

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

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### A Recap of Housing Legislation in the 115<sup>th</sup> Congress

#### **Background**

Despite continued partisanship and downward pressure on affordable housing program budgets, the 115<sup>th</sup> Congress over the past two years was able to make investments and enact meaningful provisions for affordable housing and community development programs. Additionally, the sheer number of new housing-related bills introduced in Congress elevated the importance of affordable housing and placed the topic squarely on the agenda for the new Congress in January 2019. As 2018 draws to a close, NAHMA provides members with a recap of affordable housing legislation that lawmakers deliberated during the 115<sup>th</sup> Congress (2017-2018).

#### **2017-2018 Affordable Housing Legislation – Passed by Congress**

A number of NAHMA's key legislative priorities were enacted in the 115<sup>th</sup> Congress, including the following:

- **Public Law No: 115-141 (H.R. 1652): Consolidated Appropriations Act, 2018**  
Although enacted late into the fiscal year, this large omnibus bill was a significant victory for NAHMA members and communities. The bill provided appropriations for the remainder of FY18 for all federal departments, including substantial increases to certain HUD programs and rare new construction funding for HUD section 202 (Supportive Housing for the Elderly) and HUD section 811 (Supportive Housing for Persons with Disabilities). Additionally, two key LIHTC provisions were included in the bill: a 12.5% credit allocation expansion for four years, and a permanent authorization of the income-averaging option. The Rental Assistance Demonstration program (RAD) was also expanded to Senior 202 PRAC conversions, the RAD unit cap was more than doubled, and the program's sunset date was pushed back to 2024. *Signed by the President on March 23, 2018.*
- **Public Law No. 115-97 (H.R. 1): Tax Cuts and Jobs Act**  
This comprehensive overhaul of the tax code preserved the LIHTC program and retained the tax-preferred status for Multifamily Housing Bonds. While NAHMA and our industry colleagues were able to protect the Housing Credit throughout tax reform, it was also seen as a missed opportunity to enact LIHTC-strengthening provisions from the Affordable Housing Credit Improvement Act (H.R. 1661/S. 548). Tax reform also enacted legislative

language initially introduced by Senator Scott (R-SC) to improve the economy of distressed areas through a capital gains tax deferral, reduction, or exemption in exchange for reinvestment in “Opportunity Zones” – geographically targeted low-income areas designated by state governors. *Signed by the President on December 22, 2017.*

- **Public Law No: 115-174 (S. 2155): Economic Growth, Regulatory Relief, and Consumer Protection Act**

This legislation included provisions from the bipartisan “Family Self-Sufficiency Act,” which streamlines HUD’s Family Self-Sufficiency (FSS) program and expands eligibility to the PBRA space. The provisions relieve some regulatory burden to administer the FSS program, broaden the supportive services provided to participants, and clarify expanded access to the asset-building program. (NAHMA did not take a position on the primary portion of this legislation, which overhauls banking and financial reform regulations under the 2010 Dodd-Frank Act enacted following the 2008 financial crisis.) *Signed by the President on May 24, 2018.*

An additional key NAHMA priority during the 115<sup>th</sup> Congress was disaster recovery following devastating hurricanes, wildfires, and other natural disasters affecting communities across the country: Congress committed significant amounts of disaster recovery funding to affected areas over the course of 2017 and 2018. The National Flood Insurance Program was also prevented from lapsing through the enactment of several short-term program extensions.

Less visible but equally important, NAHMA also played strong “defense” throughout the past two years, in particular to maintain key program budgets during fraught appropriations processes, to stymie efforts to unreasonably adjust HUD Multifamily Housing inspection protocols, and to preserve Housing Credit provisions throughout tax reform.

### **2017-2018 Affordable Housing Legislation – Considered by Congress**

During the 115<sup>th</sup> Congress, various housing-related bills were introduced to address affordability challenges across the country. NAHMA did not take a position on each of these bills, but supported some, while monitoring and analyzing others for their impact on NAHMA members and communities.

The breadth of these bills reflect the great diversity of the housing landscape, including the following efforts to preserve affordable units in rural, tribal, and high-density areas, and develop new affordable units through tax credits:

- **S. 2574 / H.R. 5352: Rural Housing Preservation Act of 2018**

These bills were introduced by Senators Shaheen (D-NH) and Smith (D-MN) and Representatives Kuster (D-NH), Shea-Porter (D-NH), and Nolan (D-MN) in response to an impending maturing mortgage crisis for rural affordable multifamily housing. The legislation would provide rural housing vouchers to residents who live in properties with prepaid or maturing loans, would decouple rental assistance from the term of the mortgage, and make it easier for non-profit entities to acquire section 515 properties. The bills also permanently authorize the MPR program. NAHMA continues to support this legislation.

- **S. 548 / H.R. 1661: The Affordable Housing Credit Improvement Act**

Introduced by Senator Cantwell (D-WA) and Senate Finance Committee Chairman Hatch (R-UT) and by Representatives Tiberi (R-OH) and Neal (D-MA), this bill seeks to expand the

LIHTC program and includes additional provisions to make the program more streamlined and flexible. The legislation would: expand Housing Credit allocation authority by 50%; provide a minimum 4% Housing Credit rate for the acquisition of affordable housing and for multifamily Housing Bond-financed developments; create incentives for projects that target homeless or extremely low-income individuals and families, as well as in Native American communities; allow a non-profit or government sponsor to acquire properties when the current 15-year compliance period expires; align LIHTC rules, such as the student rule, more closely with HUD regulations; and more.

Two provisions from this bill were enacted into law through the FY18 Omnibus Appropriations Act that passed in March 2018. While the enactment of these provision represents an important success, NAHMA strongly supports the remaining provisions and continues to advocate for the entire bill's passage.

- **S. 1333: Tribal HUD-VASH Act**

Seeking to combat homelessness and improve support services for Native American veterans, this legislation would authorize a joint tribal housing initiative between HUD and the VASH program. Despite high numbers of Native American veterans, less than 5% of federally-recognized tribes have received Veterans Affairs Supportive Housing during HUD's current Tribal HUD-VASH demonstration. The bill also fosters collaboration between HUD, Veterans Affairs, and the Indian Health Service in implementing housing initiatives. S. 1333 was introduced by Senators Tester (D-MT), Hoeven (R-ND), Udall (D-NM), and Isakson (R-GA) and passed the Senate in May, 2018.

Recent legislative efforts also focused on the intersections of housing with other issue areas, such as health and education:

- **S. 3231: Task Force on the Impact of the Affordable Housing Crisis Act of 2018**

This bill would create a task force to evaluate and quantify how the affordable housing crisis impacts life outcomes and increases costs for non-housing programs at the federal, state, and local levels. The task force would also make recommendations to Congress on how to use affordable housing to improve the effectiveness of other federal programs. NAHMA supports this bill's passage, which was introduced by Senator Todd Young (R-ID) in July 2018.

- **S. 434 / H.R. 1145: Housing for Homeless Students Act**

This legislation amends the IRS Housing Credit guidelines to qualify low-income building units that provide housing for homeless children, youth, and veterans who are full-time students. In order to become eligible for the LIHTC, the building units' student residents must have been homeless during any portion of the preceding five years (for veterans) or seven years (for children and youth). Senators Franken (D-MN) and Portman (R-OH) and Representatives Ellison (D-MN) and Paulsen (R-MN) introduced this legislation, which NAHMA supports.

- **H.R. 1260: Generational Residences and Nurturing Dwellings or GRAND Act**

This bill establishes an assistance program for up to five eligible non-profit organizations for the purpose of expanding the supply of specialized housing and social services for elderly

relatives who are raising a child who is a minor. Representative Jose Serrano (D-NY) introduced this legislation in 2017.

- **S. 1949: Affordable Housing for Educational Achievement Demonstration (AHEAD) Act**

The bill encourages housing authorities, school districts, and community partners to work together in unprecedented ways to coordinate and improve educational and housing outcomes for homeless children. The AHEAD Act would help keep students permanently housed, which could improve attendance in school and reduce learning loss. Introduced by Senator Murray (D-WA), who is a strong champion for the LIHTC program.

The 115<sup>th</sup> Congress also pivoted toward housing choice and mobility through voucher-related legislation:

- **H.R. 5793: The Housing Choice Voucher Mobility Demonstration Act of 2018**

This legislation authorizes a housing choice voucher (HCV) mobility demonstration to encourage families receiving vouchers to move to lower-poverty areas and expand access to opportunity areas. PHAs could use administrative fees and reserves, as well as private-sector funding to provide mobility-related services. In addition, PHAs could utilize Housing Assistance Payments (HAPs) for security deposits as necessary. This bill was sponsored by Financial Services Subcommittee leaders Sean Duffy (R-WI) and Emanuel Cleaver (D-MO). The bill passed the House in July 2018 and was sent to the Senate for consideration.

- **H.R. 5735: Transitional Housing for Recovery in Viable Environments Demonstration Program Act or the THRIVE Act**

This bill would set aside housing vouchers for transitional housing for substance abuse recovery. Also called the THRIVE Act, the bill would establish a 5-year demonstration program to set aside the lesser of 10,000 vouchers or .05 percent of all vouchers in order to provide housing assistance for 12-24 months to individuals recovering from substance abuse. However, only non-profits providing drug treatment and services would be eligible to administer the vouchers (not PHAs); amendments to provide new funding for the demonstration program (as opposed to setting aside existing vouchers) and to require PHAs to administer the vouchers and housing services in partnership with non-profits were not adopted by the committee. The THRIVE Act was introduced by Representative Barr (R-KY) and passed by the House in June 2018.

- **S. 1638 / H.R. 2069: Fostering Stable Housing Opportunities Act of 2017**

This legislation amends the Housing Act of 1937 to give public housing occupancy, section 8 housing assistance, and rural rental assistance preference to children who are aging out of foster care and are at-risk for homelessness. The bills would effectively set a preference across affordable housing programs for children aging out of foster care. The bills were introduced by Representative Michael Turner (R-OH) and Senator Chuck Grassley in 2017.

Finally, the final months of the 115<sup>th</sup> Congress saw an influx of bills seeking to expand equitable access to affordable housing:

- **S. 32050 / H.R. 3670: Rent Relief Act of 2018**

This legislation would establish a two-tiered renter's tax credit. Specifically, the bill provides a refundable tax credit to renters paying more than 30% of their income on rent for a primary residence at fair market value. Tenants of subsidized housing could qualify for a tax credit equal to one month (1/12th) of their annual tenant rent contribution. The legislation was introduced by Congressman Crowley (D-NY) and by Senator Kamala Harris in the summer of 2018; similar legislation was also introduced by Senator Booker, whose bill includes a provision to adjust zoning for more equitable housing access and investment.

- **S. 3503 / H.R. 7262 - American Housing and Economic Mobility Act of 2018**  
Senator Warren (D-MA) and Rep. Richmond (D-LA) introduced comprehensive legislation aiming to make housing more affordable over the long-term. The far-reaching legislation would increase federal investment in housing programs, alleviate restrictive zoning laws that contribute to the cost of housing development, increase fair housing protections, and provide mortgage assistance to historically underserved populations and homeowners impacted by the great recession. Specifically, the legislation calls for using federal funds to build 3.2 million affordable housing units over ten years. The bill would also create an infrastructure grant program to incentivize local governments to address restrictive zoning laws, while also broadening Community Reinvestment Act requirements to include credit unions and community banks. The measure also provides down payment assistance aimed at borrowers historically denied mortgages, as well as families who have not recovered from losing homes during the financial crisis. The bill also proposes adjusting the Fair Housing Act to include protections for gender identity, sexual orientation, marital status, and source of income. To fund the proposals, the bill would repeal recent estate tax cuts for the wealthiest families.
- **S. 3612 - Fair Housing Improvement Act of 2018**  
Senators Tim Kaine (D-VA) and Orrin Hatch (R-UT) proposed legislation to expand protections under the Fair Housing Act to include source of income and veteran status. The legislation would prohibit the two additional types of discrimination alongside the current prohibitions against discrimination on the basis of race or color, religion, sex, national origin, familial status, or disability.

## **Conclusion**

As the 115<sup>th</sup> Congress comes to an end, any bills that did not complete the entire legislative process are considered "dead" and will need to be reintroduced when lawmakers reconvene on January 3<sup>rd</sup>, 2019 to kick off the 116<sup>th</sup> Congress.

NAHMA embraces the momentum building in Congress to protect and strengthen affordable housing in both urban and rural communities across the country. In particular, we are heartened by the breadth of housing-related bills introduced by members from both sides of the aisle.

As we meet the new challenges and opportunities brought on by the recent mid-term elections, NAHMA will utilize the upcoming Congressional transition period to educate new lawmakers and build support for housing, tax, and appropriations legislation in the 116<sup>th</sup> Congress.