APARTMENTS
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COMMERCIAL BUILDINGS ENERGY TAX DEDUCTION

NMHC/NAA VIEWPOINT

The apartment industry supports the extension of the Energy-Efficient Commercial Buildings Tax Deduction (Internal Revenue Code Section 179D) beyond its 2013 expiration and urges Congress to improve the deduction by establishing a sliding scale of energy improvements, which would help spur much-needed energy improvement and investment in older buildings.

INVESTMENTS IN BUILDING EFFICIENCY CAN IMPROVE ENVIRONMENTAL QUALITY, DIMINISH RELIANCE ON FOSSILE FUELS, REDUCE PRESSURE ON RENTS, DECREASE FINANCIAL RISK AND ENHANCE RESIDENT COMFORT.

In 2005, Congress enacted legislation to create financial incentives to support energy efficiency investments in commercial properties, including apartments. The Energy-Efficient Commercial Buildings Tax Deduction (Section 179D of the Internal Revenue Code) lets owners of buildings with four or more stories deduct between $0.60 and $1.80 per square foot the installation of energy-efficient systems. The incentive expires at the end of 2013.

Lawmakers should not only extend Section 179D beyond 2013, but they should also enact reforms that would make the program more effective. As currently written, to receive the full tax deduction property owners must reduce a building's total annual power and energy usage by 50 percent or more than the baseline requirements established by the ASHRAE 90.1-2001 energy standard.

This high hurdle has made it difficult for older apartment communities built to standards that pre-date the 2001 energy standard to meet the requirements to claim the deduction. This is unfortunate because more than 80 percent of the current apartment stock was constructed before 1990, the era of the modern energy code. Owners of these properties could achieve dramatic improvements in their energy performance but, despite considerable financial investment to do so, still may not qualify for the deduction because of technical limitations that prevent older properties from achieving the code-based performance benchmark.

Lawmakers should modify the terms of the Section 179D deduction to encourage substantial investments in older properties that achieve significant, demonstrated improvements in energy performance relative to a building's own performance data rather than a specific energy code. These investments will lead, in turn, to greater utility cost savings for residents and will help create jobs. According to a June 2011 study, a reformed 179D tax deduction could generate over 77,000 jobs in construction, manufacturing and other sectors of the economy.