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April 7, 2020

Speaker Nancy Pelosi
House of Representatives
H-232, the Capitol
Washington, DC 20515

Majority Leader Mitch McConnell
U.S. Senate
S-230, the Capitol
Washington, DC 20510

Minority Leader Kevin McCarthy
House of Representatives
H-222, the Capitol
Washington, DC 20515

Minority Leader Chuck Schumer
U.S. Senate
S-221, the Capitol
Washington, DC 20510

Dear Speaker Pelosi, Leader McCarthy, Leader McConnell and Leader Schumer:

Congress recently enacted the “Coronavirus Aid, Relief, and Economic Security Act (CARES Act)” to respond to the COVID-19 pandemic. The National Affordable Housing Management Association (NAHMA) applauds the bipartisan work Congress has done to prepare and provide relief to American families and businesses negatively impacted by the COVID-19 outbreak through the CARES Act. The current pandemic has made it very clear that housing and health are inextricably linked. Therefore, we urge Congress to continue to work together to enact legislation that protects the health and safety of residents in affordable rental housing communities, while ensuring the financial viability and stability of the affordable rental housing industry.

To address the most urgent housing needs in the next coronavirus package, Congress must include the following which were not fully considered in the CARES Act:

Create an Emergency Assistance Rental Fund: Congress must create an emergency rental assistance fund to help families that are currently unassisted by federal programs. These individuals are struggling to afford rent, utilities and other basic needs because of a pay cut or job loss associated with COVID-19. It is imperative that such emergency assistance be quickly dispatched and be immediately available in urban, suburban, and rural communities. To expedite the delivery of this funding, Congress must utilize the capacity and expertise of private housing providers, public housing agencies (PHAs), housing finance agencies (HFAs), and state or local jurisdictions to ensure funds are quickly and effectively deployed throughout rural and urban communities.

Congress must adequately fund all current rental assistance programs, including Project-based Rental Assistance, Housing Choice Vouchers, the Section 521 Rural Rental Assistance, and Rural vouchers. In addition, a model similar to the past Disaster Housing Assistance Program, can be adopted and combined with HUD's block grant programs, the Community Development Block Grant (CDBG) and HOME program to target the individuals who are not currently assisted. Under these programs, states and localities have flexibility to target emergency rental assistance to meet current

and expected housing needs, while providing direct funding to affordable housing providers to also meet increased operating costs directly related to the COVID-19.

Protect the Low Income Housing Tax Credit (LIHTC): The Low Income Housing Tax Credit (Housing Credit) finances more than 90 percent of all affordable housing production and preservation, and is critical for the housing stability of millions of low-income families. NAHMA, as member of ACTION Coalition, believes there are several simple federal actions that can provide timing relief and prevent projects from losing their tax credits due to COVID-19's impact. Congress must enact a minimum 4 percent rate for buildings placed in service after January 20, 2020 (per the COVID-19 "incident period" for states per FEMA), to provide parity to the 9 percent Housing Credit rate. Additionally, allowing developments to access 4 percent Housing Credits by lowering the "50 percent test" to 25 percent (for buildings placed in service after January 20, 2020) would also stimulate much needed additional affordable housing production. Congress should also increase the annual Housing Credit allocation by 50 percent, phased in over two years at 25 percent per year, and adjusted for inflation, beginning in 2021. This allocation would finance hundreds of thousands of affordable homes for low-income households, who are in much more dire need of affordable housing in light of the growing economic crisis caused by COVID19. Finally, Congress should protect the housing credit by including an immediate one-year extension for three key deadlines: 10 percent test deadlines, placed-in-service deadlines, and rehabilitation expenditure deadlines.

Clarify and Further Target Eviction Moratorium Protections: Congress approved a 120-day moratorium on eviction filings, late fees and other penalties starting on March 27. The moratorium applies to all properties with a federally insured mortgage (Fannie Mae, Freddie Mac, and FHA) and properties participating in a covered housing program such as those administered by the United States Department of Agriculture's (USDA's) Rural Development (RD). However, this protection was not limited to those financially impacted by COVID-19. Congress must swiftly address this discrepancy by clarifying that the national eviction moratorium be limited to those negatively impacted by COVID-19. Protections offered should not only be limited to those adversely affected by the outbreak, but also require residents to officially notify the property owner of temporary financial hardship and request temporary assistance/relief from the property owner and acknowledge the contractual terms of the lease remain in effect. Further, while the intent of the CARES Act was to maintain the ability of property owner to move forward with evictions in cases of criminal activity or other activities that endanger the community there is confusion amongst residents and housing providers and we urge Congress to strengthen this language to specifically identify the ability of property owners to move forward with necessary evictions. This is crucial to maintaining the health and safety of rental housing communities.

Financial Mitigation and Mortgage Forbearance Protections: With stay at home orders across the country, property owners will incur additional maintenance, cleaning and other expenses to support their residents. In addition to these unexpected costs, many residents are at risk of not being able to fulfill their rent obligations. As a result, it is likely that increased costs and rent payment shortfalls will impact the ability of rental property owners to satisfy their financial obligations. Our organizations urge financial support to rental property owners to mitigate these losses due to COVID-19. Further, the CARES Act provides a 90 day forbearance protection for all federally-backed mortgage loans, such as those through the Federal Housing Administration (FHA), Fannie Mae and Freddie Mac for those that have experienced financial hardship. Borrowers receiving the forbearance may not evict or charge late fees to tenants for the duration of the forbearance period. In no case should an eviction moratorium exceed the forbearance period for the property. To amplify the impact of this program, Congress should consider several revisions.

- **Provide Financial Assistance and Protection for Financial Property Obligations:** In order for owners and operators to ensure viability of apartment and rental housing communities, financial assistance and protections should be expanded to other property-level financial obligations such as property taxes, insurance payments, utility service, and the like. This

assistance and protections are needed to avoid any type of negative disruption or impact on renters or housing providers which could include loan default, tax liens or other negative legal actions and ultimately put the property and its residents at risk.

- **Expand Forbearance Protection to All Loans:** Congress must expand multifamily mortgage forbearance protections to all types of loan products including those that are privately financed by banks, life insurance companies, community development financial institutions, state and local housing finance agencies, commercial mortgage-backed securities, as only 50 percent of multifamily mortgages are federally-backed.
- **Reconcile Forbearance and Eviction Moratorium Timelines:** Congress and federal regulators must ensure that forbearance protections are in place for the same length of time as any local, state or federal eviction moratoriums. The Act presently limits forbearance to a 90-day time period, which is out of alignment with the 120-day eviction moratorium. Eviction protections also include a required 30 day notice before an eviction proceeding can be initiated. Thus, the actual eviction timeline is closer to 150 days plus time for court processing and execution. We urge Congress to allow notices to vacate to proceed at the conclusion of the initial forbearance period and within any additional required notice period as renter protections are already embedded in the local law and judicial process for eviction that do not allow for the immediate removal of a tenant. It is important that the timelines are realigned to stop the potential for financial delinquencies and defaults in the rental housing market.
- **Amend Forbearance Requirements:** Congress should amend forbearance repayment requirements to allow the greatest flexibility for borrowers who request it. For example, by allowing the cost to be added to the back of the mortgage. However, any associated eviction moratorium should not exceed the owner's actual forbearance period.

Increased Funding for the U.S. Department of Agriculture's (USDA's), Rural Development (RD) Rental Assistance (RA) programs: The CARES Act did not include additional funding for rural housing impacted by COVID-19. Congress must address rural housing needs, by ensuring continued funding for residents who utilize the USDA's Rental Assistance programs, as well as those residents who currently do not receive RA.

Expand the Small Business Administration's (SBA) Paycheck Protection Program to Include All Multifamily Businesses: Despite original Congressional intent, to assist all lines of business with the PPP, the SBA issued an interim final rule on April 2 that specifically denies eligibility to rental housing developer and owner firms. We urge Congress to compel the SBA to reverse this decision and expand eligibility to rental housing firms and student housing operators so that they can protect their employees and their operations with these loan and grant funds.

The CARES Act provided an eligibility-waiver for certain business concerns with more than 500 employees but with more than one physical location, such as in the hotel industry. The multifamily industry operates under a very similar business model to other sectors targeted for inclusion with this language but is not part of the North American Industry Classification System (NAICS) codes that were granted this exemption. Because of the common structure of multifamily property operation, we believe that it is critical that Congress also extend similar eligibility to multifamily and student housing businesses.

Create a Federal Reserve Credit Facility for Mortgage Services: Servicers of multifamily mortgages are an important part of the financial flows within the multifamily industry and have obligations to advance funds during mortgage forbearance. Congress should direct the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, pursuant to the authority granted under section 13(3) of the Federal Reserve Act, to extend credit to multifamily

mortgage servicers and other obligated advancing parties that, in each case, have liquidity needs due to the COVID-19 emergency or due to compliance with the CARES Act with respect to the multifamily mortgage loans and to extend further credit to mortgage servicers for other liquidity needs due to the actual or imminent delinquency or default on mortgage loans due to the COVID-19 emergency.

Thank you again for all the hard work you have done, and for considering these important and urgent recommendations to address the most pressing needs of the affordable rental housing community during and after the COVID-19 pandemic. Please contact Larry Keys, NAHMA Manager of Government Affairs, at lkeys@nahma.org, with any questions.

Sincerely,



Kris Cook, CAE
Executive Director