Louisiana Housing Finance Agency

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March 15, 2007

Congressman Xavier Becerra
Member
Committee on Ways and Means,
Subcommittee on Oversight
1119 Longworth House Office Building
Washington, DC 20515

Re: Oversight Hearing, March 13, 2007: Prevention of Mortgage Revenue Bond Abuses

Dear Congressman Becerra,

On behalf of Governor Kathleen Babineaux Blanco and the Board of Directors of the Louisiana Housing Finance Agency, I would like to thank you for participating in the oversight hearing concerning the recovery of affordable housing in the Gulf States. We appreciate your efforts on behalf of the citizens of Louisiana and encourage your continued support.

At the hearing, you asked that we provide you with recommendations regarding the ways and means by which Congress can guard against homeowner abuses of mortgage revenue bond financed properties. Outlined below is the Premise for single family mortgage revenue bond financing; Existing Safeguards; and, Additional Safeguards you may wish to consider:

Premise: Owner-occupied residences in the GO Zone, Rita Zone or the Wilma Zone are treated as targeted area residences, except that the provisions of Section 143(f)(3) are not applicable to such residences. Section 143(f)(3) permits one-third (1/3) of the proceeds of targeted area residence financing to be made available without regard to otherwise applicable income limitations. Section 143(k)(5)(B) permits the financing of qualified rehabilitation in the GO Zone, Rita Zone or Wilma Zone only if an existing residence is 20 years old as of the date rehabilitation begins and the rehabilitation retains a certain percentage of internal and external walls. Rapid population and economic recovery of areas devastated by major disasters, however, require expanded mortgage revenue bond financing authority, including the flexibility for States to use the provisions of Section 143(f)(3) to finance a broader band of household incomes and to finance substantial rehabilitation under Section 143(k)(5) of existing owner occupied residences without regard to age and wall retention measuring requirements. There is a concern, however, that existing provisions of Section 143 of the Internal Revenue Code may be insufficient to safeguard against certain abuses. Specifically, the financing of owner-occupied residences throughout the GO Zone, Rita Zone or Wilma Zone with the proceeds of a qualified mortgage issue may result in the short term sale or "flipping" of such residences.

Existing Safeguards: Section 143 provides the following safeguards against the short term sale or flipping of residences financed with the proceeds qualified mortgage bonds in the GO Zone, Rita Zone and Wilma Zone:

- Principal Residence Requirements: The acquisition of a residence financed with the proceeds of qualified mortgage bonds must be the principal residence of the mortgagor pursuant to Section 143(c).

  Purchase Price Requirement: The purchase price of a residence financed with the proceeds of qualified mortgage bonds must satisfy the average purchase price requirements pursuant to Section 143(e); therefore, the amount of a loan that may be financed with the proceeds of qualified mortgage bonds is limited.

  Mortgage Assumptions: Section 142(i)(2) provides that any mortgage located in the GO Zone, Rita Zone or Wilma Zone financed with the proceeds of qualified mortgage bonds may be assumed only if (i) the residence becomes the principal residence of the purchaser, (ii) the purchase price of the residence satisfies the purchase price requirements in effect at the time of the mortgage assumption and (iii) the income requirements otherwise applicable under Section 143(f), without regard to the over income provisions of Section 143(f)(3)(A), are applied to the purchaser. Item (iii) effectively precludes the assumption of any mortgage financed with qualified mortgage revenue bonds by any over income purchaser. Items (i), (ii) and (iii) effectively mandate that any mortgagor assuming an existing mortgage financed with qualified mortgage revenue bonds satisfy the principal residence, purchase price and income requirements of Section 143.

- Recapture of Portion of Federal Subsidy: Any disposition by a taxpayer of an interest in a residence financed with the proceeds of a qualified mortgage revenue bond within ten years subjects the taxpayer to increased tax based upon a percentage of gain on the disposition of such residence in accordance with the provisions of Section 143(m). Section 143(m) provides a mechanism for the federal government to recapture a portion of the federal subsidy from a qualified mortgage financing if a mortgagor/taxpayer prematurely disposes of the taxpayer's interest in a mortgage financed with qualified mortgage revenue bonds.

Additional Safeguard May Be Accomplished By Increasing Recapture of Federal Subsidy Under Section 143(m): If existing safeguards in Section 143 are insufficient to protect against short term sales of properties initially purchased by over income mortgagors or properties rebuilt and financed with the proceeds of a qualified mortgage issue, the Louisiana Housing Finance Agency recommends that Congress adjust the recapture provisions of Section 143(m) to increase the amount of the federal subsidy recaptured from a premature disposition of a taxpayer's interest in a residence in which there is or was any federally-subsidized indebtedness. The tax provided for under Section 143(m) may be increased either (i) by increasing the percentage of the gain (if any) on the disposition of such interest above the 50% referenced in Section 143(m)(1)(B) or (ii) by increasing the holding period percentages specified in Section 143(m)(4)(C) in the earliest years following the funding of a loan with the proceeds of qualified mortgage revenue bond.

I trust the foregoing addresses the concerns raised to your satisfaction. Please do not hesitate to call me on (225) 802-8659 if we can provide you with any additional information.

Sincerely,

Milton J. Bailey, President
Louisiana Housing Finance Agency

Cc The Honorable Kathleen Babineaux Blanco, Governor
The Honorable John Lewis, Chairman, Committee on Ways and Means, Subcommittee on Oversight
Board of Commissioners, Louisiana Housing Finance Agency