



3202 Demarara, Suite 200
St. Thomas, USVI, 00802

☎ (340) 777-4432

✉ media@vihfa.gov

100 Lagoon Complex Suite 4
St. Croix, USVI, 00840

☎ (340) 772-4432

🌐 www.vihfa.gov

Notice of Proposed Rulemaking and Public Comment Period

The Virgin Islands Housing Finance Authority (VIHFA) is considering expedited rulemaking to be adopted by the Board of Directors at its next scheduled Board meeting or via a Resolution without Board Meeting if a Board meeting is not held within 15 days after the end of the public comment period herein. The regulation changes proposed herein shall be conclusively presumed to be necessary and in accordance with Congressional action to provide relief for projects funded by private activity bonds thereby increasing the supply of affordable housing. This memorandum includes the proposed emergency rulemaking, the statement of reasons explaining why the changes are necessary, and the proposed regulation amendments.

Proposed change:

1. Tax-Exempt Bond Applications

General. All applications requesting an allocation of tax-exempt private activity bonds for a qualified residential rental project pursuant to the requirements of IRC Section 42(h)(4)(B) shall be eligible to apply under this Section for a reservation and allocation of Federal 4% Tax Credits. Applications will be eligible for a reservation of tax credits only if receiving a bond allocation.

Reason: Federal legislation was signed into law on July 4, 2025, lowering the minimum eligibility requirement for 4% federal tax credits from fifty percent (50%) to twenty-five percent (25%) thereby expanding the volume cap of tax-exempt bonds. The aforementioned changes in federal law require immediate amendments to the local LIHTC regulations to align said regulations with the reduced 25% threshold for federal four percent low-income housing tax credits and to ensure proper administration of the program.

Section XIII of the Territory's Qualified Allocation Plan (QAP) outlines the regulations relative to projects financed by tax-exempt bonds and the 4% Credits: "Projects receiving Tax Exempt Bond financing for at least 50% of the aggregate basis of the property (including land) shall receive an automatic allocation of 4% LIHTCs that are not subject to, and do not count against, the state housing credit ceiling allocated to the Territory for competitive 9% LIHTCs. Instead, the Tax Exempt Bonds for such projects must receive an allocation of volume cap under Section 146 of the Code. Although the eligible basis of a project qualifies for 4% LIHTCs without competing through the regular process, applicants for 4% LIHTCs will be subject to the Evaluation Committee's housing priorities as evidenced by the threshold criteria under Part VIII hereof.

VIHFA proposes to strike the reference to "at least 50% of the aggregate basis of the property (including land)" and replace with "an amount which is equal to or greater than the federal

requirement in Section 42(h)(4)(B) of the Internal Revenue Code (IRC)". By directly referencing the federal language, any future changes to this federal requirement will not require regulation changes.

Additionally, Section XIII(A)(e) includes specific criteria for projects applying for financing by tax-exempt bonds and 4% Credits. The current language states that "4% LIHTCs are limited to the amount necessary for the financial feasibility of the project as set forth in Section 42(m)(2)(A) of the Code. Applications must include proposed financing terms that demonstrate effective and minimal use of 4% LIHTCs relative to other proposed sources of financing for the project". To allow the maximum flexibility in the use of the Territory's bond volume cap, the VIHFA proposes to adopt a maximum bond allocation cap. **VIHFA proposes to add the following sentence at Section XIII(A)(e) of the QAP: "The bond allocation to any project shall be subject to a maximum cap equal to the project's maximum supportable debt plus 5%"**.

VIHFA will accept written public comments on the proposed rulemaking until Wednesday, May 6, 2026 at 5:00 p.m. Interested persons may submit public comment in writing by email, mail, or hand deliver. For email, please send public comment to Janine Hector, Federal Programs Director at jhector@vihfa.gov and please use the subject line "LIHTC Proposed Regulations." For mailed or hand delivered public comment, please mail or deliver to 100 Lagoon Complex, Suite #2, Frederiksted, VI 00840. All public comments must be received by 5:00 p.m. on **Wednesday, May 6, 2026**. For comments submitted electronically, please submit them either as a Microsoft Word document or a .pdf format document. VIHFA encourages commenters to be clear, efficient, and to the point with their public comments - explicitly indicating agreement or disagreement with the proposed change to ensure that LIHTC staff can accurately understand your position and formulate a response. VIHFA will only consider public comments relevant to the proposed changes.

BY: **Eugene Jones, Jr.** , Executive Director
April 22, 2026