THE RAPIDLY EMERGING WORLD OF SCARCE PRIVATE ACTIVITY BOND VOLUME

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** Most of the private activity bond volume data in this PowerPoint is based on CDFA Annual Volume Cap Report, An Analysis of 2018 Private Activity Bond & Volume Cap Trends, released October, 2019, as revised in a second release also dated October, 2019 (the "CDFA 2019 Release"). An additional excellent analysis of the emerging private activity bond volume shortage is Michael Novogradac's article entitled Most States Facing Shortage in Private Activity Bonds for Rental Housing in the December 2, 2019 Journal of Tax Credits, available at https://www.novoco.com/periodicals/novogradac-journal-tax-credits-volume-10-issue-12 . Private activity bonds which are subject to the volume cap comprise 13 types of bond issues, including multifamily housing bonds, single-family mortgage revenue bonds, qualified student loan bonds, small issue "industrial development" bonds, redevelopment bonds, and exempt facility bonds such as bonds for water and sewage facilities, hazardous waste facilities and other utility facilities.

- **The demand for private activity bond volume is exceeding supply** in an **increasing number of states**.

- **From 2015 to 2018,** the **percentage of** the United States' **total annual private activity bond volume** allocation utilized **rose from approximately 37% to 65%.**

- **Why? Multifamily more than doubled from $7.0 billion in 2015 to $14.0 billion+ in 2016, 2017 and 2018.**

Approximate Total Issuance ($Bil./% of Total Volume Private Activity Bonds)

	2015	%	**2016**	%	**2017**	%	**2018**	%
Multifamily	$7.0	53.8%	$14.0	70.0%	$15.3	61.2%	$14.7	61.1%
Single Family	4.9	37.7%	4.9	24.5%	5.7	22.8%	7.3	30.2%
Other*	1.1	8.5%	1.1	5.5%	4.0	16.0%	2.1	8.7%
Total	**$13.0**	100%	**$20.0**	100%	**$25.0**	100%	**$24.1****	100%

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* The "other" category represents IDB's, student loans and other exempt facilities.

** $24.1 billion is approximately **65% of the $37.1 billion 2018** national private activity bond volume **allocation**. Total **available volume** in 2018, **including carryforward**, fell from a high of $97.4 billion in 2016 to **about $89.7 billion in 2018**. Unfortunately, this is of **no help in states which** have exhausted their carryforward and **are now using all of their annual volume allocation**.

- Single and multifamily **housing comprised about 91%** of total volume limited private activity bond issuance in 2018, with **multifamily** representing **about two thirds** of these two categories in **2018 and single family** representing **one third.**

- This implies that in many cases **states cannot address lack of volume by pulling it from other categories** into housing, **unless** they pull volume from **single family to multifamily**.

- Remember, using volume for affordable **multifamily rental** housing is the **only category which triggers an additional federal subsidy** equal to **about 35% of total development cost, but** the reality is that **many states also place a high value on their single family programs.**

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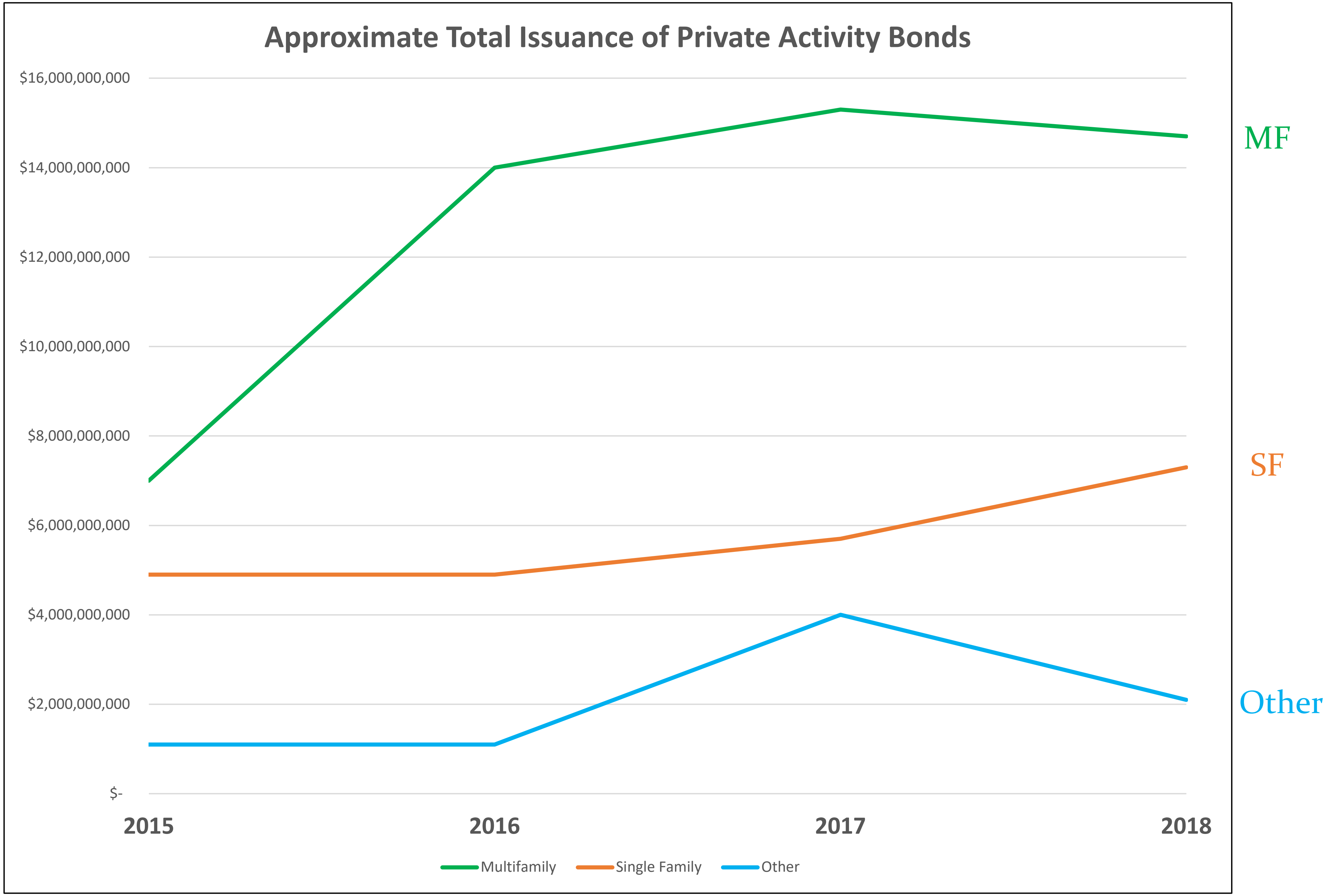
Approximate Total Issuance of Private Activity Bonds
$16,000,000,000
$14,000,000,000
$12,000,000,000
$10,000,000,000
$8,000,000,000
$6,000,000,000
$4,000,000,000
$2,000,000,000
$-
2015
2016
2017
2018
Multifamily
Single Family
Other
MF
SF
Other

- It is important to **watch** the **rate at which a state utilizes its private activity bond volume versus** the state's **annual allocation. Once** the rate of **utilization exceeds the annual volume** allocation for a state, it is probably only a matter of one to several years before the state's three-year carryforward balance will be exhausted and **a "competitive" or "rationing" environment will emerge.**
- In some states, availability of **bond volume for multifamily may be limited by choice** – priority is given to single family and other uses.

STATES WHERE A RATIONING ENVIRONMENT FOR MULTIFAMILY ALREADY EXISTS

New York	Tennessee
Massachusetts	Minnesota
New Jersey	Colorado
Connecticut	Washington State

- In **some of these states**, increasing demand means they are **increasingly oversubscribed**.
- **Washington State.** For example, in **Washington State's second round 2019 allocation** last spring, there were $760 million in requests for $250 million of available multifamily volume, or about **3:1 oversubscribed**. The **minimum score** to receive an award **jumped** from about **60** out of 90 **to** about **80** out of 90. In December of 2019, **the State received 33 multifamily applications for $998 million of 2020 volume** with scores in the 70-90 range versus early 2020 **available volume of $250 million – i.e., 4:1 oversubscribed!** Washington State has an active recycling program.

STATES WHERE A "RATIONING" ENVIRONMENT FOR MULTIFAMILY HAS EMERGED IN 2019 OR IS LIKELY TO EMERGE IN 2020

- **California**. California accounted for about **30% of the nation's private activity bond issuance** in 2018 and a similarly high percentage in prior years! **Almost 90%** of this went **to 155 affordable multifamily rental housing financings** in 2018. California **gets $4.15 billion of PAB volume per year**. According to CDLAC, California used $4.6 billion in 2018, $4.3 billion in 2017, **shrinking its carryforward**.

- In the **blink of an eye**, California has **gone from** a state with **excess private activity bond volume for over two decades to** a state now facing a **substantial shortage in volume for affordable multifamily rental housing**.

- The **December 2019 multifamily round** saw $1.9 billion in requests; available volume was about one-half that amount – **2:1 oversubscribed**!

NEW MULTIFAMILY VOLUME LIMITED STATES – CALIFORNIA

- This has been triggered by **several developments**:
  - The **economy in California is strong**, creating more affordable housing demand.
  - California has **recently passed legislation** which **provides several billion dollars** of new funding for **affordable rental housing**. The state also appropriated **$500 million for state tax credits for new construction projects*** which plugged financing gaps and made a number of additional projects feasible. As a result, in early 2019, California began planning to take the steps described below to deal with this looming potential shortage.
  - In the **fall of 2019**, there was a **threat that this shortage would be severely exacerbated** by **two major competing volume requests:**
    - In late 2019, California approved the use of **$300 million** of 2019 private activity bond cap for a **high speed train to Las Vegas**, and reports indicated that the developer intended to request **another $300 million** in 2020.
    - There also emerged a proposal to allocate an additional **$1.25 billion** of private activity bond volume to a **desalinization plant**.

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*We believe that an appropriation of an additional $500 million has been included in this year's State budget as well.

NEW MULTIFAMILY VOLUME LIMITED STATES – CALIFORNIA

- The simple math* on **loss of multifamily rental housing** and the related **4% LIHTC federal subsidy** coming into a state from alternative volume uses is roughly as follows:

For each $1.00 of private activity bond volume diverted to another use:

- The **state loses about $1.82** of affordable multifamily **rental housing**; and
- The **state loses a federal subsidy from the 4% LIHTC equal to about 50 cents!***

For **each $100 million transferred to another use** the math is**:**

- **Value** of **affordable rental housing lost: $182 million.**
- Approximate **# units lost**: **455 units (5 small projects).**
- 4% **federal LIHTC proceeds foregone: $50 million.**

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* If one assumes tax-exempt bonds fund 55% of total development cost on affordable multifamily rental projects and the average cost is $400,000 per unit in a high rent state like California and 20% of that cost is land (not includable in 4% LIHTC basis,) each $100 million of private activity bond volume can support affordable multifamily rental housing with an estimated total development cost of about $182 million or, at $400,000/unit, about 455 units of affordable rental housing. Let's further assume that the 4% LIHTC on a 100% affordable project syndicates for about 35% of tax credit basis, which in our example, after subtracting land, is about $146 million, representing a loss of a federal subsidy coming into the State of about $51 million for the $100 million of volume allocated to the alternative use.

NEW MULTIFAMILY VOLUME LIMITED STATES – CALIFORNIA

- In California, if the two above requests and a $300 million request for pollution control had been awarded in 2020, **California's** private activity bond **volume allocated to affordable multifamily** rental housing would have **dropped from 93% to 55%.**

- If this had occurred, one would have expected **the number of projects financed** to have **dropped from**, say **155** in 2018 **to 85** – i.e. a **loss of 70 project financings representing 8,400 lost affordable rental units** and a **total development cost of about $3.4 billion. In addition, about $1.0 billion of federal 4% LIHTC subsidy would have been foregone.** This would have been **a devastating cutback in this vital area of finance**.

- In early **October 2019**, with the assistance of a number of key players in the California affordable rental housing community, **NG&O delivered a letter to California State Treasurer Fiona Ma and CDLAC Executive Director Larry Flood, detailing the potential costs**, as summarized above, if these competing private activity bond volume requests were funded.

- A **large number of California** affordable multifamily rental housing bond **issuers, for profit and non-profit developers and other industry participants came together to vigorously oppose these competing uses**.

NEW MULTIFAMILY VOLUME LIMITED STATES – CALIFORNIA

- **Governor Newsom, Treasurer Ma, CDLAC, TCAC** and others in the California state government **have been strong supporters of affordable rental housing**, and **should be commended for their response** to these developments.
- In its **December 23, 2019** meeting, **CDLAC announced that it would allocate 84.34% of its $4.15 billion 2020 volume allocation, or about $3.5 billion, to affordable multifamily rental housing** and the remaining 15.66%, or about $650 million, to other exempt facilities and IDBs. It is believed that $300 million of this may go to the high speed rail project, and the balance to other uses. **In its January 15, 2020 meeting, 5% or about $208 million was shifted to a CDLAC discretionary pool, and multifamily was reduced to 79.34% or about $3.3 billion.** The industry should **urge that this be used for multifamily** in light of the major oversubscription which has emerged.
- **This is significantly lower** than the 92% of available volume (roughly $3.95 billion of $4.3 billion allocation) dedicated to multifamily in 2017 and 89% (roughly $4.1 billion of $4.6 billion allocated) in 2018, when there were substantial carry forward balances available. **However, given the volume limitations the State now faces, this is a material win for affordable multifamily rental housing in California**.
- **It appears likely that the extraordinarily large desalinization plant request will at least be delayed until 2021 and may well be substantially pared back or abandoned.** As a result, while volume for multifamily in California will certainly be tighter and oversubscribed, the **widespread industry response and the far sighted State government reaction appear to have avoided a dramatic cutback for the present time.**

2020 CALIFORNIA BOND VOLUME – RECENT CDLAC MEETING NOTE HIGHLIGHTS

- **Points threshold up from 45 points** for all projects **to 55 for mixed income and 80 for others**.

- For 2020 **per project limit of $50.0 million of bond volume**. **Term goes from 55 years to 30 years after 50% occupancy.**

- **2020 Estimated Demand**: $5.0 billion new cons + $1.9 billion preservation ≈ **$7.0 billion versus** $4.15 billion total 2020 PAB volume x 84% MF **= $3.5 billion** (and no substantial carry forward) → **almost 2:1 ratio of Demand vs. Supply.**

- **2019** MF volume was about **60% acq/rehab vs. 40% new construction**; in **2020 this** ratio expected to flip to 40/60 or **as high as 75 or 80% new construction due to state tax credits for new construction and other factors**.

- **California is developing a recycling program** which will likely involve at least CalHFA, CMFA, and CSCDA.

CALIFORNIA BOND VOLUME – RECENT CDLAC MEETING NOTES

- **Current proposed allocation of 2020 California MF volume** is:

	Total Year Pools	% of Cap	% of MF
MULTIFAMILY HOUSING			
Multifamily-General	**$2,334,425,456**	**56.27%**	**70.92%**
Other Affordable	387,415,719	9.34%	11.77%
New Construction	1,424,692,225	34.34%	43.28%
Preservation	522,317,512	12.59%	15.87%
Multifamily-Mixed Income	**749,780,135**	**18.07%**	**22.78%**
Multifamily-Rural	**207,439,171**	**5.00%**	**6.30%**
Allocation on Hold	0	0.00%	
Multifamily Projects Subtotal:	**$3,291,644,762**	**79.34%**	**100%**

- These allocations could shift depending on demand or other factors in later rounds.

NEW MULTIFAMILY VOLUME LIMITED STATES

- California's recent experience is a **wake-up call** to the affordable multifamily rental housing community – **Competitive uses of volume cap:**

  - **May arise suddenly** and **without warning,**

  - May have **very large price tags** (often **$80 to $100 million or more**)**,** and

  - May be **politically set when introduced***, allowing little time for rebuttal and debate.

- The development community needs to be **alert to these proposals** and to make the case for affordable multifamily rental housing and the huge federal subsidy inherent in the 4% LIHTC **at the first rumor of such competitive use proposals** and well before such proposals are introduced.

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* The $300 million California allocation to the high speed rail project in the fall of 2019 caught the affordable multifamily rental housing community almost totally by surprise.

OTHER POTENTIAL NEW MULTIFAMILY VOLUME LIMITED STATES

- **Texas**. Texas is **one of the fastest growing economies in the U.S.** The **Texas Bond Review Board** reports that **requests for bond volume by the end of 2019** exceeded supply **for the first time by about $717 million**. The following chart shows the overall results for the past four years:

2019	**$717 million unsatisfied requests***
2018	None; $3 million excess
2017	None; Substantial excess
2016	None; Substantial excess

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* This is due in part to allocation among regions and issuers and timing.

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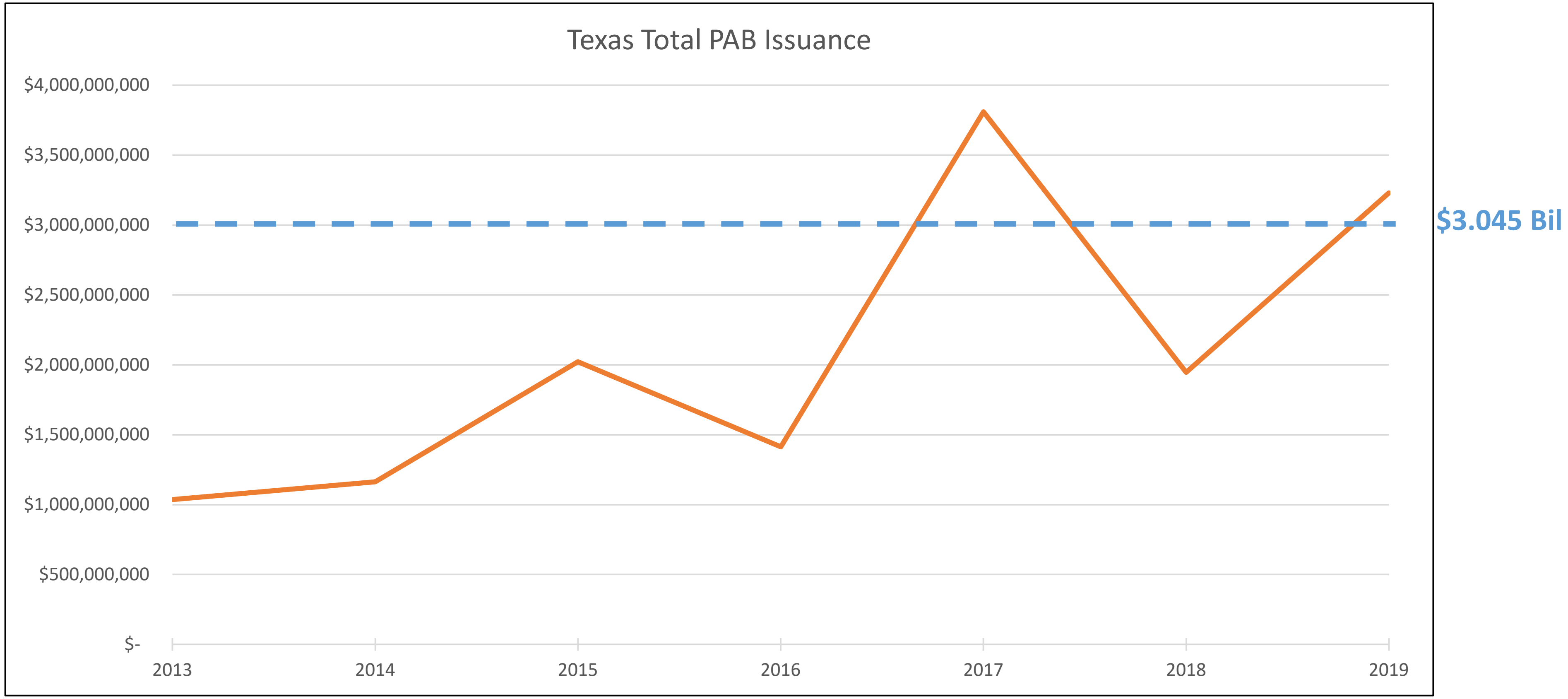
OTHER POTENTIAL NEW MULTIFAMILY VOLUME LIMITED STATES

- **In 2020, Texas will receive an allocation of $3.045 billion** of private activity bond volume.
- **Carryforward** from 2017, 18 and 19 **will be $3,325,000**, meaning it will have **over $6.0 billion of PAB volume** available.
- Your reaction? No problem!
- But wait! Let's look at the long term trend.



OTHER POTENTIAL NEW MULTIFAMILY VOLUME LIMITED STATES

- In 2017, issuance exceeded annual volume by over $765 million (in part due to HR1); last year issuance exceeded new volume by $184 million.

- Last fall, the **State held its second lottery** in the past 10 years to allocate limited volume in some regions.

- This year, early round allocation per project has been raised from $20 million to $51 million and one of 13 regions (Houston) is already oversubscribed. **Volume is running fast.**

- **Is Texas the new California?** Remember California went from a surplus to oversubscribed by a 2:1 ratio in one year!

- The **good news:** Of Texas's $3.045 billion annual volume, last year only about $1.7 billion or 56% went to multifamily; **it can pull volume from other categories** if the political will is there.

- **Georgia.** On February 10, 2020, the Georgia Department of Community Affairs announced that **the Georgia 2019 PAB Allocation Cap was fully subscribed for the first time in at least 20 years and that the pre-applications in its pipeline would exceed the portion of the 2020 volume cap available for multifamily housing.**

- Applications received after February 17, 2020 are not expected to be funded until 2021.

- Approximately **75% of the 2019 allocation was for housing activity**. CDFA data suggests that in 2018 almost all of this was for multifamily.

- **Georgia's PAB Allocation Cap for 2020 is $1,114,829,415, most of which has been allocated as follows:**

    - Economic Development – $473,802,501

    - Housing – $432,802,501 (about 38% of 2020 PAB cap)
        - GHFA – $293,757,551
        - Local housing authorities – $49,022,475
        - URFA – $90,022,475

    - Flexible – $167,224,412

- All applications for non-URFA, Housing-related activities must be prescreened by DCA's Office of Housing Finance.

OTHER POTENTIAL NEW MULTIFAMILY VOLUME LIMITED STATES

- **Hawaii**. Hawaii gets the **$322 million** minimum private activity bond volume allocation per year. In 2018 usage **grew** to $214 million or about **two thirds of annual allocation**, and carryforward fell by $150 million. Usage in **2019** is expected to be even higher **and may exceed the $322 million annual allocation**. **Two proposed alternative use projects** for electric power generation **would consume** $90 million and $200 million of bond volume, respectively, or **one entire year's allocation**.

- In **early 2020**, the Hawaiian Housing Finance and Development Corporation ("HHFDC"), the State's sole active issuer of affordable multifamily housing bonds, **reports $440 million of completed applications** versus about $170 million of carryforward. Even if HHFDC receives 2/3 of the $322 million 2020 PAB allocation, or $214 million, this would leave **$440 million in applications versus $384 of volume**, and the $440 million demand figure does not include other big projects in the formation stages. **It appears quite possible that multifamily volume will become competitive in the Aloha State this year.**

OTHER POTENTIAL NEW MULTIFAMILY VOLUME LIMITED STATES

- **Colorado**. CDFA reports that **in 2018 Colorado received a $588 million PAB allocation and issued $578 million,** almost all for housing: $450 million (or 78%) for multifamily housing and $123 million (or 21%) for single family. Roughly one half of this volume goes to the Colorado Housing Finance Agency, which limits allocations to 52% of tax credit basis, has an active recycling program, and **is already oversubscribed for 2020**. Roughly one half of annual volume is allocated initially to 57 cities and counties based on population. While carryforward remained steady into 2019 and 2020, volume rose to $605 million, it seems likely that Colorado will quickly move into a competitive status for PAB volume if that has not already emerged.

- **Nevada**. Like Hawaii, **Nevada gets the $322 million minimum** private activity bond volume allocation per year. To date Nevada has not been a volume limited state and according to the CDFA 2019 Release, Nevada's carryforward volume actually rose from $405 million in 2018 to $575 million in 2019. However, it issued $216 million or **two thirds of its annual allotment in 2018**, of which **$169 million or 78% was for multifamily**. About $160 million has been set aside so far in 2020 for multifamily, roughly equal to last year's usage. However, other requests for **various economic development projects** have also **emerged over the past three years**. These demands, plus **a $200 million pending Nevada bond volume request** for the Victorville, CA to Las Vegas **high speed rail project** discussed above **could quickly cause Nevada to join the list of volume limited states**.

OTHER POTENTIAL NEW MULTIFAMILY VOLUME LIMITED STATES

- **District of Columbia and New Mexico**. According to Michael Novogradac's December 2, 2019 article, **both the District of Columbia and New Mexico issued more private activity bonds for multifamily rental in 2018 than their annual PAB allocation.** As a result, **the DCHFA** (the sole active issuer in the District) **has now restricted allocations to 53% of tax credit basis**.

- **Florida.** Annual allocation was $2.2 billion in 2018; Florida issued $1.2 billion and carried $1.85 billion forward to 2019. One would think no problem here. However, **Florida Housing Finance Corporation, the state agency which issues a major portion of the state's multifamily housing bonds, announced earlier this year** that it was **only accepting applications for projects using SAIL, CBDG, workforce housing or other subordinate debt.** This announcement stated that due to volume concerns, applications for projects using only tax exempt debt and 4% LIHTC would only be accepted later depending on available volume. This restriction has subsequently been released, but it shows that Florida is also becoming concerned about the supply of available bond volume versus demand.

IMMEDIATE STEPS TO PREPARE FOR A COMPETITIVE VOLUME ENVIRONMENT

Developing an Effective Bond Volume Carry Forward Program

- The State volume allocator should work with the issuers active in multifamily housing bond finance to **reallocate any unused private activity bond volume among issuers to those who will make the federal filings to preserve this bond volume use in future years (up to 3 years).** The logical issuers to consolidate unused bond volume and to carry volume forward would include state housing finance agencies and larger local housing finance agencies who have a sufficient repetitive demand for tax exempt multifamily housing bond financing. Most volume limited states have this in place. **If necessary, volume starved states should modify their statutes to create a system which minimizes the likelihood that any private activity bond volume will expire unused.**

Rationing New And Carryforward Volume to Maximize 4% LIHTC

- **Allocate** new or carryforward multifamily housing bond volume to a given project **only in the amount necessary** (**usually 53-54%** of aggregate basis in land and buildings) **to assure that the 50% Test is satisfied**, so that the project is eligible for the vital 4% LIHTC without which most affordable housing projects would not be feasible.

- **No more** or **very few allocations** for **20% at 50% "mixed income" projects** (New York largely halted these allocations in 2014), **or limit amount per project to a maximum (e.g. $50 million) and/or forward commit volume over multiple years**.

Allocating Volume Through Merit Scoring And Multiple Rounds

- States becoming volume limited should **immediately examine and potentially update, or revise and publish** or republish their **system for allocating** private activity bond volume, including volume for affordable multifamily rental housing.

- An argument can be made that a **merit scoring system** which incorporates industry as well as governmental input is the **best system** (as compared to a "first come, first served" or a lottery).

- **Allocating in 2 to 4 rounds throughout the year may be preferable** to a one-time or first come, first served system.

Developing A Bond Volume Recycling Program

- Under fairly complex **federal "recycling" regulations,** bonds which have been paid off prior to maturity can be **allocated to other similar projects to provide additional tax exempt leverage.** This volume **does not count for purposes of the 50% Test**.

- There are **two major sources** of recycled tax exempt multifamily housing bond volume:

  - Many projects in high-cost urban areas require multiple permanent phase financing sources (HOME, CBDG, Housing Trust Fund monies and other subordinate loans), which result in a **pay down at "Conversion"** from the construction phase to the permanent phase of the loan.

  - A second major source may be the redemption or payment at maturity of **short-term cash-backed tax exempt bonds** which are issued in today's market to satisfy the 50% Rule for projects using FHA-insured loans, rural development loans and other loan programs.

- The **Affordable Housing Credit Improvement Act of 2019** (the "**AHCIA**") would **improve recycling** as follows:

Current Law	Post AHCIA
• Recycled volume **expires 6 months after a bond issue is paid down** if not reallocated and closed within 6 months of the pay down.	• Would expire **12 months** after pay down.
• Recycled volume also expires **4 years after** the **original bonds** were **issued**.	• Would expire **10 years** after original bonds issued.
• No recycling of issues which are a refunding of prior bonds.	• No **exclusion** of recycling volume of **issues which have been previously refunded**.
• The **new tax exempt bonds** issued to which the recycled proceeds are reallocated **must mature no later than 34 years after the original tax exempt bonds were issued.**	• **No change** from present law.
…AND THE MAJOR IMPORTANT POSITIVE CHANGE:	
• The **purpose for which the volume will be used must remain the same**.	• The **AHCIA** would also **allow recycled multifamily rental housing bond volume under section 142(d) of the Code** to be **used to fund new loans** for first time homeowners and veterans (typical **single family mortgage** revenue bonds "SFMRB" loans).

- **Single family** mortgage revenue bond issuance **comprised over 30%** of all volume limited issuance in **2018.** The last change described above would **allow state HFAs and other active issuers of SFMRBs to use recycled multifamily volume for single family, freeing up potentially this amount of new private activity bond volume for multifamily**, which would satisfy the 50% Test. While this would not solve the private activity bond volume problem in volume starved states, it **could provide a significant measure of relief**.

- On the other hand, **the provisions of the AHCIA adjusting the tax credit percentage on 4% LIHTC financings from the current 3.2%+ to a true 4% could increase tax credit proceeds by as much as 20%.** If tax credit equity on these deals finances about 35% of total development cost, this would finance as much as **an additional 7% of total development cost** on an "average" deal. **This would make more deals feasible – it is estimated to produce 66,000 more units over 10 years – and could significantly increase the demand for private activity bond volume for multifamily** in states where volume is short.

OTHER MAJOR PROVISIONS OF THE AHCIA*

- **Increase the annual 9% LIHTC allocation authority by 50 percent over a five year-period** and adjusted for inflation. Estimated to produce an additional 384,000 units over 10 years.

- **Allow states to provide up to a 30% basis boost for 4% LIHTC properties** if needed for feasibility.

- Allow states to provide 50% basis boost for portion of 4% LIHTC properties serving extraordinarily low-income and homeless families if needed for feasibility.

- Increase percent of country which can be designated as a DDA from 20% to 30%.

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* Great one-page and detailed summaries of the AHCIA are available on the website of the Affordable Rental Housing A.C.T.I.O.N. (www.rentalhousingaction.org).

OTHER MAJOR PROVISIONS OF THE AHCIA

- Remove cap that no more than 20% of the population of a metro area may be designated a QCT.
- Define DDAs to automatically include projects on Indian reservations, and give states ability to provide 30% basis boost for projects in rural areas (if needed for feasibility).
- Add a third “Average Income Test” as a minimum targeting requirement to conform Section 142(d) to Section 42.
- **Replace the current general partner right of first refusal option (ROFR) at year 15** with a **purchase option** at the minimum price allowed under current law.

TIMING/PROSPECTS

- Wide bipartisan support – bill cosigned by over 40% of members of Congress.
- Most likely introduction is next fall unless some earlier bill can be found.
- Affordable housing industry still needs to agree upon revision of ROFR/purchase option provisions.

Taxable Tails

- A portion of the bond issue (often 5-10%) can simply be segregated as a **separate series of taxable bonds** – a so-called "taxable tail."

- These bonds are **typically equally and ratably secured** with the tax exempt bonds, but simply bear a separate CUSIP number and typically the word "taxable" in the bond caption.

- Most bond counsel firms will **allow these taxable tail bonds to be amortized** (through serial maturities or mandatory sinking fund payments) **before the tax exempt bonds** are retired. This lowers the coupons associated with these bonds, thus limiting any adverse impact on the overall borrowing rate (often to an increase of only 5 or 10 basis points).

- In the alternative, in some cases, the tax exempt debt purchaser or credit enhancer may **simply extend an additional taxable loan** on the project without structuring it as taxable municipal debt.

EXPANDING PRIVATE ACTIVITY BOND VOLUME AVAILABILITY AT THE FEDERAL LEVEL

- It is clear we are approaching a level where **increasing the available bond volume for affordable multifamily housing in a growing number of states is desperately needed**.
- **Proposals being discussed** include:
  - **Adopting the recycling provisions in the AHCIA** or, even more broadly, **allowing recycled bond volume to be used for** any one or more of the **other** 12 **private activity bond volume restricted uses**.
  - Possibly **reducing the 50% Test** to a 30%, 35% or 40% Test. Very simple, but must be revenue scored. NCSHA and Novogradac are studying this; report expected in about two months.
  - **Allowing states with excess volume to allocate to states suffering a shortage** through some type of allocation and redistribution as is done with 9% LIHTC. In 2018 total available private activity bond volume was $89 billion and annual U.S. bond volume was $37.1 billion, versus $24.1 billion of 2018 usage. **Allowing such a reallocation could address a lot of the current and growing shortage**. This **should be revenue neutral**, since one would assume that the tax exempt bond volume and related 4% LIHTC use has already been scored up to the annual maximums.

EXPANDING PRIVATE ACTIVITY BOND VOLUME AVAILABILITY AT THE FEDERAL LEVEL

- Perhaps **giving the issuance of private activity bonds for affordable multifamily rental housing (which would trigger 4% LIHTC under the 50% Test) a multiple,** similar to that effectively provided for high speed rail bonds by allocating separate volume from an additional pool. This effectively permits California to issue **four times** the amount of private activity bonds for light rail as the amount of the state's private activity bond volume so allocated. The 2019 California allocation of $300 million to light rail permitted the issuance of $1.2 billion of tax exempt bonds. Which need is more compelling? **Even a 2:1 or 3:1 ratio of this type for multifamily would free up a huge amount of financing** for this purpose in states where additional volume is needed. **Why not a separate additional affordable multifamily rental housing bond pool?**

- There is **federal precedent for favorable treatment of private activity bonds for affordable multifamily rentals**. When volume limits were first imposed for other types of private activity bonds in the early 1980's, **multifamily rental housing bonds were excluded prior to the Tax Reform Act of 1986**. Today, private activity bonds for airports, docks and wharves, and nonprofit hospitals, colleges and universities and other 501(c)(3) organizations are exempt. **Why not desperately needed bonds for affordable multifamily rental housing?**

CONCLUSION

- **In volume limited states**, including states where carryforward balances are rapidly declining, **developers should:**
  - Work with active issuers to **design and implement the volume stretching and up-to-date allocation arrangements** described above;
  - **Be alert** to and resist other **potential competing demands** for the use of private activity **bond volume**;
  - **Carefully review** the state's **allocation system** for multifamily rental housing bond volume, **revise plans** if applicable **to score** high enough to obtain volume (if applicable) and **apply early!**
  - **Encourage favorable long-run state policies, laws and structures** to assure that scarce private activity bond volume is used to finance the largest possible number of units and projects; and
  - **Proactively work with industry organizations** that are **lobbying for changes to expand U.S. private activity bond volume available for affordable multifamily rental housing**.