

NOW & NEXT

Affordable Housing Alert

AUGUST 22, 2022

HR 5376, the Inflation Reduction Act of 2022 signed into law

By Stephen J. Wallace

This alert highlights certain climate and tax issues of the Inflation Reduction Act



What's the Impact

- / IRA provides \$750 billion to address climate change by providing incentives including tax credits.
- / Direct loans and grants are provided for certain HUD properties for climate resiliency.
- / IRA allows for new arrangements for the sale of energy tax credits.

On August 16, President Biden signed into law [HR 5376](#), the Inflation Reduction Act of 2022 ("IRA"), his signature legislative achievement. Although far less than the \$2.2 trillion Build Back Better bill the House passed last November, the IRA still provides \$750 billion to address climate change by providing incentives including tax credits. The bill is paid for by a 15% minimum corporate tax, increased funding for the Internal Revenue Service for tax enforcement, and the ability to negotiate prescription drug pricing. The IRA passed strictly along party lines in the House and Senate; Vice President Harris cast the tie-breaking vote in the Senate.

Title 3 of the bill has a provision providing \$837.5 million for direct loans and grants for certain HUD affordable housing properties, namely those assisted by project-based Section 8, 202, 811, and 236 to make improvements that provide increased resiliency against climate change such as flood proofing, storm resistance, water and energy efficiency, and clean energy upgrades. This provision may be instrumental in assisting properties located in or near a flood zone, which may be ineligible for FHA loans or section 8 rent increases under Option 1/Chapter 15. HUD hopes to have its policy implementing this provision published in a few months.

In total, \$369 billion is targeted toward energy security and climate change.

Another provision that is of particular interest is new Code section 6418. It provides a mechanism for selling energy tax credits without the need of a partnership, LLC, or lease arrangement. Of course, this is a dramatic change from the IRS's long-standing requirements to make tax benefit transfers look like traditional business deals.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

Stephen J. Wallace

202.585.8714

swallace@nixonpeabody.com
