

CRS Report for Congress

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Housing Issues in the 105th Congress

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Summary

Progress is reportedly being made on smoothing the way for a conference committee on public housing and Section 8 reform bills, H.R. 2 and S. 462. However, HUD Secretary Cuomo remains strongly opposed to the income targeting provisions in these bills. On FY1999 budget matters, HUD insists that billions of dollars of Section 8 “excess” reserves that GAO auditors have “found” will be needed for future Section 8 contract renewals. But on May 1, 1998, an emergency supplemental appropriations bill was signed into law (P.L. 105-174) that temporarily cuts \$2.3 billion from Section 8 program reserves.

The Administration has proposed to increase the Federal Housing Administration’s (FHA) mortgage insurance loan limits to \$227,150 nationwide, saying this is needed to increase homeownership among minorities and in cities. House Housing subcommittee Chairman Lazio views the proposal as an unnecessary intrusion into the private sector. Bills that would provide for the automatic cancellation of private mortgage insurance once a homeowner’s equity reached a certain amount, H.R. 607 and S. 318, passed the House and Senate last year and await a conference. H.R. 3039, to help homeless veterans find housing and re-enter the job market, awaits a House vote. A bill to consolidate seven McKinney Act homeless assistance programs into a block grant, H.R. 217, passed the House by 386-23 on March 3, 1998. Legislation to increase the amount of tax credits that states can allocate annually under the Low-Income Housing Tax Credit program include H.R. 2990, H.R. 3290, and S.1252.

Other matters that are or could come before Congress in 1998 include (1) the overhaul of the Real Estate Settlement Procedures Act that would address the brokers’ fee (“yield spread premium”) matter and other issues; (2) H.R. 3206, legislation that would make it easier for residents to oppose group homes for sex offenders, recovering drug addicts, and convicted felons; (3) several “takings” bills, H.R. 992 and H.R. 1534, that would give property owners claiming financial loss speedier access to legal review; and (4) legislation intended to protect elderly homeowners from paying exorbitant fees for home equity conversion loans, S. 562. This report will be updated as issues develop and legislation progresses.

Housing Authorization Reform Bills

H.R. 2 (The Housing Opportunity and Responsibility Act of 1997) was approved by the House last May. Currently, households in public housing have extremely low incomes, averaging 17% of the area median, about \$7,000 nationally. In a break from current policy, H.R. 2 would require that (only) 35% of all new households admitted (as vacancies occur) have incomes below 30% of the local median. Supporters say this is to promote more mixed-income communities with role models and to “change the culture” at projects. The admission of more working poor with somewhat higher incomes would also provide public housing authorities (PHAs) with more rental income. But critics fear this change would increase the number of homeless. HUD Secretary Cuomo recently expressed strong objection to the proposed income-targeting, saying it would harm the 5.3 million very low-income families who receive no rental assistance but who now pay more than 50% of their income for rent or live in substandard housing. H.R. 2 would also eliminate the Housing Act of 1937, the basic framework of current housing programs. Some say that removing the 1937 Act would create a legal mess since an estimated 650 state and local laws are cross-referenced to it.

The less sweeping S. 462 (The Public Housing Reform and Responsibility Act of 1997) maintains the 1937 Act and would reserve a larger percentage of units for the very poor: at least 40% of new admissions would have to have incomes no more than 30% of the local area median income; at least 70% of newly admitted families would have to have incomes no more than 60% of median income; and the remainder would have to have incomes at or below 80% of median. Similar targeting changes would be made for allocating new Section 8 tenant-based assistance.

In other parts of these bills, disincentives to work would be decreased. In addition, some able-bodied, nonelderly, nonworking tenants would have to provide 8 hours a month of community service. Under a controversial home rule flexible grant option in H.R. 2, local governments could design their own affordable housing program combining funds from public housing and a new “choice-based” assistance program. Both bills deregulate the 3,400 PHAs, giving them more flexibility to make decisions, but deal sternly with chronically troubled agencies. Both consolidate numerous public housing programs into two flexible block grants, and give tenants a larger role in planning and operations.

The substantial differences between these bills have made it impossible to reach agreement for two years, but chances may have improved for a compromise this year.

Other Readings

Housing Authorization Bills: Overview of H.R. 2 and S. 462. CRS Report 98-443 E by Susan Vanhorenbeck. May 8, 1998. 4 p.

HUD's FY1999 Budget

The Administration's HUD budget for FY1999 would provide \$25.2 billion to revitalize communities, create jobs, produce affordable housing, and expand home ownership. HUD had thought this amount would be sufficient to renew all Section 8 contracts since the agency also planned to use several billion dollars in project reserve

accounts. But an emergency supplemental appropriations bill (H.R. 3579) was signed into law on May 1, 1998 (P.L. 105-174) that rescinds \$2.3 billion from the Section 8 program. Housing supporters have been assured that this is a temporary cut and funds will be made available to renew all Section 8 contracts.

The Administration's HUD budget proposal includes \$585 million for 103,000 new housing vouchers, of which 50,000 would be for welfare recipients needing housing to get or keep a job. 34,000 of the vouchers would be for the homeless and 8,800 would be used for the elderly. The Community Development Block Grant program would increase to \$4.725 billion, with \$238 million of decreased set-asides. The Home Program would increase by \$50 million to \$1.883 billion.

The emphasis on job creation includes \$400 million in grants for a community empowerment fund and \$1.5 billion over 10 years for 15 additional urban empowerment zones authorized in last year's tax act. Funding for brownfield development would double from \$25 million to \$50 million. There would be \$25 million for home ownership zones to create about 1,500 single family homes in inner-city neighborhoods. With carryover funds, HUD is asking for \$2.93 billion for public housing operating funds. Modernization funds would increase to \$2.55 billion. Block grants for native Americans would be set at \$600 million. Homeless assistance would increase to \$1.15 billion. Funds for fair housing efforts would more than double to \$52 million in keeping with the Administration's efforts to crackdown on housing discrimination.

Congressional work on FY1998 appropriations for HUD is expected to begin not too long after the Memorial Day recess.

Other Readings

The Budget of the Department of Housing and Urban Development (HUD) FY1999. CRS Report 98-345 E by Susan Vanhorenbeck, Bruce E. Foote, and Pauline Smale. April 3, 1998. 13 p.

Proposed Increase in FHA Mortgage Insurance Limits

The Administration has proposed in its FY1999 HUD budget to increase the size of the mortgage the government's "FHA" program can insure to \$227,150 nationwide. Currently, the limit is \$86,300 in lower-cost areas, but can go to \$170,300 in high-cost areas. This program has traditionally served first-time buyers of moderate incomes who have little money for down payments, and those with blemished credit records. The Administration says the higher limits are needed to expand home ownership opportunities to minorities, women, and city residents, and that the 225 different limits across the country cause problems. Some think the change could make money for the FHA by insuring loans for buyers with incomes up to \$80,000 - which could then be used to offset losses from high rates of foreclosures. However, others believe that high-income borrowers who turn to FHA are likely to mean risky loans that would also cost HUD through foreclosures. Home builders and real estate agents support the change, but private mortgage insurers and others say this is an unnecessary intrusion into the private market. Other critics believe the FHA has frequently harmed lower-income neighborhoods by supporting careless lending, resulting in boarded-up or vandalized homes that are later sold at rock-bottom prices, to the dismay of nearby owners. They say low-income

purchasers often buy homes that soon require major repairs that new owners cannot pay for. National People's Action is calling for mandatory property inspections.

Other Readings

Raising the FHA Mortgage Limit: Issues and Options. CRS Report 98-421 by Bruce Foote and Pamela Hairston. May 4, 1998. 29 p.

Low-Income Housing Tax Credit Program

Under the Low Income Housing Tax Credit program, states are permitted to allocate federal tax credits to investors who agree to build or renovate affordable rental housing units for low- and moderate-income households. Supporters say the formula for allocating annual tax credits, \$1.25 per capita, has not been changed since 1986 and thus, has been eroded by inflation. H.R. 2990 (Ensign and Rangel) and S. 1252 (D'Amato) would increase the credit limit to \$1.75 per capita and index it for inflation beginning in 1999. The Administration's proposal increases the cap to \$1.75 but has no inflation adjustor. H.R.3290 (N. Johnson) increases the cap to \$1.75, indexes it, and also implements several administrative reforms recommended by the House Ways and Means Subcommittee on Oversight and the GAO. The cost of the program is estimated at \$12 billion over FY1999-2003. Critics doubt that this very complex "project-based" program is the most efficient way to deliver affordable housing and wonder if the units will be adequately maintained as they get older. But the program, often supplemented by other federal housing program funds, has helped to produce at least 500,000 apartments since 1987.

Consolidation of Homeless Housing Programs

H.R. 217 (Lazio) would authorize an annual appropriation of \$1 billion for homeless programs, up \$177 million over last year's amount, but less than the Administration's FY1999 request of 1.15 billion. 30% would be earmarked for a permanent housing fund and, in a bi-partisan compromise, the 15% cap on spending for emergency homeless shelters was removed from the original bill. The bill would consolidate seven McKinney Act homeless assistance programs into a block grant with part of the funds awarded through a competitive process. It passed the House by 386-23 on March 3, 1998.

Other Readings

H.R. 217: Homeless Housing Programs Consolidation and Flexibility Act. CRS Report 98-181 E, by Pauline Smale. March 2, 1998. 3 p.

Cancellation of Private Mortgage Insurance

Last year the House passed by a vote of 421 to 7 H.R. 607 (Hansen), the Homeowners Insurance Protection Act, that requires the automatic cancellation of private mortgage insurance as soon as a homeowner's equity reaches 25%. Many owners currently continue to pay insurance premiums long after it is necessary to protect lenders. A similar bill, S. 318 by Senator D'Amato, Chairman of the Senate Banking Committee, was passed by the Senate, amended, on November 9, 1997. This legislation is supported by the Consumers Union and National Association of Realtors.

Other Readings

Private Mortgage Insurance: Cancellation Options. CRS Report 97-373. December 17, 1997, by Bruce Foote.

The Real Estate Settlement Procedures Act (RESPA)

The purpose of the Real Estate Settlement Procedures Act (RESPA) of 1974 is to keep the costs of purchasing a home down by encouraging competition between firms providing necessary settlement services. A HUD spokesman has called RESPA a “fundamentally flawed statute.” Congress directed HUD and the Federal Reserve Board to come up with ideas for streamlining RESPA and the related Truth in Lending Act. A draft report is now being reviewed. A contentious issue-within-an issue is whether fees and “yield-spread premiums” charged by mortgage brokers are for services rendered to borrowers — or referral fees, which would violate RESPA. In September 1997 HUD proposed that mortgage brokers be required to sign contracts stating who they work for (do they have a fiduciary responsibility to the borrower?) and who is paying them how much. An industry group is proposing their own RESPA reforms. One recommendation would allow a single price to be provided to consumers for all the required settlement services. This might make it possible for consumers to competitively shop these “one-price” packages, particularly if shopping could be done quickly and easily, such as on the Internet. However, the National Association of Realtors is opposing this approach, even though they “were told their commissions would not be in the package of settlement services.”(National Mortgage News. 11/24/97).

Other Readings

The Real Estate Settlement Procedures Act: Is It Working? CRS Report 94-841 E., November 1, 1994, by Richard Bourdon.

The Real Estate Settlement Procedures Act: Disclosure of Fees to Mortgage Brokers. CRS Report 98-285 E, by Bruce Foote. 22 p. Updated March 24, 1998.

Fair Housing Amendments: Group Homes

A hotly debated H.R. 3206 (Bilbray) passed the House Judiciary Subcommittee on February 25. The bill would lessen the fear that some local groups now have in opposing group homes for convicted felons, sex offenders and recovering drug addicts. The Justice Department, in upholding the Fair Housing Act, has dealt harshly with opponents of these homes who, it says, have filed frivolous court challenges. The Coalition to Preserve the Fair Housing Act says that the bill “scales back basic civil rights protections and endangers an enforcement system that is working” (Housing & Development Reporter. 3/9/98).

Property “Takings”

On March 12, the House passed H.R. 992 by 230-180, a bill involving disputes between property owners and then enforcement of local land-use laws. Owners often feel the value of their property has often been unfairly reduced without just compensation —

an illegal “taking” under the Fifth Amendment of the Constitution. H.R. 992 would make it easier and quicker for owners to settle their grievances by bypassing local administrative agencies and state courts, but opponents say these changes could undermine environmental laws. A similar bill, H.R. 1534 was approved by the House (as amended) in October 1997 and by the Senate Judiciary Committee on February 26, 1998.

Housing for Homeless Veterans

The House Veterans’ Affairs Committee approved H.R. 3039 (as amended) and reported the bill to the House on March 17, 1998. The Veterans Transitional Housing Opportunities Act of 1998 would help homeless veterans find housing and make it easier for them to re-enter the job market. Under a pilot program, the VA would guarantee up to 15 loans totaling \$100 million for multifamily transitional housing. Loans would be for the construction or rehabilitation of, or acquisition of land for, the transitional housing. The loans would be made in connection with funding or the provision of substantial property or services for the property by either a state or local government or nongovernmental entity. No more than 90% of the development’s cost could be insured. No more than 5 of the loans could be guaranteed during the first 3 years after enactment of this Act.

Tighter Controls Sought on REITs

Many analysts believe that a small number of Real Estate Investment Trusts (REITs) have pushed beyond the intentions of the law and are engaging in questionable tax sheltering activities. On March 26, 1998, the chairman of the House and Senate tax writing committees submitted H.R. 3558 and the identical S. 1871 that would limit the tax advantages of REITs, particularly for the small number that are especially favored, called “paired-share” or “stapled” REITs. The Administration has proposed similar restrictions. Industry defenders of current law say the proposed changes would be unfair to existing shareholders. Under the proposed bills, the grandfathered REITs would generally remain favored to the extent they were as of March 26, 1998, but could not expand beyond these boundaries.

Other Readings

Real Estate Investment Trusts: Tighter Controls Proposed for Tax-Favored REITs by Richard Bourdon. CRS Report 98-362 E. 6 p. April 10, 1998.

Housing Issues in the 105th Congress, by Richard Bourdon, Economics Division. Updated May 20, 1998. 6 p.