## Proposed Policy Language Changes for Transfers in both the Bond/4% and 9% programs:

Pursuant to the Commission's rules (WAC 262-01-130), *Policies*, and Regulatory Agreements, a transfer of an interest in a project requires Commission approval. A stated goal of the Commission's Tax Credit Program is to prefer projects that are affordable to the lowest income tenants for the longest period of time. Toward that end, the Commission will decide whether to approve a proposed transfer based on whether the proposed transfer will (1) promote satisfaction of all applicable regulatory and contractual obligations, and (2) further the Commission's priorities for LIHTC projects as set forth in WAC 262-01-130, including by increasing the likelihood the project will serve the lowest income tenants for the longest period of time. This will be determined based on the totality of circumstances, including but not limited to the characteristics of the project, existing partners, and transferee.

Transferees are required to submit a short paragraph explaining how the proposed transfer satisfies the Commission's approval criteria and to complete a ***Financial Solvency and LIHTC History*** (FSLH) form as part of the transfer process. This form is designed to help the Commission determine whether or not the transferee is positioned and likely to support the Commission's stated goals. The Commission may pause, require additional certifications or information from a transferee, or disallow the transfer depending on what the FSLH or other documents reveal. Potential grounds for disallowing the transfer include but are not limited to:

- Transferee has been part of a LIHTC ownership/project that subsequently was found by a court or administrative body to be in violation of a LIHTC statutory or regulatory requirement or covenant;
- Transferee has been part of a LIHTC ownership/project that subsequently reduced the project's associated financial resources such that the project was not able to meet its planned capital needs;
- Judicial or administrative finding against the Transferee of causing actionable harm to a LIHTC project or partner; committing fraud; or violating a LIHTC requirement or covenant.

**Project Transfers Requiring Commission Consent**
A project transfer means any direct or indirect sale, contribution, assignment, lease, exchange, or other similar transfer of, or change in:

- an interest in the land, the Project, or any building;
- an ownership interest in the entity that is the Applicant or project owner (for example, a transfer of a partnership interest or, with respect to a limited liability company, a membership or managers' interest);
- the rights, title, or interest of the Applicant or project owner in any agreement in which the Commission and the Applicant or project owner are parties;
- the sale or transfer of, or change in, the interest of a limited partner (including the addition, removal, or withdrawal of a limited partner); or

- in the case of a limited liability company, the sale or transfer of, or change in, the interest of the investor member (unless the investor member actively participates in management of the company).

**Only a few types of project transfers do not require the prior written consent of the Commission. They include:**

- the grant of a security interest or lien junior to the interest of the Commission;
- the issuance, redemption, or transfer of stock or shares of a corporation that is not a closely held corporation;
- a sale or transfer of the interests in a fund or funds constituting the investor limited partner or member, so long as such sale or transfer does not result in a change of control of the fund or funds constituting the investor limited partner or member;
- a sale or transfer of the interests of the investor limited partner or member to implement the ownership arrangement initially agreed upon by the parties, including as a result of the involvement of a syndicator.