

## Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

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### Affordable Housing Appropriations for Fiscal Year 2017

#### Background

After passage of the Bipartisan Budget Act of 2015, the appropriations outlook for fiscal years 2016 and 2017 improved dramatically. The Bipartisan Budget Act of 2015 provided an additional \$80 billion in discretionary spending to be split between fiscal years 2016 and 2017. Before this legislation was enacted, lawmakers on the House and Senate Appropriations Committees faced numerous challenges in providing full-funding for all discretionary programs while at the same time adhering to the strict budget caps that lowered their overall spending capabilities. Appropriators have been able to craft funding legislation for FY 2017, and the slated funding figures for affordable housing programs are positive. This NAHMAanalysis will examine the proposed funding for affordable housing programs in the House and Senate FY 2017 Appropriations bills and their current progress in becoming enacted legislation.

#### Appropriations for HUD's Affordable Housing Programs

With the bipartisan budget Act providing additional discretionary funds, lawmakers on the Transportation, Housing and Urban Development (T-HUD) Appropriations Subcommittees were able to draft noncontroversial appropriations bills for housing programs. Surprisingly, these bills were closely aligned with the requested amounts made in the Obama Administration's budget for FY 2017.

So far, good progress has been made on the Senate and House bills. The Senate T-HUD Appropriations subcommittee passed its bill on April 19 and it was subsequently passed by the full Appropriations Committee on April 21. Then on May 19, the Senate T-HUD bill passed the entire chamber with a recorded vote of 89-9. To spur expedited passage, Senate lawmakers had attached the T-HUD bill to a few other appropriations bills in one combined package. In the House, the Appropriations T-HUD Subcommittee passed its draft bill on May 18, and the full Appropriations Committee did the same on May 24. As of publication of this NAHMAanalysis, the full House has not voted to pass the bill.

On the next page is a chart comparing the funding figures proposed in both the Senate and House bills as well as the FY 2016 enacted funding level.

HUD Programs (Figures in million)	FY 2017 Senate Bill	FY 2017 House Bill	FY 2016 Enacted
<b>Tenant-Based Rental Assistance</b>	\$20,431	\$20,188	\$19,628
<b>Contract Renewals</b>	[18,335]	[18,311]	[17,682]
<b>Project-Based Rental Assistance</b>	\$10,901	\$10,901	\$10,622
<b>Contract Renewals</b>	[10,501]	[10,501]	[10,407]
<b>Contract Administrators</b>	[235]	[235]	[215]
<b>Housing for the Elderly (Sec. 202)</b>	\$505	\$505	\$432
<b>Service Coordinators</b>	[75]	[75]	[77]
<b>Supportive Housing for Persons with Disabilities (Sec. 811)</b>	\$154	\$154	\$150
<b>Community Development Grant</b>	\$3,000	\$3,000	\$3,000
<b>HOME</b>	\$950	\$950	\$950

### **Tenant-Based Rental Assistance – Housing Choice Vouchers (HCV)**

The Senate and House have both targeted increases for the Housing Choice Voucher (HCV) program for FY 2017. While the two similar figures from the Senate and House bills represent gains over the FY 2016 enacted level, they are still far from the Obama Administration's request of \$20.854 billion. The increases will help add more vouchers to tenants.

In the Senate Committee report, which accompanied the T-HUD bill, appropriators outlined their efforts to increase the HCV effectiveness, including a set-aside of \$75 million to allow HUD to adjust funding allocations to Public Housing Authorities (PHAs) under certain circumstances, which include a significant increase in renewal costs resulting from unforeseen circumstances or for adjustments or costs associated with HUD-VASH vouchers, and to address the possible tenancy termination of families as a result of insufficient funding.

Overall, NAHMA supports the slated funding figures for HCV program in the FY 2017 Appropriations legislation. The increases provided for contract renewals are essential and will ultimately benefit the program.

### **Project-Based Rental Assistance**

A significant funding increase was provided to the Project-Based Rental Assistance (PBRA) program. Both the Senate and House have targeted an increase of \$94 million above the FY 2016 enacted level. The total funding for the program is also \$85 million above the Obama Administration's request, though the actual amount for contract renewals is less than the request. This is due in part to a proposal included in the request which would have altered the medical deduction calculation. Both the Senate and House rejected this change.

In the Senate Committee report, lawmakers took aim at owners who fail to maintain their properties in accordance with HUD standards:

“the Committee recommendation strengthens a general provision that requires HUD to take specific steps to ensure that physical deficiencies in properties are quickly addressed, and requires the Secretary to take explicit actions if the owner fails to maintain them. These actions include imposing civil money penalties, working to secure a different owner for the property, or transferring the Section 8 contract to another the property.”

The specific changes relating to correcting deficiencies and possible penalties were added to the bill through an amendment introduced by Florida Senator Marco Rubio. Additional information can be found in the amendments portion below.

Like the funding for HCV, NAHMA supports the funding figures for PBRA. Since HUD transitioned from the contract anniversary date to the calendar year funding schedule in 2015, NAHMA has urged lawmakers on the critical need to fully-fund PBRA.

### **Rental Assistance Demonstration Program**

For the Rental Assistance Demonstration (RAD) Program, both the House and Senate have proposed to expand the program for FY 2017. Under both bills the number of public housing units that may convert under (RAD) is increased from 185,000 to 250,000; the demonstration sunset date of September 30, 2018 is removed; and additional language is included to protect a tenants’ right to continue to live in their apartment unit after a RAD conversion. Additionally, Section 202 properties with Project Rental Assistance Contracts (PRACs) may also convert to PBRA. A total of \$4 million is provided in the bill to assist properties with this conversion. The PRAC conversion provision was first requested in the Administration’s budget request, and NAHMA supports this effort.

### **Housing for the Elderly, Section 202**

Both the House and the Senate have targeted a \$73 million increase for the Section 202, Housing for the Elderly program, for a total request of \$505 million. Of this total amount, \$75 million would be reserved for Service Coordinators, a \$2 million decrease from the FY 2016 enacted level. NAHMA supports the requested increase for the Section 202 program, but we contend that funding for Service Coordinators should remain at least at \$77 million.

There were no recommendations suggested for the 202 program, but lawmakers are beginning to pay more attention to the housing needs of seniors and the positive aspects that affordable housing provides for healthcare costs and general well-being.

### **Housing for Persons with Disabilities, Section 811**

An increase was also provided for the Section 811, Housing for Persons with Disabilities programs, albeit a marginal \$4 million increase for a total of \$154 million. The Section 811 program did receive an increase of \$15 million for FY 2016, and NAHMA regards the funding figures for Section 811 properties in the House and Senate bills as a positive step for assisting low-income persons with disabilities.

## **HOME Investment Partnerships Program**

The funding for the HOME Investment Partnerships program will remain flat from the FY 2016 enacted level of \$950 million. The amount is also equal to the Administration's budget request, but the budget also proposed to fund a \$10 million Self-Help and Assisted Homeownership Program [SHOP] program out of the HOME account; lawmaker rejected this request.

The Senate Committee Report did not contain any recommendations to change the allocation or oversight of HOME, but the authors of the report did praise the program for being the only housing program exclusively focused on providing states with the flexible financing needed to address our most pressing housing needs.

NAHMA would prefer to see funding increases for HOME as well, but are glad to see that the program would not suffer any cuts under the Senate and House T-HUD bills.

## **Bill Amendments**

Hundreds of amendments were attached to the Senate bill as it was debated on the chamber floor, but many of these amendments did not focus on housing programs. The bulk of the attachments concerned transportation and military programs, as well as amendments to combat the Zika Virus.

However, as previously mentioned, Senator Marco (R-FL) did introduce a couple of amendments centered on physical deficiencies at multifamily properties. Senator Rubio's first amendment (S.Amdt.3918) would shorten the time given to a property owner to respond to a violation of a contract as well as the time given to the Secretary to develop an enforcement plan. Under the amendment, an owner would be provided 15 days to respond to deficiencies found after a Uniform Physical Condition Standards (UPCS) inspection. If the violations remain, the Secretary of HUD would be required to develop a Compliance, Disposition and Enforcement Plan within 30 days of the UPCS inspection results and must provide the owner with a Notice of Default with a specified timetable, determined by the Secretary, for correcting all deficiencies.

Senator Rubio's second housing amendment requires the Secretary of HUD to prepare a report to Congress on the effectiveness of the Real Estate Assessment Center (REAC). The report is required to include:

- The percentage of all inspected properties that received a REAC-inspected score of less than 65 within the last 48 months;
- The number of properties in which the most recent REAC-inspected score represented a decline relative to the previous REAC score;
- A list of the 10 metropolitan statistical areas with the lowest average REAC-inspected scores for all inspected properties; and
- A list of the 10 States with the lowest average REAC-inspected scores for all inspected properties.

This report will then be posted to the website of the Government Accountability Office (GAO), focusing on areas in which REAC inspections of all properties should be reformed and improved. The driving factor behind Senator Rubio's amendments appears to stem from a visit he made to a multifamily property in Florida that had numerous deficiencies that negatively impacted the lives of tenants.

Also included on the Senate bill was an amendment introduced by Senator Dean Heller (D-NV) which would prohibit housing assistance benefits to be provided to individuals convicted of certain criminal offenses. The specific offenses cited were murder, sexual assault, and sex trafficking.

On the House side, Appropriations T-HUD Subcommittee Chairman Mario Diaz-Balart (R-FL) provided special attention to young people exiting foster care in a manager’s amendment attached to the bill:

“The Committee has been looking at barriers to permanent housing that youth face when exiting foster care. The Committee encourages HUD and PHAs to reevaluate their policies to ensure that youth exiting foster care transition to housing without experiencing homelessness. When eligible, these youth should receive consideration for tenant based rental assistance and other forms of permanent housing assistance. HIJD is directed to notify the House and Senate Committees on Appropriations if the provisions of this Act pose a barrier to providing such assistance.”

The amendment also took aim at the rising cost of rents in urban areas and ordered HUD to compile a study on how these changes effect low-income families, detailing best practices and recommendations to address the displacement of lower-income families and long-time residents in urban areas. The other amendments from this package focused on transportation programs and no other housing related amendments were attached to the bill.

### Appropriations for Rural Housing Programs

Both the House and Senate Agriculture, Rural Development Food and Drug Administration, and Related Agencies Appropriations bills have been passed at the full committee level, but neither has been passed by the full legislative body as the time of publication of this NAHMA analysis. Like the T-HUD bills, the Agriculture funding bills for FY 2017 are strong and would provide increases for nearly all of the rural affordable housing programs administered by the U.S. Department of Agriculture’s Rural Development (RD).

Below is a chart comparing the two bills against the FY 2016 enacted funding levels:

Rural Development Housing Programs (\$ in millions)	FY 2017 House Bill (H.R.5054)	FY 2017 Senate Bill (S.2956)	FY 2016 Enacted
<b>Section 521 Rental Assistance</b>	\$1,405	\$1,405	\$1,389
<b>Section 515</b>	\$35	\$40	\$28.398
<b>Multifamily Revitalization</b>	\$40	\$40	\$37.0
<b>Rural Housing Vouchers</b>	[\$18.0]	[\$18.0]	[\$15.0]
<b>Section 538 Loan Level</b>	\$200	\$230	\$150

## **Section 521 Rental Assistance (RA)**

The two Agriculture Appropriations bills provide slight increases for the Section 521 Rental Assistance (RA) program, and neither bill contains any language which would prevent an RA contract from being renewed with its one year term. Since the 2015 crisis in the RA program, NAHMA has been advocating for funding increases and removal of the non-renewal language as a partial solution to fix the program.

Lawmakers took note – RA received a substantial funding increase in the FY 2016 appropriations and has again received increased funding for FY 2017. RD has also begun to use a new estimation tool which will further help ensure that properties receive the necessary RA. Additionally, the bill does contain language to recapture RA should a property receive more than is required.

## **Section 515**

Along with the funding issues that plagued RD in recent years, lawmakers are also now paying more attention to the impending number of Section 515 properties that are reaching their mortgage maturity date. During a Congressional Hearing with RD leadership in March of this year, Representative Kevin Yoder (R-KA) inquired about the long-term plan for preserving properties with mortgages financed through the Section 515 program, noting that many of these mortgages will mature in the next 10 years. At that time, RD staff emphasized initiatives like new construction and working with owners of RA properties to examine options that will allow the property to refinance and remain in the portfolio longer or transfer ownership to other entities.

Congress is supportive of these efforts. In the committee report that followed the Senate Agriculture Appropriations bill, it was noted that the Senate bill seeks to provide short-term, stop gap assistance designed to delay the loss of affordable units pending development of comprehensive long-term solutions. This assistance has three components: increased direct section 515 loans, regulatory relief from burdensome requirements, and a pilot project to provide technical assistance to facilitate transfers of projects to new owners.

NAHMA strongly supports the funding increases for Section 515, and the regulatory efforts to preserve properties in the portfolio. We prefer the higher Senate figure (which represents and \$11 million increase over the FY 2016 enacted level).

## **Multifamily Revitalization and Rural Housing Vouchers**

The FY 2016 appropriations legislation provided a significant increase for the Multifamily Revitalization Program and Rural Housing Vouchers (RHVs), and the FY 2017 Agriculture Appropriations bills have proposed a modest increase for the program. The \$3 million increase requested for the program is entirely directed at RHVs.

The funding for RHVs is especially critical in light of the issues facing the Section 515 portfolio. These vouchers can be used for tenants to find a new unit should the owner of their current property chose to exit the RA program when the Section 515 mortgage is matured. NAHMA supports expanding the use of RHVs to protect tenants, and we support the funding increase as contained in both bills.

## **Outlook for Fiscal Year 2017**

All things considered, the appropriations legislation for affordable housing programs in FY 2017 is positive and NAHMA can support both the Senate and House T-HUD and Agriculture bills. Surprisingly, Congress actually adopted several funding recommendations as requested in the Administration's FY 2017 budget – previous budgets from the Administration were typically dismissed by leadership in the Senate and the House.

There is still work to be done before finalizing the appropriations for fiscal year 2017, which begins on October 1, 2016. While the Senate has passed its T-HUD bill, the House still must complete its version. Neither chamber has passed its Agriculture appropriations bills. NAHMA will remain vigilant and will advocate for legislation that provides full-funding for all affordable housing programs.