

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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Affordable Housing comes into Congressional Focus: Appropriations and Tax Policy

This summer in Congress, affordable housing swung into the spotlight through various hearings and legislative efforts regarding both housing program budgets and housing tax policy. This crucial focus has served to elevate congressional champions for housing affordability on both sides of the aisle and has helped to set the tone for policy debates on housing programs during this new Administration and Congress.

This NAHMAanalysis describes the recent congressional focus on affordable housing and discusses implications for ongoing advocacy efforts as lawmakers head into the August Recess.

Congressional Appropriations for Key Regulatory Agencies

In recent years, the American people have come to expect a degree of fiscal uncertainty out of Washington, D.C. as lawmakers negotiate spending levels and try to avoid a “government shutdown.” The annual process of keeping the federal government funded without interruption between fiscal cycles is tedious and often fraught with partisanship; it also illuminates factions within parties and between branches of government.

Above all, the appropriations process has an immense and immediate impact on affordable housing programs throughout the country. Following the initial budget request from the new Administration, which sought to scale back funding for housing and other domestic programs – and a tumultuous Fiscal Year 2017 (FY17), during which time a series of short-term spending measures delayed housing program payments – the FY18 congressional appropriations process was highly anticipated as a stabilizing factor within the housing industry.

Transportation, Housing, and Urban Development (THUD)

The release of the draft congressional appropriations bills in mid-Summer demonstrated widespread support throughout Congress for certain housing programs and brought the issue of affordable housing into the spotlight. The GOP-led Appropriations Subcommittees for Transportation, Housing and Urban Development (THUD) rejected the President’s Budget Request, beginning with the House version of HUD’s

FY18 budget, which was advanced through Committee and awaits a vote before the full House of Representatives.

U.S. House of Representatives – THUD Appropriations Legislation

Although Representatives in the House turned down the President’s requested budget numbers and preserved the threatened Community Development Block Grant (CDBG) and HOME programs, appropriators were hampered by stringent overall spending caps; the Committee’s slight increases to both tenant-based and project-based rental assistance have been criticized as falling below annual adjustments required to simply maintain the programs. Housing professionals and advocates have also voiced concerns regarding decreased funding for public housing, community development, and Section 811, Housing for Persons with Disabilities.

Housing and Urban Development Fiscal Year 2018 proposed appropriations (\$ in millions)				
HUD Affordable Housing and Community Development Programs	FY18 Senate (proposed)	FY18 House (proposed)	FY18 President's Request	FY17 Enacted
Tenant-Based Rental Assistance	21,365	20,487	19,443	20,292
Contract Renewals	[19,370]	[18,710]	[17,584]	[18,355]
Project-Based Rental Assistance	11,507	11,082	10,751	10,622
Housing for the Elderly (Section 202)	573	573	510	502
Service Coordinators	[90]	[90]	[90]	[75]
Supportive Housing for Persons with Disabilities (Section 811)	147	147	121	146
Community Development Fund	3,000	2,900	0	3,000
HOME	950	850	0	950

Additionally, the House bill does not include funding for Performance-Based Contract Administrators (PBCAs), sending a strong message that HUD finish the PBCA procurement process. The bill report states:

HUD...has not been responsive to the Committee’s direction to conduct the solicitation and award of performance-based contracts to PBCAs a) under full and open competition, b) without regard to geographic limitations, c) in accordance with the Competition and Contracts Act and Federal Acquisition

Regulation, and d) with comprehensive oversight....Until the Committee gets assurances that HUD will respond appropriately, the Committee directs HUD to perform these functions in-house and provides adequate funding under the Management and Administration account.

U.S. Senate – THUD Appropriations Legislation

Shortly after the release of the House appropriations legislation, the Senate Appropriations Committee advanced its version of HUD's Fiscal Year 2018 budget. The Senate bill, which was passed unanimously by the Committee, calls for stronger funding increases to tenant-based and project-based rental assistance, with HUD's 202 Senior Housing program seeing a notable increase over FY17 levels. The bill also includes funding to expand the Rental Assistance Demonstration (RAD) to preserve elderly properties (RAD for PRAC), for which NAHMA members continue to advocate.

Diverging from the tighter budget approved in the House, the Senate Committee gives Public Housing a slight increase, maintains the HOME and CDBG programs at FY17 levels, and includes funding for PBCAs. Funding for lead abatement and homelessness assistance programs – including for homeless veterans and youth – was also emphasized by the bipartisan appropriations leadership.

The President's proposed rent reforms were omitted from both the House and Senate bill. In fact, the Senate Committee's report took the notable step of explaining the omission in writing:

The Committee's recommendation rejects the administration's rental reform proposals, including raising maximum rents to 35 percent of gross income, the establishment of mandatory minimum rents, and the elimination of utility allowance reimbursements. It is unfortunate that the Department is seeking to achieve much of its cost-savings on the backs its tenant population, a significant portion of which is elderly or disabled. The Committee believes that these types of rent reforms are best addressed by the authorizing committees. The decision not to include these controversial rent reforms that have not been subject to authorizing committee vetting and approval results in a renewal need above the President's request.

Looking Ahead: What to Expect and Whom to Watch for HUD's FY18 Budget

The House and Senate bills currently await full floor votes before beginning the reconciliation process. The housing industry's advocacy efforts are centered on the main congressional players impacting HUD appropriations for the upcoming fiscal year:

- **Senator Susan Collins**, a Republican from Maine who chairs the THUD Appropriations Subcommittee and who introduced bipartisan legislation with her democratic counterpart, **Senator Jack Reed** of Rhode Island, to fund HUD at higher levels;
- **Senators Thad Cochran (R-MS)** and **Patrick Leahy (D-VT)**, Chair and Ranking Member of the full Senate Appropriations Committee, which recently advanced the funding legislation but stymied efforts to raise certain program budgets and incorporate infrastructure investments;
- **Representative Rodney Frelinghuysen**, a Republican from New Jersey and Chairman of the House Appropriations Committee who has pledged support in particular for HUD Section 811, Housing for

Persons with Disabilities, as well as **Committee Ranking Member Nita Lowey** of New York, who has spoken out against strict spending caps and lowered housing subsidies; and

- **Representatives Mario Diaz-Balart (R-FL) and David Price (D-NC)**, who head the THUD Appropriations Subcommittee and spearheaded HUD's funding legislation in the House of Representatives.

Overall, the House and Senate Appropriations Committees affirmed strong support among lawmakers of both parties for programs such as HUD's Section 8 rental assistance, HOME, Community Development Block Grants, and homelessness assistance. As negotiations continue on HUD's FY18 budget, NAHMA continues to advocate for higher funding numbers, such as those endorsed by the Senate Committee.

Department of Agriculture (USDA) and Rural Development

Similar to the President's Budget Request for HUD, the Administration proposed steep cuts to the Agriculture Department's Rural Housing Service and other Rural Development programs. Countering the President's request for a 25% reduction over FY17 levels for USDA overall, appropriators in the House and Senate Agriculture Subcommittees advanced funding bills that would preserve much of USDA's budget for Fiscal Year 2018, but leave some aspects of Rural Development vulnerable.

Under the closely-related House and Senate versions of the legislation, the Department would see a 5% cut on average, with Section 542 Rural Housing Vouchers gaining only a very slight increase over fiscal year 2017; meanwhile, Section 538 Loan Guarantee Section and 515 Rental Housing Direct Loans would receive essentially flat funding over FY17, and Section 521 Rental Assistance would see a 4% cut. However, the legislation preserves funding for the Multifamily Preservation and Revitalization (MPR) Demonstration, despite the Administration's request to zero it out.

Maturing Mortgages

Additionally, the Senate USDA funding bill highlights the importance of addressing maturing mortgages, which threaten long-term affordability in rural housing markets. The Committee report states:

The Committee is very concerned about the alarming number of multi-family housing mortgages scheduled to mature in the next few years. As these mortgages mature, projects and units will be removed from USDA's affordable rural housing program, placing very low income rural residents in jeopardy of untenable rent increases and possible eviction. In spite of numerous requests from the Committee, the Department has failed to identify and develop potential solutions to this looming crisis.

The Secretary is directed to engage affordable housing advocates, project owners, tenants, and others as practicable, to find acceptable and effective long term solutions that will retain projects in the affordable rural housing program. The need for affordable rural housing is too great to allow the program to expire.

USDA Reorganization and the Rural Development Undersecretary

The House and Senate bills diverge where USDA's recent reorganization is concerned, with the House bill financially supporting the elimination of the position of Undersecretary for Rural Development. However,

the Senate Agriculture funding bill overrides the elimination of the Undersecretary position and directs the Administration to fill the position. The reorganization is expected to serve as a point of contention or compromise between the House and Senate.

Agriculture, Rural Development, and Food and Drug Administration Rural Development Appropriations (\$ in millions)				
RHS Programs	FY18 Senate (proposed)	FY18 House (proposed)	FY18 President's Request	FY17 Enacted
Section 521 Rental Assistance	1,345	1,345	1,345	1,405
Section 515 Rental Housing Direct Loans	35	35.87	0	35
Multifamily Revitalization	41.4	35	0	41
Preservation Demonstration	[22]	[15]	[0]	[22]
Section 542 Rural Housing Vouchers	19.4	20	20	19
Section 538 Loan Guarantee	230	230	250	230

Looking Ahead: What to Expect and Whom to Watch for USDA's FY18 Budget

As with the THUD funding bill, the House and Senate Agriculture appropriations bills await full floor votes. Congressional players to watch for the Fiscal Year 2018 Rural Development budget include:

- **Senators John Hoeven (R-ND) and Jeff Merkley (D-OR)**, who lead the Senate Appropriations Agriculture Subcommittee and who advanced legislation to reinstate the Undersecretary for Rural Development;
- **Representative Robert Aderholt**, a Republican from Alabama and Chairman of the Agriculture Subcommittee in the House, and his democratic counterpart, **Representative Sanford Bishop** of Georgia; and
- The House and Senate Appropriations leadership outlined above: **Representatives Frelinghuysen and Lowey, and Senators Cochran and Leahy.**

As negotiations continue, NAHMA welcomes the attention paid to the topic of maturing mortgages, but is concerned that the agriculture funding bills would not provide enough rental assistance to renew all existing contracts and will advocate to ensure adequate funding is provided. NAHMA also opposes the elimination of the position of Undersecretary for Rural Development and applauds appropriators in the Senate who have directed the agency to reinstate the position.

Tax Reform and the Low-Income Housing Tax Credit (LIHTC)

Congressional appropriators were not alone in their focus on affordable housing. Amidst a recent push for comprehensive tax reform, debates emerged among legislators on the Senate Finance Committee regarding housing tax policy – including the preservation of the Low-Income Housing Tax Credit (LIHTC) and how changes to the corporate tax rate could impact investments in LIHTC developments.

Following the release of tax reform plans by both the House leadership and the Trump Administration, the Senate has continued the tax reform debate with hearings, legislation, and public comment periods. In particular, the Senate Finance Committee recently held a hearing on "America's Affordable Housing Crisis: Challenges and Solutions." In a bipartisan show of support for affordable housing, members of the Committee from both sides of the aisle acknowledged the need for more affordable housing and the role of the LIHTC as our nation's primary tool for increasing the supply of affordable rental housing.

With hearing witnesses spanning the housing industry, the affordable housing hearing was well-attended by Senators on the Finance Committee. In his opening statement, Senate Finance Committee Chairman Orrin Hatch (R-UT), lead Republican sponsor of the Affordable Housing Credit Improvement Act (S. 548) – which NAHMA strongly supports – described the affordable housing crisis as “a problem that should be ready for a bipartisan solution.” Throughout the hearing, the Chairman expressed support for S. 548 as an important step to make a meaningful dent in the affordable housing crisis.

Senate Finance Committee Ranking Member Ron Wyden's (D-OR) opening statement reaffirmed his support for S. 548 and called on the committee to pursue bipartisanship both in advancing this bill and in tax reform more broadly. In her remarks, Senator Maria Cantwell (D-WA), lead sponsor of the Affordable Housing Credit Improvement Act, highlighted the role of the Housing Credit in serving urban as well as rural communities, and in responding to specific needs, such as veteran homelessness. The Senator emphasized the growth in the number of cost-burdened renter households and also underscored the high costs of housing inaction on the health and criminal justice systems, among others.

The Affordable Housing Credit Improvement Act (S. 548)

The Affordable Housing Credit Improvement Act (S. 548), which aims to improve the LIHTC through policy changes such as income averaging and expanded credit allocations, featured prominently in the affordable housing hearing held by the Senate Finance Committee. Many comments from witnesses as well as members of the Committee focused on the need to strengthen the LIHTC through provisions such as those proposed in the legislation.

S. 548 currently has 20 bipartisan co-sponsors, including seven members of the Finance Committee; companion legislation (H.R. 1661) in the House has earned over 80 co-sponsors from both parties.

Looking Ahead: What to Expect and Whom to Watch for Tax Reform and the LIHTC

Tax reform is expected to receive substantial congressional attention in the upcoming months. The hearing on affordable housing comes on the heels of a joint statement released by congressional leaders and White House officials on the priorities and the time frame for tax reform; however, a clear path forward for targeted tax cuts, comprehensive tax reform, or even the Affordable Housing Credit Improvement Act provisions remains unclear.

Key congressional players to watch with regard to tax reform and the LIHTC include:

- **Senator Orrin Hatch (R-UT)**, Chairman of the Senate Finance Committee, who supports LIHTC expansion and will likely spearhead the Senate's efforts on tax reform alongside his democratic counterpart, **Senator Wyden (D-OR)**, who is also a strong supporter of the housing credit;
- **Senator Maria Cantwell (D-WA)**, a member of the Senate Finance Committee who re-introduced bipartisan legislation this year to expand and improve the LIHTC;
- **Senator Mitch McConnell (R-KY)**, influential Senate Majority Leader who recently signed onto a joint statement with White House officials to move forward this fall on comprehensive tax reform;
- **Representative Paul Ryan (R-WI)**, Speaker of the House, who has led his party's efforts to reform the tax code and has also endorsed the joint statement on tax reform policies;
- **Representative Kevin Brady (R-TX)**, House Ways and Means Committee Chairman who has held hearings on tax reform and has significant influence over tax policy legislation; and
- **Representatives Pat Tiberi (R-OH) and Richard Neal (D-MA)**, who introduced companion legislation in the House mirroring Senator Cantwell's Affordable Housing Credit Improvement Act.

NAHMA strongly supports efforts to expand and improve the Housing Credit, specifically through the Affordable Housing Credit Improvement Act. We will continue to advocate on its behalf. In addition, NAHMA submitted testimony to the Senate Finance Committee for the Affordable Housing hearing.

Conclusions and Next Steps for FY18

Early in the 115th Congress and the new President's term, lawmakers are beginning to set the tone for policy negotiations surrounding domestic programs for the next few years. The recent momentum in Congress to champion affordable housing programs has demonstrated a political willingness to invest in housing and in communities through both the appropriations and tax reform processes. As we head into the August congressional recess and beyond, NAHMA encourages members to reach out to their Senators and Representatives to help continue the focus on affordable housing through program funding and LIHTC expansion.