

NAHMAanalysis

NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

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

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December 21, 2020

NAHMAanalysis 2020-1221

Key Affordable Housing Legislation in the 116th Congress

Pandemic Relief Legislation

Early in the year, Congress' well laid out plans and legislative agenda for the second-half of the 116th Congress were upended by the COVID-19 pandemic. The following months brought a torrent of legislative initiatives, proposals, hearings and laws, all aimed at protecting the American people and helping stem the pace of the outbreak. While we reach the end of the year with the pandemic still raging and a vaccine many months away from general distribution, Congress continues to advance additional COVID-19 relief assistance, building on many of the ideas that were proposed in response.

The COVID-19 Relief Package

As the 116th Congress drew to a close, Congressional leaders were able to reach a deal on a \$900 billion COVID-19 relief bill to provide direct support to the hard-hit workers amid the continued pandemic. The bill provides \$25 billion in critically needed rental assistance for families struggling to stay in their homes as well as an extension of the eviction moratorium until January 31. The relief bill provides direct payments of \$600 to most Americans making less than \$75,000 and \$300-per-week in enhanced unemployment benefits through April 31. Expiring programs for gig workers and the long-term unemployed also would continue. The package enhances the Housing Credit by enacting a minimum 4 percent Housing Credit rate to help increase affordable housing construction and provide greater certainty to new and ongoing affordable housing projects include a \$1.1 billion allocation of disaster LIHTCs for 11 states and Puerto Rico. The legislation provides \$284 billion for the Paycheck Protection Program that provides forgivable loans to small businesses and includes money for transportation -- including for airlines -- vaccine distribution, schools and universities, and food aid. The relief bill was attached to a \$1.4 trillion omnibus government funding package that funds the federal government through the end of the fiscal year (September 31, 2021). At the time of this publication, President Trump indicated he would sign the legislation to fund the government and provide much needed pandemic relief.

The CARES ACT

In March, President Trump signed into law *the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)*, a COVID-19 response package that included several provisions related to affordable housing. These included certain temporary protections for renters in properties with federal assistance or federal backing and homeowners with federally backed mortgages, as well as increased funding for several affordable housing programs.

The CARES Act was the first major piece of legislation aimed at renters during the second half of the 116th Congress, and included numerous programs and provisions to provide economic and financial relief to individuals, businesses, and governments impacted by the coronavirus. In addition to expanding unemployment benefits and providing a \$1,200 relief payment to eligible individuals, the CARES Act also included several housing-specific provisions, including supplemental appropriations for HUD programs and forbearance for homeowners and multifamily properties (see graph below). The bill also provided the HUD Secretary broad authority to waive existing regulations for certain HUD programs if necessary. NAHMA was concerned that funding for rural housing programs and LIHTC relief was not included. For a comprehensive NAHMA analysis on the implementation of the CARES Act, click [here](#).

CARES Act Affordable Housing Funding

Housing Programs	Funding Provided
PBRA	\$1 billion
Section 202	\$50 million
Section 811	\$15 million
TBRA	\$1.25 billion
PH Operating Fund	\$685 million
Tribal Housing Programs	\$300 million
HOPWA	\$65 million
CDBG	\$5 billion
Homeless Assistance Grants	\$4 billion
Fair Housing and Equal Opportunity	\$2.5 million

Following the passage and initial implementation of the CARES Act, Federal Reserve Chair Jerome Powell and Treasury Secretary Steven Mnuchin testified in September before the House Financial Services Committee and credited the Cares Act with helping to build the recovery. They also called on Congress to continue to fill the economy’s remaining holes by pursuing additional legislative action. On September 24, Secretary Mnuchin and Chairman Powell also appeared before the Senate Banking Committee to give the Quarterly CARES Act Report to Congress and urged Senators that additional, targeted fiscal support would likely be needed to mitigate the effects of the coronavirus pandemic on individuals and businesses.

In addition to passing the Cares Act, lawmakers introduced a variety of bills to further address housing issues related to COVID-19. While all types of households may be at risk of housing instability due to COVID-19, renters may be particularly vulnerable. This is both because financially vulnerable populations are more likely to be renters, and because the process for evicting a household from a rental unit is generally faster than the process of foreclosing on a mortgage. As a result, there have been several policy proposals aimed specifically at affordable housing during the 116th Congress.

Other Pandemic-related Legislation and Hearings with Affordable Housing Focus

On June 3, the House Financial Services Subcommittee on Consumer Protection and Financial Institutions held a hearing on promoting inclusive lending during the pandemic by community development financial institutions, minority depository institutions, and other community banks.

In July, the full House Committee on Financial Services held a hearing focused on H.R. 6800, *the HEROES Act*, and the role it could play in providing relief from COVID-19. The Heroes Act included several affordable housing-related provisions, such as additional funding for some existing housing programs as well as for certain new programs to respond to pandemic-related housing needs; an attempt to cushion the economic blow of the coronavirus crisis with a more robust second round of economic impact payments of \$1,200 per taxpayer and \$500 per dependent. It also included an expansion of the CARES Act eviction moratorium for 12 months, foreclosure moratorium, and mortgage forbearance provisions; and access to financial support for landlords and mortgage servicers. The Heroes Act was passed in the House in May but never taken up in the Senate. The provisions of the Heroes Act were later included in a standalone bill, *the Emergency Housing Protections and Relief Act of 2020* (H.R. 7301), and in a revised version of the Heroes Act (H.R. 925). Both companion bills also passed in the House but were never considered by the Senate.

Underscoring the need for additional assistance, Federal Reserve Chairman Jerome Powell testified before the House Financial Services Committee on June 17, on U.S. monetary policy, the economy and efforts toward an economic recovery in the midst of the COVID-19 pandemic. During the hearing, Chairman Powell urged members of the Committee to prevent a steep drop in income for millions of unemployed Americans who may be unable or unwilling to return to work during the coronavirus pandemic and asked lawmakers to extend enhanced unemployment insurance “in some form” after a \$600 increase to current benefit levels expired on July 31. The Chairman did not specify how Congress should act, but warned lawmakers not to let unemployment benefits revert back to their pre-pandemic levels. Chairman Powell warned that some jobs (those employed in the travel, leisure and hospitality, dining and certain entertainment industries) will not be coming back anytime soon.

On September 16, the Senate Budget Committee held a roundtable hearing discussion examining federal housing assistance programs. Chairman Mike Enzi (R-WY) stated that the federal government’s current approach to housing assistance is falling short and that Congress should initiate a review and take steps to improve this system. The U.S. Government Accountability Office (GAO) found housing assistance is fragmented across 160 programs and activities, with significant areas of duplication and overlap. The discussions focused on how best to assist people who are homeless (600,000 on any given night) and how to reduce barriers to accessing public housing, like years-long waiting lists. Members and witnesses did partially agree that housing assistance programs are scattered across agencies, creating unnecessary confusion and presenting significant challenges for those seeking assistance and for housing providers.

Eviction Moratorium

On May 23, 2020 the House Financial Services Subcommittee on Housing, Community Development, and Insurance held a virtual roundtable hearing on the long-term impacts of eviction and foreclosure moratoria, the demand for emergency rental assistance, and the impact of Covid-19. On August 8, 2020, President Trump signed an Executive Order related to COVID-19 and housing. The Executive Order directed several federal agencies to examine authorities or resources that they may be able to use to further assist tenants or homeowners affected by COVID-19 to help them avoid eviction or foreclosure. It did not itself provide any new resources

or implement any additional actions related to evictions and foreclosures. The Executive Order, among other things, directed the Secretary of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC) to consider whether measures to temporarily pause evictions were necessary to prevent the spread of COVID-19 between states. On September 4, 2020, the CDC announced a national eviction moratorium to last until the end of the year.

Congress considered several proposals that sought to further prevent evictions. Introduced in both the House (H.R. 7402) and the Senate (S. 4097), the *Protecting Renters from Evictions and Fees Act of 2020* expands the moratorium on evictions to include all tenants, as opposed to tenants of federally assisted properties, and extends the moratorium until March 27, 2021. Neither bill became law.

Congress also considered S. 3620, legislation to establish a \$75 billion Housing Assistance Fund at the Department of the Treasury. The proposal would create a fund which would be used to help protect renters, homeowners, and communities by preventing avoidable foreclosures, evictions, and utility shut offs and includes a small state minimum, ensuring each state would receive no less than \$250 million. The Housing Assistance Fund would build off of the success of the Hardest Hit Fund, which provided funds to state housing finance agencies to direct targeted foreclosure prevention assistance to households and neighborhoods in states hit hard by the economic and housing market downturn that began in 2008. This bill did not become law.

S. 3030, *the Eviction Crisis Act*, was introduced seeking to create an eviction database as well as an eviction advisory council of HUD housing experts with the intent to stop preventable evictions from happening, collect and analyze more data on evictions, and mitigate the effect an eviction filing can have on a tenant's ability to find new housing. The bill would create a program to fund state and local governments that want to experiment with alternatives to traditional housing courts, such as landlord-tenant community courts that combine a legal process with social services to help both landlords and tenants. An Emergency Assistance Fund would be created and funded to provide one-time grants to tenants facing an extraordinary financial setback (these funds would receive matching contributions from the federal government). The bill would also require consumer reporting agencies to give tenants a copy of their tenant screening report, and require tenant background checks to not mention evictions where the tenant won their case in housing court. This bill also did not become law.

Need for Additional Rental Assistance

On September 1, Treasury Secretary Steven Mnuchin testified on the federal response to the COVID-19 pandemic before the House Oversight and Reform Select Subcommittee on the Coronavirus Crisis. The Treasury Secretary testified that while there may be differences on the amount, he agreed with several Senators on the idea of providing additional funding for rental assistance. On December 4 and 5, Treasury Secretary Steven Mnuchin and Federal Reserve Chair Jerome Powell appeared before the Senate Banking Committee and the House Financial Services Committee and offered similar testimony on the need for additional coronavirus pandemic assistance. Secretary Mnuchin urged Congress to utilize \$455 billion of unused emergency relief funds for another round of targeted aid for American households and businesses, stating that a targeted fiscal package is the most appropriate federal response to the pandemic's economic impact.

Congress did consider S.3685, *the Emergency Rental Assistance and Rental Market Stabilization Act of 2020*. This legislation would provide \$100 billion in emergency rental

assistance. The rental assistance fund would utilize the framework of the Emergency Solutions Grant program, which is a federal homeless assistance program that provides temporary rental and utility payment assistance to households. The Department of Housing and Urban Development (HUD) would oversee the distribution of \$100 billion to low-income households experiencing homelessness or at risk of homelessness during the COVID-19 emergency. Under the proposed law, HUD would have to allocate \$50 billion to states and communities within a week of the bill being signed into law. The other half of the money is to be distributed within 45 days of the law's enactment based on the needs of extremely low- and very low-income renters as well as the economic disruptions caused by the coronavirus. A companion bill, H.R.6820, was also introduced in the House. Neither bill became law.

Supporting Housing Services and Service Coordinators

Attempting to address the funding shortfalls for service coordinators and supportive housing services, Congress considered several bills, including H.R. 6503, *the Pandemic and Public Health Emergency Support for the Elderly and Persons with Disabilities Act*. H.R. 6503 would provide funding, as deemed necessary, for multifamily service coordinators and service coordinators in public housing during the COVID-19 emergency period. The legislation would provide funding and grants, through the Department of Housing and Urban Development, for housing support services (including the delivery of medicines, groceries, meals, and household supplies), project-based rental assistance (Section 202 and Section 811) and other assistance and services. Congress also considered S.4177, *the Emergency Housing Assistance for Older Adults Act*, which would provide \$1.2 billion to the Section 202 Supportive Housing for the Elderly and Section 8 Project-Based Rental Assistance programs, including \$845 million for obtaining personal protective equipment, cleaning and disinfecting properties, hiring additional staff and providing rental assistance.

Affordable Housing and Community Development

In addition to the pandemic, Congress also focused on affordable housing preservation and development, rural housing, and community development efforts. Focusing on low-income households, the House Transportation and Infrastructure's Economic Development, Public Buildings, and Emergency Management Subcommittee held a hearing on the experiences of vulnerable populations during disasters in July. The hearing focused on how disasters have affected historically marginalized populations such as low-income households, communities of color, and individuals living with disabilities and the steps that are needed to ensure that disaster response and recovery is equitable. Witnesses testified that minority communities are more vulnerable to the effects of climate change and suffer disproportionately from intensifying hurricanes, flooding, wildfires and heat waves. The vulnerability results both from where the communities are located and social factors such as high poverty rates that impede disaster preparation and recovery.

Housing Tax Credit

Several bills were introduced in both chambers which would have impacted the housing tax credit. H.R. 2, *the Moving Forward Act*, was a major transportation proposal introduced in the House. It included significant funding for housing infrastructure and increased federal investment in affordable housing by expanding the Low-Income Housing Tax Credit with housing incentives for rural and tribal communities as well as individuals who are at risk of becoming homeless. The bill would have created a new tax credit through *the Neighborhood Homes Investment Act*, which would subsidize certain development costs to encourage the

rehabilitation of vacant homes or construction of new homes in economically distressed areas. The Moving Forward Act would also have invested more than \$100 billion to create or preserve 1.8 million affordable homes and increase the environmental sustainability of the available housing stock. The proposal also included investment in local financing and community development, and would have expanded and made permanent the New Markets Tax Credit as well as promoted investments in tribal communities. The Moving Forward Act was passed out of the House in July but was never considered by the Senate.

Introduced in the House, H.R. 3077, *the Affordable Housing Credit Improvement Act* would enact a minimum 4 percent Housing Credit rate and would lower the 50 percent threshold of bond financing required per development to trigger the 4 percent Housing Credit. A companion bill was also introduced in the Senate (S. 1703), but neither of the bills became laws.

Introduced in the Senate, S. 4078, *the Emergency Affordable Housing Act*, would seek to preserve and expand affordable housing amidst the COVID-19 pandemic and economic crisis. The bill includes several Housing Credit priorities, and several new Housing Credit proposals including a permanent 4 percent Housing Credit rate, an increase in Housing Credit allocation, a lowering of the “50 percent test” for bond-financing, and a correction to Qualified Contracts. The bill did not become law.

In response to the multiple environmental disasters impacting large swaths of the country, the Senate introduced S.4621, *the 2020 Disasters Tax Relief Act*. This legislation (for areas affected by the Iowa derecho, wildfires in California and Oregon and areas affected by hurricanes Laura and Isaias) would increase low-income housing tax credit (LIHTC) allocation by as much as 50 percent in 2021 for 2020 disaster areas. Specifically, the bill would increase the state credit ceiling for the Low Income Housing Tax Credit (LIHTC) for 2021 to provide for additional projects within 2020 disaster areas. The increase would be equal to the credits allocated to projects in disaster areas, up to 50 percent of the state’s total 2020 credit allocation.

Preservation

Congress considered H.R. 8824, the *Federal-Financing Bank Risk-Sharing Act of 2020*, a bill that would reestablish the Federal-Financing Bank and Risk Sharing Program, which helped with the creation and preservation of affordable rental housing in New York City and across the country. Specifically, it would re-implement the program and expand it to make community development financial institutions eligible for participation. Through a network of state and local Housing Finance Agencies, the program provided low-cost financing options for the creation and maintenance of multifamily affordable housing. The program was responsible for the creation of over 20,000 units of affordable housing nationwide. Despite its success, the Trump Administration allowed authorization of the program to expire in 2018. Along with many affordable housing groups and stakeholders, NAHMA has endorsed the Federal-Financing Bank Risk-Sharing Act of 2020 and plans to advocate for its reintroduction and passage in the 117th Congress.

Rural Housing

S. 3452, *the Affordable HOME Act (Making Affordable Housing Opportunities More Equitable Act)* was introduced as a comprehensive bill designed to impact current policies and funding levels in affordable housing. Addressing rural housing needs, the proposal would authorize the Multifamily Preservation and Revitalization program, allowing for loan restructuring and decoupling of rental assistance from USDA-backed mortgages as a way to preserve the current

affordable housing stock in rural areas. This includes \$1 billion over ten years for the construction of multifamily rental housing projects financed through USDA Section 515. Also included are grants for nonprofits, resident cooperatives, tribal housing authorities, and public housing agencies or other state housing entities to acquire and preserve manufactured housing communities. Several provisions impacting the Fair Housing Act are also included -- one provision would add source of income as a protected class under the Fair Housing Act, prohibiting landlords from denying leases to voucher households. This bill never received a vote in the Senate.

Community Development/Revitalization

Congress also considered S. 4073, the *Neighborhood Homes Investment Act*. This legislation would seek to revitalize housing in distressed neighborhoods by creating a federal tax credit to cover the "appraisal gap" that prevents single-family housing development in many low-income neighborhoods. Seeking to help existing homeowners in low-income neighborhoods to rehabilitate and stay in their homes the bill creates a federal tax credit that covers the cost between building or renovating a home in these areas and the price at which they can be sold (appraisal gap).