Bond Case Briefs

Municipal Finance Law Since 1971

Preserving a Critical Tool for U.S. Public/Private Development.

While the $1.5 trillion tax-cut bill passed November 16 by the U.S. House of Representatives is widely seen as beneficial for commercial real estate, one provision would eliminate a municipal financing tool that has been essential for housing, infrastructure, and industrial development investment for decades.

The House bill would repeal tax-exempt "private activity bonds" (PABs), which have been part of the Tax Code since 1968. That year Congress allowed the same exemption from federal income taxes which applies to conventional state and local debt to municipal bonds which fund publicly beneficial projects through public/private partnerships. PABs make up 20 percent of the overall municipal bond market today.

The evolving Senate version of the bill retains PABs.

Over time, PABs have evolved—under tight statutory controls and an annually capped amount of funding authority—as the sometimes unseen but critical glue in the financing of countless catalytic developments, including many of which have been recognized as exemplary by ULI:

- Denver Union Station, which received a ULI Global Award for Excellence in 2015, used PAB financing for a 23-mile (37 km) commuter line linking the transit hub to Denver's largest suburb, Aurora. and Denver International Airport, creating thousands of jobs and cutting traffic in the region.
- The Hahn and Co. Building, honored this year with the ULI Jack Kemp Excellence in Affordable and Workforce Housing Award, utilized PABs to transform a downtown Newark, New Jersey, department store which had been vacant for 30 years into a mixed-use anchor of revitalization containing housing, retail, and cultural space.
- One Workplace, profiled in a recent ULI Case Study, used PAB financing to reconfigure and update a former paper manufacturing plant in Santa Clara, California, into the new corporate headquarters, showroom, and warehouse facility for one of the largest commercial furniture suppliers in the state. The project is a cutting-edge example of adaptive use.

ULI's industry- leading product councils have featured PABs in recent work on the latest public/private partnerships. ULI's growing Advisory Services program has frequently recommended use of this critical form of development financing.

Kansas City Mayor and ULI Trustee Sly James expressed a concern of many local officials recently when he noted that "PABs are essential to a number of City infrastructure projects and expected to be a significant tool in financing the new KCI [Kansas City International] airport approved by voters earlier this month; elimination of PABs could throw the project's future into question."

PABs are an especially important source of capital for affordable rental apartments and first-time home purchases for working families, generating $18.5 billion of aggregate housing investment in 2016, according to the Council of Development Finance Agencies.

PAB financing accounts for more than half of the new rentals created through the Low Income Housing Tax Credit program; eliminating them would result in 780,000 to 880,000 fewer affordable apartments being developed over the next decade, at a time when housing affordability needs for lower-income families have spiked almost everywhere.

From ULI’s establishment more than 80 years ago to its current member-led direction under a new strategic vision for the Institute, an enduring global priority has been to promote the most effective forms of financing and investment to create thriving communities. For 50 years PABs have been such a tool.

Urban Land Institute

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