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FEDERAL UPDATE

President Signs Housing Relief into Law with Rehab Tax Credits Amendments Intact

President Bush signed the Housing/Mortgage relief bill (HR 3221) bill on July 30th with three amendments affecting the federal rehabilitation tax credit, including a repeal of Alternative Minimum Tax limitations on the Federal Rehabilitation Tax Credit; an increase from 35% to 50% in the percentage of tax-exempt activity allowable in the sale/leaseback of tax credit projects; and, a provision requiring state qualified allocation plans (QAPs) take into account historic properties in the allocations of low-income housing tax credits, making it more lucrative for projects that twin the low-income housing and federal rehab tax credits.

The National Trust thanks and congratulates all of its preservation partners and advocates who made this impressive legislative victory possible and supported the proposed amendments to the federal rehab tax credit throughout the entire 110th Congress.

House Committee Approves Block Grants for Green Housing

The House Financial Services Committee marked up and approved "The Green Act of 2008" (H.R. 6078) by voice vote on Thursday. H.R. 6078 would create a program within the HUD to establish a \$2.5 billion block grant program to help cities and states spur green housing development. The bill also directs the Federal Housing Administration to develop standards for green housing mortgages and to set a goal of underwriting at least 50,000 of them over the next four years. In addition, H.R. 6078 carves out a role for the two government-backed mortgage giants — Fannie Mae and Freddie Mac — to play in the green housing incentive effort. The bill would require Fannie and Freddie to finance loans for homes with energy efficient designs and locations — such as sites near mass transit. In exchange for the loans, the corporations would be rewarded with additional credit authority.

The National Trust is examining the potential for extending the reach of this bill in conjunction with the recently-passed housing relief package (HR 3221), which includes a provision stating that energy efficiency and the historic nature of properties be taken into account in states' qualified allocation plans (QAPs) for using low-income housing tax credits.

DOT Pilot Program Proposes Streamlining Reform Affecting Section 4(f) Historic Protections

U.S. Transportation Secretary Mary Peters unveiled the Bush Administration's new for overhauling the way US transportation decisions and investments are made, and to "spur local, state and federal debate about how best to incorporate the new reforms into the highway legislation Congress will begin work on this fall." In a new report entitled "Refocus, Reform, and Renew: A

Cultural
Resources
Affected by
Federal Highway
Transportation
Projects and
Subject to
Section 4(f)
Consideration

New Transportation Approach for America,” the Administration seeks a change in the evaluation standard of 4(f) – a key historic preservation protection under federal law – as part of a Department of Transportation (DOT) Performance-Oriented Pilot (POP) program. The DOT plan proposes, on a limited basis, to apply a new “public interest” standard that requires “a balancing of potential 4(f) adverse impacts” and states the following:

“Building on the revisions enacted in SAFETEA-LU section 6009, POP [Performance-Oriented Pilot] participants’ projects would be subject to a ‘public interest’ standard under Section 4(f), rather than the existing “no feasible and prudent alternative” standard. Under this new standard, 4(f) analysis would require an evaluation of impacts on all environmental resources (human and natural environment, excluding economic impacts) and a balancing of potential 4(f) adverse impacts against potential adverse impacts to other protected environmental resources based on the value, importance, type of impact, and level of impact to each.”

While the POP program would be limited to ten entities (including states and/or any metropolitan areas), the report states the intention of the DOT to seek “legislation [which] could provide for performance standards that are clearer and explicitly authorize the balancing required in the case of transportation projects and environmental impacts.”

Preservationists are concerned that this pilot program may be the precursor to a diminution and diluting of 4(f) as it relates solely to protecting historic and cultural resources. In addition, the report language implies changing the 4(f) standard permanently by making it conditional on the potential success of the POP program – an outcome that could prove hazardous to 4(f) protections for historic and cultural resources during a reauthorization of surface transportation programs next year. The National Trust and its preservation partners worked extremely hard with lawmakers to reach an agreement on the existing “no feasible and prudent alternative” standard for 4(f) in the last surface transportation reauthorization bill in 2005, and will vigorously defend against any attempts to weaken 4(f) in future negotiations during next year’s reauthorization.

A copy of the DOT reform plan is available online for review at <http://www.fightgridlocknow.gov/reform/reformproposal08.pdf>.

Congress Recesses for Summer

Lawmakers wrapped up their legislative business this week and recessed for the summer. Congress will reconvene on September 6th and has a target date of September 26th for sine die adjournment for the year. Given the short

schedule upon their return, lawmakers are pointing to finish a defense authorization bill, a possible second stimulus package, and a continuing resolution (CR) to fund the government until next year since this Congress will be unable to finish the FY'09 appropriations cycle. Unresolved legislative items affecting historic preservation include: Interior appropriations and how much funding the national historic preservation program will receive for FY'09; authorization bills for the Preserve America/Save America's Treasures Programs and the National Landscape Conservation System which are caught up in the Senate's stalled omnibus public lands bills; disaster assistance funding for the Midwest flooding this summer, including tax incentives and grants for the rehabilitation of damaged historic structures.

Whether the Democratic leadership will be able to stick to their pledge to avoid a lame-duck session after the November election remains to be seen. The last time lawmakers adjourned without a lame-duck session in an election year was in 1996.

The Weekly Bulletin will be on hiatus during the congressional recess but will return the week of September 6th.

