



400 North Columbus Street
Suite 203
Alexandria, VA 22314
(703) 683-8630
(703) 683-8634 FAX
www.nahma.org

NAHMA Public Policy Positions 109th Congress

Management-Related Bills

S 256 and HR 685 - Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 Sponsors: Sen. Chuck Grassley (R-IA) and Rep. F. James Sensenbrenner, Jr. (R-WI)

NAHMA supports this legislation because it reforms the application of the automatic stay provisions of bankruptcy laws to tenants facing eviction. The Congressional Research Service (CRS) has an online summary of S 256 available. According to CRS, Section 311 of the bill, "Denies an automatic stay of specified residential real property eviction proceedings by a lessor against a debtor if: (1) the lessor obtained judgment for possession prior to the bankruptcy filing date; or (2) lessor furnishes certification of specified debtor offenses." S 256 specifies these offenses as endangerment of the property or illegal use of controlled substances. The automatic stay provisions of Section 311 are also included in the House companion bill, HR 685.

The legislation closes a legal loophole with which some tenants have avoided eviction by filing for bankruptcy. Generally, S 256 and HR 685 allow evictions to proceed if the judgment was obtained before the tenant filed for bankruptcy. Such judgments can be based on non-payment, illegal drug use or property endangerment. In the cases of illegal drug abuse and property endangerment, the bill also allows for commencement of eviction actions after the tenant has filed for bankruptcy. NAHMA also believes this language upholds the "one-strike" rule, which permits eviction for illegal drug use in subsidized properties.

NAHMA supported the Bankruptcy reform bill in the 108th Congress as HR 975 and in the 107th Congress as S 420 and HR 333.

[NAHMA's position: Support.](#)

UPDATE: President Bush signed S. 256 into law (P.L. 109-8) on April 20, 2005.

S 98 and HR 111 - Community Choice in Real Estate Act Sponsors: Sen. Wayne Allard (R-CO) and Rep. Ken Calvert (R-CA)

These bills amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities. They prohibit the Federal Reserve Board and the Treasury Department from determining that real estate brokerage activity or real estate management activity is a financial activity.

NAHMA supported these bills in the 108th Congress and in the 107th Congress as S 1839 and HR 3424.

[NAHMA's position: Support.](#)

S 771 and HR 1999 - State and Local Housing Flexibility Act of 2005 Sponsors: Sen. Wayne Allard (R-CO) and Rep. Gary Miller (R-CA)

These bills include the Bush Administration's proposed Flexible Voucher Program that would replace the existing Housing Choice Voucher program with dollar-based block grants to public housing agencies (PHAs). After carefully reviewing both bills, NAHMA has decided that we cannot support them as written. Our primary concerns with the Flexible Voucher Program are the proposed 12-month limitation on enhanced vouchers and the uncertainty of funding for the new program.

The proposed 12-month limits on enhanced vouchers may undermine affordable housing preservation deals, result in high vacancy rates, and force property owners to evict tenants. NAHMA fears this provision will prompt owners to opt out of their HUD contracts, resulting in a loss of units.

The bills also do not specify the amount of money that would be authorized to fund the new program or how that amount will be determined. NAHMA believes predictable and reliable funding is essential to restoring private sector confidence in the Section 8 program and should be the primary consideration in any reform proposal.

Other pertinent items in the legislation allow PHAs to set rents regardless of fair market rents (FMRs) and also adjust their Housing Assistance Payments. The bills would also restrict the portability of vouchers between jurisdictions unless the PHAs in question had a standing agreement to accept each other's vouchers.

[NAHMA's position: Oppose.](#)

Preservation And/Or Production of Affordable Housing

HR 2636 - Housing Preservation Matching Grant Act of 2005

Sponsor: Rep. Jerrold Nadler (D-NY)

HR 2636 authorizes matching grants to states, up to a 2:1 federal to state ratio, for preservation of affordable housing. Grants can be used for acquisition, preservation incentives, operating costs, and capital expenditures to preserve FHA insured properties, project-based Section 8 properties, or projects purchased by residents.

NAHMA supported this bill in the 108th Congress as HR 445 and in the 107th Congress as HR 425.

[NAHMA's position: Support.](#)

Tax Credit Bills

HR 2681 - Affordable Housing Tax Credit Enhancement Act of 2005

Sponsor: Rep. William Jefferson (D-LA)

HR 2681 amends the Internal Revenue Code of 1986 by increasing the current state cap on the Low Income Housing Tax Credit (LIHTC) from \$1.75 per capita to \$3.70 per capita and by renaming the LIHTC the "Affordable Housing Tax Credit."

[NAHMA's position: Strongly Support.](#)

HR 1468 - A Bill to Replace the LIHTC's Recapture Bond Provisions

Sponsor: Rep. Nancy Johnson (R-CT)

HR 1468 amends the Internal Revenue Code of 1986 to replace the recapture bond provisions of the Low Income Housing Tax Credit (LIHTC) program. The bond provisions were originally enacted to prevent investors from claiming housing credits and then transferring them to a "straw party" with minimal assets, therefore avoiding the 15-year continuing compliance requirements. Currently, housing owners claiming credits through LIHTC who sell their interests and are still within the 15-year compliance period must post a recapture bond to the IRS to cover all tax credits previously claimed. However, difficulties have arisen with the provision, including the small size of the surety market that writes recapture bonds, and the bonds' increase in premiums. To date, the IRS has never made a claim against a housing credit recapture bond.

In place of the recapture bond requirement, the bill makes 2 changes to the law. First, investors who dispose of an interest in housing credit property would automatically be subject to a longer statute of limitations (3 years from the end of the compliance period) for any potential recapture tax liability that is identified in the future in connection with their ownership of housing credits. Second, improved information reporting would be required whereby the owner of housing credit property would be required to notify former investors and the IRS of any recapture liability that arises in connection with the period that the former investor owned an interest in the property. The new information reporting regime, effective for LIHTC properties sold after the date of enactment, would create a 1099-style reporting mechanism so that the IRS knows where to find a former investor and knows how much money they owe if there is a recapture event.

[NAHMA's position: Support.](#)

S 1330 and HR 3194 - Housing America's Workforce Act
Sponsors: Sen. Hillary Clinton (D-NY) and Rep. Nydia Velazquez (D-NY)

The Housing America's Workforce Act creates a tax-based Employer Assisted Housing (EAH) program. The bill provides a tax credit to employers, equal to 50 percent of the cost of housing assistance offered to eligible low- and moderate-income employees. Rental assistance can be used toward security deposits and rental payments, while homeownership assistance can be used for such things as subsidizing down payments, closing costs, or contributions to an employee homeownership savings account.

The legislation also treats housing assistance as a nontaxable benefit to ensure employees receive the full value of the housing benefit. In order to help employers that lack the knowledge and expertise needed to undertake an EAH initiative, the bill establishes a competitive grant program so that nonprofit housing organizations can assist employers.

The Housing America's Workforce Act aims to benefit employees, employers, and communities. Employees can save time on commutes by living closer to work, employers can benefit from a stable workforce and reduced recruitment and turnover costs, and communities can benefit from reduced traffic congestion.

[NAHMA's position: Support.](#)

Other Bills of Interest

S 705 - Meeting the Housing and Service Needs of Seniors Act
Sponsor: Sen. Paul Sarbanes (D-MD)

Senator Paul Sarbanes (D-MD), Ranking Member of the Senate Banking, Housing and Urban Affairs Committee, introduced legislation to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors. This interagency council is modeled on the existing Interagency Council on Homelessness. The council would conduct a thorough review of all federal programs and services designed to assist seniors with their housing needs, including identifying gaps in services, making recommendations about reducing duplication, identifying best practices for relevant programs and services, and working to improve the availability of housing and services for seniors. The Council will also monitor, evaluate, and recommend improvements in existing programs and services that assist seniors in meeting their housing and service needs at the federal, state and local level. Agencies represented at the council would be HUD, HHS, Transportation, Agriculture, Treasury, Labor, Veterans Affairs, the Social Security Administration, the Centers for Medicare and Medicaid Services and the Administration on Aging. The bill would authorize \$1.5 million a year for the council for five years. S. 705 has been referred to the Senate Banking, Housing and Urban Affairs Committee.

[NAHMA's position: Support.](#)

S 557 and HR 136 - Bills to repeal Executive Order 13166
Sponsors: Sen. Tom Coburn (R-OK) and Rep. Peter King (R-NY)

These bills seek to declare Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency (LEP)," null and void and would prohibit the use of appropriated funds to create an entitlement to services provided in any language other than English.

NAHMA is deeply concerned about the plans of the U.S. Department of Housing and Urban Development (HUD) for implementing its LEP guidance, pursuant to Executive Order 13166. While we wholeheartedly support HUD's goal of ensuring that persons with limited English proficiency have meaningful access to federal programs, the methods HUD has proposed to advance the goal are highly problematic. Under the proposed LEP guidance, affordable housing providers will be expected to provide written translations of "vital" documents and oral interpretation services free of charge to LEP applicants and/or tenants at the project's expense, as HUD has proposed no additional funding to offset these substantial costs.

NAHMA is extremely concerned that the implementation of E. O. 13166 will result in an overly prescriptive, financially burdensome policy that will drain limited resources from other essential budgeted items, such as maintenance. We believe that a flexible, more pragmatic approach could be achieved if Executive Order 13166 were nullified.

[NAHMA's position: Strongly Support.](#)