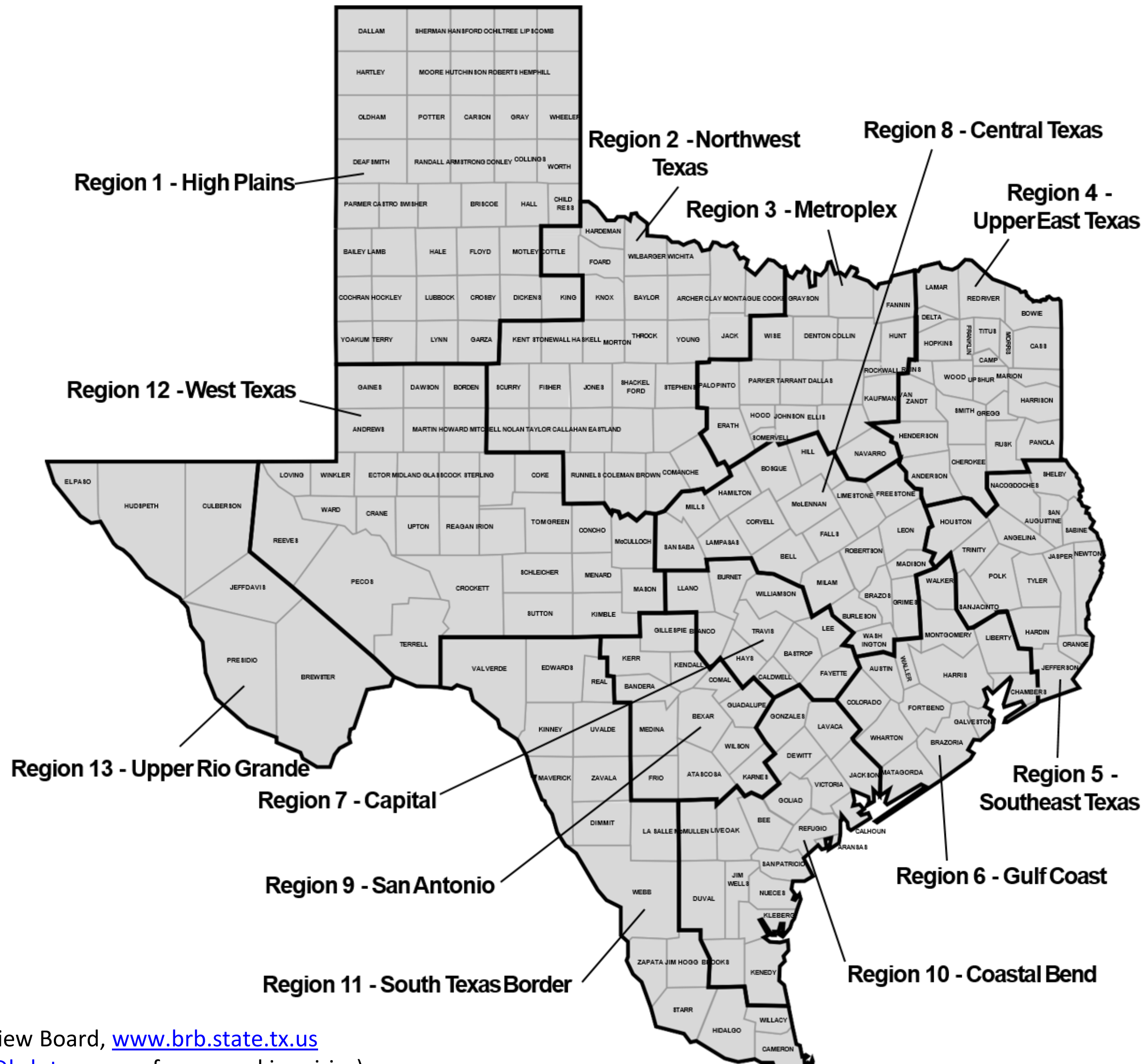
- Region 6 includes Houston

- Region 7 includes Austin

Region Number	Percentage based on 2020 Population
Region 1	2.97%
Region 2	1.88%
Region 3	27.60%
Region 4	3.95%
Region 5	2.64%
Region 6	25.04%
Region 7	8.26%
Region 8	4.30%
Region 9	9.16%
Region 10	2.66%
Region 11	6.27%
Region 12	2.22%
Region 13	3.05%
	100%

Source: Texas Bond Review Board, www.brb.state.tx.us
(Please contact BRBPAB@brb.texas.gov for general inquiries).

13 Uniform State Service Regions of Texas



Source: Texas Bond Review Board, www.brb.state.tx.us
(Please contact BRBPAB@brb.texas.gov for general inquiries).

Qualified Residential Rental Bond Priorities

In very general terms, with certain exceptions, at each stage of the allocation process, volume is awarded by Priority (1, 2, then 3) and within a Priority by lottery number.

First Priority

Priority 1a

50% of Units	Tenants ≤ 50% of AMI	Rents ≤ 30% of 50% of AMI
50% of Units	Tenants ≤ 60% of AMI	Rents ≤ 30% of 60% of AMI

or

Priority 1b

15% of Units	Tenants ≤ 30% of AMI	Rents ≤ 30% of 30% of AMI
85% of Units	Tenants ≤ 60% of AMI	Rents ≤ 30% of 60% of AMI

or

Priority 1c

100% of Units	Tenants ≤ 60% of AMI	Rents ≤ 70% of 60% of AMI and median income caps higher than county, MSA or PMSA in which project is located

or

Priority 1d

On June 1	The Priority 1 Line is reordered so that projects in counties, MSAs or PMSAs with average median incomes below statewide average, which had been ranked in Priority 2 or 3, can join the Projects ranked in Priority 1.

Qualified Residential Rental Bond Priorities

Second Priority

80% of Units	Tenants ≤ 60% of AMI	Rents ≤ 30% of 60% of AMI

Third Priority

Any Other Qualified Residential Rental Project

Note: To be a First or Second Priority project, the Project must have filed with TDHCA for 4% low income housing tax credits.

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After August 15 "Collapse"

Portion of State ceiling available for reservation becomes available for all applications (in the four categories described on slide 3) for reservations in a single line, with certain exceptions, by priority and lottery number.

- As of July 1, 2022, the Bond Review Board expects that following the August 15 collapse, only Projects having a Priority 1 ranking will receive an allocation in 2022.

GENERAL TIMELINE OF THE PROGRAM YEAR

Oct. 5th-20th Submit Lottery Applications

Early-Mid November BRB holds Lottery

Re-ordering of Residential Rental Lottery #s based on Priority & Position

Jan. 2nd Program Year starts (Reservations & Allocations may start being issued)

Mar. 1st Local HFC Collapse- All Regions

Jun. 1st Priority "1d" Apps are also granted first priority §1372.0321(a)(4) (Lottery #s shifted to allow for "1d" prioritization)

Aug. 7th Single Family (SC1) Collapse

Aug. 15th Collapse- All Subceilings

Nov. 15th Last day of Program Year to issue a Reservation

Dec. 24th Must close on Bonds or submit CF Election Docs or Traditional CF App PRIOR to this day

Source: Texas Bond Review Board, www.brb.state.tx.us (Please contact BRBPAB@brb.texas.gov for general inquiries).

IV. FORWARD LOOKING RATES THROUGH 223(f) LOANS IN A RISING RATE ENVIRONMENT

- Two situations where forward rate lock with 223(f) loan may be attractive:
  - Developer has tax credit projects approaching Year 15 - 1, 2 or 3 years out. Wants to rate lock debt now recapitalize with new tax exempt bonds + 4% LIHTC but cannot close bonds until Year 15.
  - Developer wants to acquire project now but wants to lock rates before he or she can obtain PAB volume allocation and close tax exempt bond + 4% LIHTC execution.

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- Important Note: **FHA financing creates exemption from 10-year hold rule on acquisition financings**, which may be critical.
- The following **strategy to achieve a forward rate lock** has been discussed, but not universally accepted, for 5 or 6 years:
  - Acquire the project if not already owned or controlled.
  - Have issuer pass "inducement" resolution contemplating tax exempt bond financing for proposed new owner.
  - Close 223(f) refinancing loan and lock in today's interest rate on debt.
  - Process a transfer of physical assets (“TPA”) with HUD to new borrower.
  - After Year 15 or when bond volume is available, close tax exempt short-term cash backed bonds + 4% LIHTC syndication to finance acquisition of project by new borrower and additional rehab.
  - If needed, combine with §241(a) loan to fund additional improvements.

- **Problem:** Finding sufficient expenditure of tax exempt proceeds to satisfy the 50% test in light of large 223(f) loan assumed by new borrower.
- **Solution:** New structures have enabled some bond counsel firms and tax credit syndication counsel to give a green light to the structure, creating potential forward rate lock opportunities.
- **Note:** Not yet widespread or universally accepted, but recent developments suggest this **may be worth carefully exploring** in the situations described above.

CONCLUSION

- **Hundreds of financings combining short term cash backed tax exempt bonds with taxable loan sales have closed in the twelve years since 2008.**
- **Almost all of the country's major bond counsel firms have now issued unqualified approving opinions.**
- In today's "upside down" interest rate world this is now **THE WAY (and THE ONLY sensible WAY)** to **finance affordable housing projects backed by FHA insured loans. For these AFFORDABLE FHA LOANS, YOU WILL USE TAX EXEMPT SHORT-TERM CASH BACKED BONDS.**
- We believe it is **unlikely market conditions will change** in next **2-4 years** to favor traditional long-term tax exempt bond structure; **we think the "upside down" interest rate world,** at least with respect to these types of credits, **will continue for some time**.
- Remember, in our new, much more dangerous and volatile world, **you should sell the very unique, risk-reducing attributes and other substantial advantages of FHA insured loans!**

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