

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

National Affordable Housing Management Association – 400 N. Columbus Street, Suite 203 - Alexandria, VA 22314
Phone 703-683-8630 - Fax 703-683-8634 - www.nahma.org



February 21, 2020

NAHMAanalysis 2020-0221

Midpoint Recap of 116th Congress: Laws and Hearings Shaping the Affordable Housing Industry

With the start of 2020, the 116th Congress is at the half-way point. This year is also a busy election year, given the upcoming Presidential and Congressional elections. At this key point in time, this NAHMAanalysis spotlights congressional efforts to monitor and improve the country's federal affordable housing programs through laws and hearings.

Tax Credits

In addition to the closely-watched “Affordable Housing Credit Improvement Act,” the 116th Congress has introduced tax-related housing bills aimed at preventing the premature loss of affordable housing by repealing the qualified contract option, and establishing tax credits for renters who pay more than 30% of their income for housing.

➤ Housing Credit Expansions and Improvements

One of the most important bills this congressional cycle is the “[Affordable Housing Credit Improvement Act](#),” a strong bipartisan effort to expand and improve the Housing Credit program. The Housing Credit allocation authority would be expanded by 50%, and the bill would provide a minimum 4% Housing Credit rate for the acquisition of affordable housing and for multifamily Housing Bond-financed developments. Other improvements include creating incentives for projects that target homelessness or extremely low-income individuals and families; allowing LIHTC properties to claim clean energy credits such as the Energy Efficient New Homes Credit; aligning the student rule more closely with HUD regulations; and more. Lead bill sponsor Sen. Cantwell (D-WA) has worked across the aisle to build support for the legislation.

➤ Qualified Contracts

As the law currently stands, owners of Housing Credit properties are permitted to pursue a Qualified Contract, which most often results in properties being able to convert to market rate after just 15 years. The “Save Affordable Housing Act” would prevent the premature loss of affordable housing and ensure that Housing Credit properties remain affordable for at least 30 years by repealing the qualified contract option. The bill was introduced by Sens. Wyden (D-OR) and Young (R-IN), as well as Reps. Neguse (D-CO), Beyer (D-VA), and Walorski (R-IN).

Infrastructure and Investments

Because annual appropriations for federal housing programs have not kept pace with demand, lawmakers from both chambers have called for strong investments in housing as a public good, much like bridges, roads, and other types of infrastructure.

➤ **Housing as Infrastructure**

In order to address the shortage of affordable homes across the country, Sen. Harris (D-CA) and Rep. Waters (D-CA) have introduced a number of bills to combat homelessness and build new affordable units. The “Housing is Infrastructure Act” and the “Ending Homelessness Act” both call for billions of dollars in federal investments in critical housing programs, such as the Public Housing Capital Fund, the National Housing Trust, the HOME program, and the Rural Multi-Family Preservation and Revitalization Demonstration. Separately, Sen. Sanders (I-VT) and Rep. Ocasio-Cortez (D-NY) have called for a ten-year investment effort to sustainably retrofit the nation’s public housing stock through the “Green New Deal for Public Housing Act.”

➤ **Studying the Impacts**

In order 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, Sen. Young (R-IN) and Rep. Peters (D-CA) introduced the “Task Force on the Impact of the Affordable Housing Crisis Act.” The task force would also make recommendations to Congress on how to use affordable housing to improve the effectiveness of other federal programs.

Opportunity

Lawmakers this congressional cycle have taken a two-fold approach to growing economic mobility for disadvantaged communities: invest more public and private dollars into struggling communities, and increase options for renters to move to higher-opportunity areas.

➤ **Opportunity Zone Requirements**

Congress enacted bipartisan “Opportunity Zone” legislation in late 2017 to incentivize private investment in locally-designated, income-qualified areas through preferential tax treatment. However, the tax benefit currently requires little reporting, making any positive impacts on housing difficult to gage. Sen. Scott (R-SC), the original Opportunity Zone legislation sponsor, is now aiming to expand accountability and transparency in the tax benefit by requiring information on Opportunity Fund investments, including descriptions, amounts, and dates of the investments made.

➤ **Housing Mobility**

Early in the 116th Congress, Reps. Cleaver (D-MO) and Duffy (R-WI) introduced legislation aimed at helping Housing Choice Voucher holders access higher-opportunity neighborhoods and meet their mobility goals. The “Housing Choice Voucher Mobility Demonstration Act”

pairs with funding enacted by the recent appropriations bill to establish a mobility demonstration program with Public Housing Authorities (PHAs). Participating PHAs could use the demonstration funding to provide mobility counseling services or rent deposits for transitioning households. The House bill passed the House floor in March 2019, and Sen. Young (R-IN) has introduced companion legislation in the Senate.

In late 2019, Sens. Van Hollen (D-MD) and Young (R-IN) also introduced the “Family Stability and Opportunity Vouchers Act,” which would create 500,000 additional vouchers designed for low-income pregnant women and families with children under age 6 to expand access to high-performing schools and job markets.

Fair Housing

Reauthorizing housing protections for domestic violence survivors remains a key issue for Congress, as well as expanding Fair Housing protections and preventing evictions.

➤ Violence Against Women

Following the lapse of the Violence Against Women Act (VAWA) in February 2019, lawmakers introduced various bills to reauthorize protections for domestic violence survivors while adding significant new housing requirements. The housing industry has continued to follow current VAWA directives in the meantime.

In the House of Representative’s proposed reauthorization, new provisions include adjusting resident screening requirements, expanding emergency transfer requirements, expanding requirements regarding early termination of assistance, and expanding access to Tenant Protection Vouchers for domestic violence survivors. The legislation passed the House in April.

After stalled efforts to reach a bipartisan compromise in the Senate, both Sen. Feinstein (D-CA) and Sen. Ernst (R-IA) introduced separate VAWA bills in November. Although approaching the issue differently, both bills create a designated housing voucher pool to protect victims of violence living in assisted housing, address the issue of tenants not in good standing, and the role of federal preferences for emergency transfer applications.

➤ Evictions Prevention

With significant media attention paid recently to eviction rates across the country, lawmakers have proposed various approaches to study and prevent evictions, including in federally-subsidized housing. One such bill, the “Evictions Crisis Act” introduced by Sens. Portman (R-OH) and Bennet (D-CO) in December of 2019, creates a national database to standardize data and track evictions and promotes the use of landlord-tenant community courts. Notably, the bill also establishes an Emergency Assistance Fund to provide financial assistance and housing stability-related services to eviction-vulnerable tenants.

➤ Fair Housing Protections

A number of bills in the 116th Congress have focused on the Fair Housing Act, including the “Landlord Accountability Act of 2019” introduced by Rep. Velasquez (D-NY) and the “Fair Housing Improvement Act of 2019” introduced by Rep. Peters (D-CA) and Sen. Kaine (D-VA). The bills aim to increase Fair Housing Act protections for categories such as source of income, veteran status, gender identity, sexual orientation, and marital status.

Rural and Tribal Housing

Rural and tribal legislation this Congress continues to focus on preservation and increased investments, as well as better targeting of existing resources toward rural and other hard-to-reach areas.

➤ Rural Housing Preservation

With rural America facing a maturing mortgage crisis among affordable properties, Rep. Clay (D-MO) introduced a bill to permanently authorize USDA's Multifamily Housing Preservation and Revitalization (MPR) Program, which has accumulated significant backlog. The bill would also allow decoupling of Rental Assistance from the term of the mortgage and authorize vouchers for residents after a mortgage matures, is prepaid, or is foreclosed.

➤ Targeting Resources

A variety of lawmakers have proposed targeting existing resources toward hard-to-reach areas, including by incentivizing Housing Credit developments in rural, tribal, and other difficult development areas (DDAs). Another approach is to expand application of the currently limited 10-20-30 allocation formula, which requires that a minimum of 10 percent of funds from certain federal programs go to communities with "persistent" poverty, defined as a county where the poverty level has been 20 percent or higher over the past 30 years, often rural and tribal in nature.

Lastly, the "Tribal HUD-VASH Act" seeks to combat homelessness and improve support services for Native American veterans through a joint tribal housing initiative between HUD and the Veterans Affairs Supportive Housing (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.

Congressional Hearings

Most legislative activity has stalled, due to divided government. Democrats control the U.S. House of Representatives. Republicans control the U.S. Senate, in addition to the Executive Branch with President Trump. This has led to congressional hearings being utilized as a platform to highlight key issues impacting the affordable housing industry. The following are a few themes that emerged in 2019 congressional hearings.

➤ Homelessness

In early February 2019, the House Financial Services Committee convened a hearing entitled "*Homelessness in America: Examining the Crisis and Solutions to End Homelessness.*" This hearing focused on both the causes of and solutions to homelessness, and many panel members testified on the importance of addressing housing affordability issues as a critical homelessness-prevention tool. During the hearing, the Committee heard testimony from a variety of housing practitioners regarding federal policy, veteran's homelessness, and work programs; the experts emphasized the need for more data and a coordinated federal effort to prevent and address homelessness. Witnesses for the hearing

included Ann Marie Oliva of the Corporation for Supportive Services; Nan Roman of National Alliance to end Homelessness; Joshua Stewart of the National Coalition for Homeless Veterans; Justin T. Rush of the True Colors Fund; Carolyn Darley of the National Coalition for the Homeless; and David S. Lucas of the Institute for an Entrepreneurial Society at Syracuse University.

➤ **Housing as Infrastructure**

In early March, the House Ways and Means Committee held a hearing entitled “Our Nation’s Crumbling Infrastructure and the Need for Immediate Action.” Chairman Richard Neal (D-MA), noted in his opening remarks that “we must reinvest in our urban and rural communities through successful programs like the Low-Income Housing Tax Credit and New Markets Tax Credit.” Other lawmakers also used this hearing to highlight the importance of affordable housing to our nation’s most vulnerable population.

A similar housing-focused infrastructure hearing was also held in late April by the House Financial Services Committee. The hearing was entitled, *Housing in America: Assessing the Infrastructure Needs of America’s Housing Stock*. The Hearing focused on House Financial Services Chairwoman Maxine Waters’s (D-CA) draft legislation, the Housing Is Infrastructure Act of 2019, which would authorize \$92 billion for HUD affordable housing and related programs, including the Public Housing Capital Fund, the Community Development Block Grant (CDBG) program, and the Housing Trust Fund.

➤ **Agency Handling of Government Shutdown**

Last February, a congressional Committee heard testimony from top leadership at HUD regarding the more than 1,100 contracts that were allowed to expire during the lapse in federal funding. The House Appropriations Subcommittee on Transportation, Housing, and Urban Developments (THUD) called the hearing on “HUD’s Management of Housing Contracts During the Shutdown.”

NAHMA members and residents from across the country were thrown into uncertainty in early 2019 when approximately 1,150 housing contracts in HUD’s Project-Based Rental Assistance (PBRA) and 202/811 housing for the elderly and people with disabilities programs were not renewed during the 35-day government shutdown that ended on January 25, 2019; if available, many affected owners and managers utilized reserve funding – set-aside for critical repairs, such as winter heating systems – to cover regular costs while receiving limited communication from the agency on how to proceed.

➤ **Fair Housing**

In April, the House Financial Services Committee held a hearing, *The Fair Housing Act: Reviewing Efforts to Eliminate Discrimination and Promote Opportunity in Housing*, which touched on a range of fair housing topics including immigration, discrimination in the housing market, zoning laws, state of LGBTQ community in homeless shelters and assisted housing, and sexual harassment. Expert panelists included Debby Goldberg, Vice President, Housing Policy and Special Projects, National Fair Housing Alliance; Cashauna Hill, Executive Director, Greater New Orleans Fair Housing Action Center; Kierra Johnson, Deputy Executive Director, National LGBTQ Task Force; Skylar Olsen, Director of Economic Research & Outreach, Zillow Group; Salim Furth, Ph.D., Senior Research Fellow, Mercatus Center, George Mason University.

➤ **HUD Secretary Carson Testifies at House Oversight Hearing**

In late May, the House Financial Services Committee held a hearing titled, “Housing in America: Oversight of the U.S. Department of Housing and Urban Development.” HUD Secretary Ben Carson was the only witness and testified on a range of housing policies and HUD programs, including the Administration’s proposed budget cuts to HUD, proposed rent reforms to rental assistance programs, housing finance reform, delays providing disaster recovery funding, and HUD’s recent proposed rule on “mixed-status” immigrant families. Throughout the hearing, HUD Secretary Carson had heated exchanges about his leadership and responded to harsh criticism from the committee’s Democratic members.

➤ **Housing Finance Reform**

In early April, the House Financial Services Subcommittee on Consumer Protection and Financial Institutions held a hearing to examine the Community Reinvestment Act (CRA) and its impact on discrimination and the effect of redlining. The hearing focused on how to strengthen the CRA to ensure neglected communities are served. Panelists testified on the importance of the CRA as a civil rights law while acknowledging that existing loopholes and the rise of excluded nonbank lenders and financial technology have weakened the legislation.

In late September, the Senate Banking Committee held a hearing titled “Housing Finance Reform: Next Steps.” During the hearing, the Committee heard testimony from HUD Secretary Ben Carson, Treasury Secretary Steven Mnuchin and Federal Housing Finance Agency Director Mark Calabria. Lawmakers pressed the Administration on Fannie Mae and Freddie Mac’s role in preserving housing affordability, including through affordable housing goals, investments in rural and tribal areas, a sustained “right to housing,” and mortgage access. The witnesses defended efforts to de-risk the housing finance market in their respective plans, which include releasing Fannie and Freddie from conservatorship and replacing the affordable housing goals with fee assessments.

➤ **Affordable housing legislation, Housing Credit program**

In late November, the Senate Banking, Housing, and Urban Affairs Committee held a hearing titled “Examining Bipartisan Bills to Promote Affordable Housing Access and Safety.” During the hearing, lawmakers heard testimony from witnesses regarding three affordable housing bills:

- The CO ALERTS Act (S. 2160), which would require carbon monoxide detectors in federally-assisted units with carbon monoxide risk;
- The HUD Manufactured Housing Modernization Act (S.1804), which would direct HUD to issue guidelines relating to the appropriate inclusion of residential manufactured homes in Consolidated Plans; and
- The Fostering Stable Housing Opportunities Act (H.R. 4300), which would target housing assistance at youth aging out of the foster care system.

The hearing also highlighted the benefits of the Low-Income Housing Tax Credit (LIHTC) program and opportunities to strengthen it.

➤ **Hearings on HUD Physical Inspections**

In late November, the House Financial Services Subcommittee on Housing, Community Development, and Insurance held a legislative hearing entitled, “Safe and Decent? Examining the Current State of Residents’ Health and Safety in HUD Housing.” The purpose of the hearing was to explore the issues contributing to deteriorating living conditions for HUD tenants in public housing and Section 8 assistance programs, and explore potential solutions.

➤ **Rural Housing**

In early April, the House Finance Services Committee’s Subcommittee on Housing, Community Development, and Insurance held its first hearing in the 116th Congress on the federal response to the affordable housing crisis in rural America. This hearing focused on rural preservation, specifically the maturing mortgage crisis of prepayment and maturation of Section 515 Rural Rental Housing Loans and Section 514 Farm Labor Housing Loans. The hearing also focused on proposals for addressing the risk of displacement of rural residents. Panelists testified about affordable housing challenges for rural communities related to homelessness, rental housing, and homeownership.

In conclusion, affordable housing remains at the forefront for lawmakers. Funding for affordable housing programs is always a top NAHMA priority. However, NAHMA is highly active in trying to advance bipartisan legislation to expand and improve the housing credit; preserve the rural housing stock; and advance opportunities to invest in the new affordable housing construction and improve tenants’ life outcomes in communities across the country. Please be sure to stay updated with [NAHMA’s Grassroots Advocacy](#).