The American Jobs Plan: A Multifamily Perspective

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Recent federal legislative efforts have the potential to produce a major boon for the multifamily industry, particularly the affordable housing sector. President Joe Biden released a detailed fact sheet at the end of March outlining his American Jobs Plan, and the Affordable Housing Credit Improvement Act of 2021 (AHCIA) was recently introduced in both the House and the Senate, receiving bipartisan support.

The American Jobs Plan includes $213 billion in affordable housing investments through the Neighborhood Homes Investment Act (NHIA) and other policies. With such massive funding, housing programs could see significant expansion under the bill. Specifically, President Biden's plan urges Congress to support affordable housing development by implementing the following actions:

- Offer $20 billion worth of NHIA tax credits over the next five years which could result in the rehabilitation or construction of roughly 500,000 homes for low- and middle-income buyers;
- Construct, preserve, and rehabilitate over one million affordable housing units by extending affordable housing rental opportunities to underserved communities, including rural and tribal areas, through targeted tax credits, grants, project-based rental assistance, and formula funding;
- Eliminate exclusionary zoning and certain land use policies through competitive grant programs which would award funding to jurisdictions that work to eliminate zoning barriers that either block or significantly restrict affordable housing;
- Allocate $40 billion to improve the public housing system;
- Upgrade homes through the Weatherization Assistance Program; and
- Create jobs that pay prevailing wages, including through project labor agreements.

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More tax credits and less zoning regulation could result in lower barriers to entry for smaller affordable housing developers and greater opportunity for larger developers to expand their market footprints.

Although the multifamily industry stands to gain a lot from the American Jobs Plan, the plan also comes with a steep price tag. President Biden has announced that most of the funding for the plan will come from raising the global minimum tax on U.S. corporations' foreign profits to 21% and hiking the corporate income tax rate from 21% to 28%.

Impacts on investor returns due to tax impacts and increased development costs related to mandatory labor agreements will undoubtedly add underwriting challenges to deals that are already being impacted by the rising costs of materials like lumber and steel. However, it is likely that the $213 billion in affordable housing investments, if passed, will result in a net positive for the industry overall.

The AHCIA has the potential to help finance millions of additional affordable units over the next decade by, among other things:

- Increasing the credit agencies' 9% Low-Income Housing Tax Credit (LIHTC) allocation authority by 50% with 25% coming in 2021 and 25% coming in 2022;
- Reducing the 50% test requirement on 4% LIHTC deals to 25%;
- Allowing credit agencies to apply their discretionary 30% basis boosts to 4% LIHTC projects; and
- Creating greater access to affordable housing in Indian areas by including these areas in the statutory definition of Difficult Development Area.

Frost Brown Todd counsels investors, developers, lenders, and other key stakeholders on multifamily housing transactions across the country. We stay at the forefront of all legislative efforts affecting the industry, and we are ready to assist clients with navigating the changing legislative environment.

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