HUNTON& WILLIAMS

CLIENT ALERT

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New Housing Law Major Boost for Tax-Exempt Housing Bonds

The provisions of the Housing Reform bill signed by the President include the following:

- **AMT**: Repeal of the alternative minimum tax for multifamily and single family bonds. The Government Finance Officers Association estimates that the interest rate difference between AMT and non-AMT bonds is in the range of 25 to 30 basis points.

- **Temporary Increase of Volume Cap for Housing Bonds**: Volume cap available for multifamily and single family bonds for the remainder of 2008 is increased by $11 billion. This is a significant increase in the annual volume cap and amounts to approximately $253 million in Virginia, $297 million in North Carolina, $313 million in Georgia, $101 million in DC, $634 million in New York, $785 million in Texas and $599 million in Florida. Any carryforward of this volume cap must be used by 2010. For single family mortgage bonds, use of such additional volume cap is subject to shorter (12 months instead of 24) loan origination periods.

- **Use of Single Family Mortgage Bonds to Refinance Subprime Loans**: Issuers of qualified single family mortgage bonds can use proceeds to refinance qualified subprime loans. A qualified subprime loan is an adjustable rate loan made after 2001 and before 2008 that has been determined by the issuer to be reasonably likely to cause financial hardship to the borrower if not refinanced. No specific guidelines are included. All loans to refinance subprime loans must be made within 12 months of the issue date. For the purchase price limitation, the home is valued at the time of refinancing rather than at the time of original purchase. Refinancing of subprime loans is only permitted with bonds issued before 2011.

- **Recycling of Volume Cap for Multi-family Bonds**: If a conduit loan financed by a multifamily housing bond issue is repaid and the repaid amount is used for another multifamily housing project loan within six months of the repayment, then a bond issued to refund such bond within four years of the refunded bond's issue date is treated as a refunding (even if a different borrower) and new volume cap is not needed. The refunding bond must have a maturity not later than 34 years after it is issued, and a new TEFRA approval is required.

- **Conforming Tax-Credit and Tax-Exempt Bond Rules**: Certain of the tax-exempt bond rules have been revised to conform to the tax credit rules: (1) the income restrictions relating to the leasing of the next available unit to a qualified resident now apply on a building-by-building basis rather than on a project basis, (2) the definition of full time students who are permitted residents now includes single parents and their children as well as married students filing a joint return, and (3) single-room occupancy units without full kitchens are now considered as "residential rental units."

- **Hold Harmless for Reductions in Area Median Gross Income**: For projects that benefited by HUD's hold harmless rules (permitting a look back to earlier years in calculating median income levels) for 2007 or 2008, there is an additional special rule that permits use of the hold harmless 2008 median gross income adjusted by increases in median area gross income determined without the hold harmless rule.

- **FHLB Guaranty Permitted Temporarily**: All bonds can be subject to a guarantee by a federal home loan bank without triggering the prohibited "federal guaranty" provisions. This provision applies only for guarantees of bonds made upon their original issuance (and renewals or extensions of such guarantees) and only for bonds issued before January 1, 2011.