

Statement for the Record
National Low Income Housing Coalition
Presented to the U.S. Senate Committee on Finance
“Tax Policy’s Role in Increasing Affordable Housing Supply for Working Families”
March 7, 2023

Chair Wyden, Ranking Member Crapo, and members of the Committee, thank you for the opportunity to submit a statement for the record on the role of tax policy in increasing affordable housing supply.

The National Low Income Housing Coalition (NLIHC) is dedicated to achieving racially and socially equitable public policy that ensures people with the lowest incomes have quality homes that are accessible and affordable in communities of their choice. NLIHC members include state and local affordable housing coalitions, residents of public and assisted housing, nonprofit housing providers, homeless service providers, fair housing organizations, researchers, faith-based organizations, public housing agencies, private developers and property owners, local and state government agencies, and concerned citizens. While our members include the spectrum of housing interests, we do not represent any segment of the housing industry. Rather, we work on behalf of and with low-income people who receive, as well as those who need, federal housing assistance, especially extremely low-income people and people who are experiencing homelessness.

Even before the pandemic, millions of extremely low-income households – disproportionately people of color – were struggling to remain housed, always one financial shock away from falling behind on rent and being threatened with eviction and, in the worst cases, homelessness. On any given night, more than half a million people experienced homelessness, and millions more were at risk.ⁱ

The underlying cause of America’s housing and homelessness crisis is the severe shortage of homes affordable and available to people with the lowest incomes and the widening gap between incomes and housing costs. There is a national shortage of 7 million homes that are affordable and available to America’s lowest-income renters – those with incomes less than either the federal poverty guideline or 30% of their area median income (AMI), whichever is greater. The severe shortage of affordable and available homes for extremely low-income renters is a structural feature of the country’s housing system, consistently impacting people in every state and nearly every community.ⁱⁱ

Housing costs are out of reach for too many of the lowest-income renters.ⁱⁱⁱ Rents are far higher than what the lowest-income and most marginalized renters, including seniors, people with disabilities, and working families, can spend on housing. Despite the clear and urgent need, Congress only provides housing assistance to one in four eligible households.^{iv}

Without affordable housing options, 10 million of the lowest-income renter households pay at least half of their income on rent, leaving them without the resources they need to put food on the table, purchase needed medications, or otherwise make ends meet.^v Paying so much of their limited income on rent leaves the lowest-income families always one financial shock – whether from a sick child, broken-down car, high heating bill, or other unexpected expense – away from facing eviction and, in the worst cases, homelessness.

Now, renters are faced with increased inflation, higher rents, eviction filing rates that are reaching or surpassing pre-pandemic averages, and, in many communities, worsening homelessness. Rent increases are exacerbating our country’s affordable housing crisis, pushing more people into homelessness each year.

To help end our nation's housing and homelessness crisis, Congress must increase investments in long-term solutions to the underlying shortage of affordable, accessible homes and improve renter protections for the lowest-income people. This should include making rental assistance universally available to everyone in need, preserving and expanding the supply of homes affordable to people with the lowest incomes, preventing evictions and homelessness, and strengthening and enforcing renter protections. These solutions must be paired with reforms to break down barriers that prevent access to critical resources and that deepen racial disparities.

This year, the Senate Finance Committee has the opportunity to improve our nation's response to the housing crisis by expanding and reforming the Low-Income Housing Tax Credit (LIHTC) so that it better reaches those households with the greatest, clearest needs. LIHTC is the primary source of financing for the construction and preservation of affordable housing. While it is an important resource, LIHTC, on its own, rarely builds or preserves homes affordable to households with the lowest incomes. To ensure that the tax credit program better serves people experiencing or at risk of homelessness, **Congress should pair any expansion of LIHTC with key reforms**, including those included in the bipartisan "Affordable Housing Credit Improvement Act" (AHCIA) and other legislation.

Moreover, **Congress should reject any proposal to create a new tax credit to build housing affordable to middle-income households, such as the proposal introduced by Chair Wyden**. As outlined below, this proposal is misguided and wasteful, essentially subsidizing developers to build market-rate housing. To meet the housing needs of middle-income households, Congress should instead incentivize or require communities to address zoning and land use barriers that restrict the ability of the private sector to build apartments, increasing rental costs for everyone. Limited federal resources should be directed towards those with the greatest and clearest needs, and for whom the private market on its own cannot build an operate homes affordable to them: extremely low-income households.

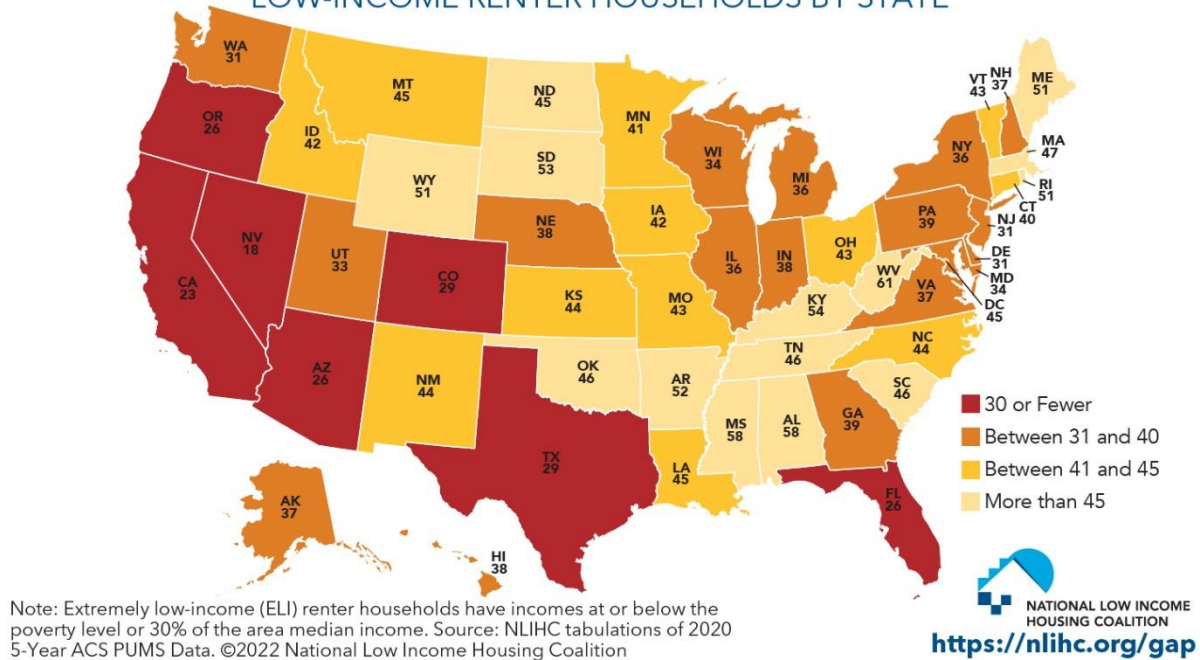
Underlying Causes of the Housing Crisis

Shortage of Affordable Housing for the Lowest-Income Renters

Even before the COVID-19 pandemic, the country was in the grips of a pervasive affordable housing crisis, impacting rural, suburban, and urban communities alike. An underlying cause of America's housing crisis is a market failure that results in a severe shortage of rental homes affordable to people with the lowest incomes. Nationwide, there is a shortage of 7 million homes affordable and available to extremely low-income renters, whose household incomes are at or below either the federal poverty guideline or 30% of their area median income (whichever is greater). For every 10 of the lowest-income renter households, there are fewer than four homes affordable and available to them.^{vi}

THE GAP

RENTAL HOMES AFFORDABLE AND AVAILABLE PER 100 EXTREMELY LOW-INCOME RENTER HOUSEHOLDS BY STATE



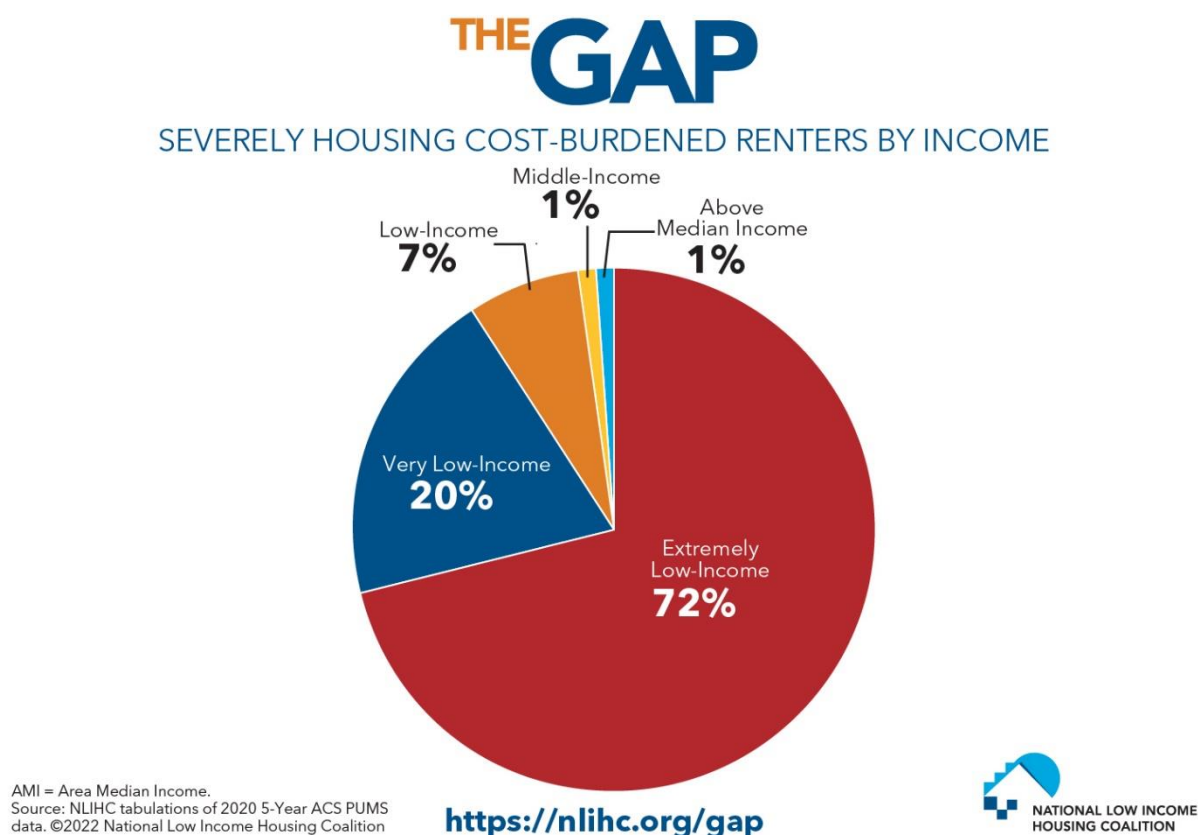
The shortage of affordable and available homes for the lowest-income renters ranges in severity depending on state and congressional district, but there is no state or district with enough affordable homes for its lowest-income renters. For example, in Chair Wyden's state of Oregon, there are just two affordable homes available for every 10 of the lowest-income renter households. Ranking Member Crapo's state of Idaho faces a similar situation, with only four available homes for every 10 of the lowest-income renters.^{vii}

Systemic racism, past and present, has led to significant racial disparities in both renter demographics and adverse outcomes experienced by renters, such as cost burdens, evictions, and homelessness. The unaffordability of the rental market disproportionately harms Black and Latino households because they are more likely at all income levels to be renters: 30% of white households are renters, compared with 58% of Black households and 46% of Latino households.^{viii}

Moreover, renters of color are much more likely than white households to be extremely low-income renters. Twenty percent of Black households, 18% of American Indian or Alaska Native (AIAN) households, 15% of Latino households, and 10% of Asian households are extremely low-income renters, compared to only 6% of white non-Latino households. Renters of color are also more likely to experience housing cost burdens than white, non-Latino renters. While 43% of white renters are cost-burdened, 53% of Latino renters and 55% of Black, non-Latino renters are cost-burdened. Thirty-one percent of Black, non-Latino renters and 28% of Latino renters are severely cost-burdened, compared to 22% of white, non-Latino renters.^{ix}

Nationwide, 10 million of the lowest-income renters pay at least half of their income on rent, leaving them without the resources they need to make ends meet. Housing cost burdens are

concentrated among the lowest-income renters. Eighty-six percent of extremely low-income renters are cost-burdened, and 72% of extremely low-income households are severely cost-burdened.^x Research indicates that the lowest-income households spend significantly less on other necessities – such as food, clothing, transportation, and healthcare – when they are forced to spend more than half of their income on rent and utilities.^{xi}



The Gap between Incomes and Housing Costs

A major cause of housing instability is the fundamental mismatch between growing housing costs and stagnant incomes for people with the lowest incomes. NLIHC's *Out of Reach: The High Cost of Housing*^{xii} annual report estimates each locality's "Housing Wage" – the hourly wage a full-time worker must earn to afford a modest apartment without spending more than 30% of their income on housing. In 2022, the national Housing Wage was \$25.82 per hour for a modest two-bedroom rental home and \$21.25 per hour for a modest one-bedroom rental home.

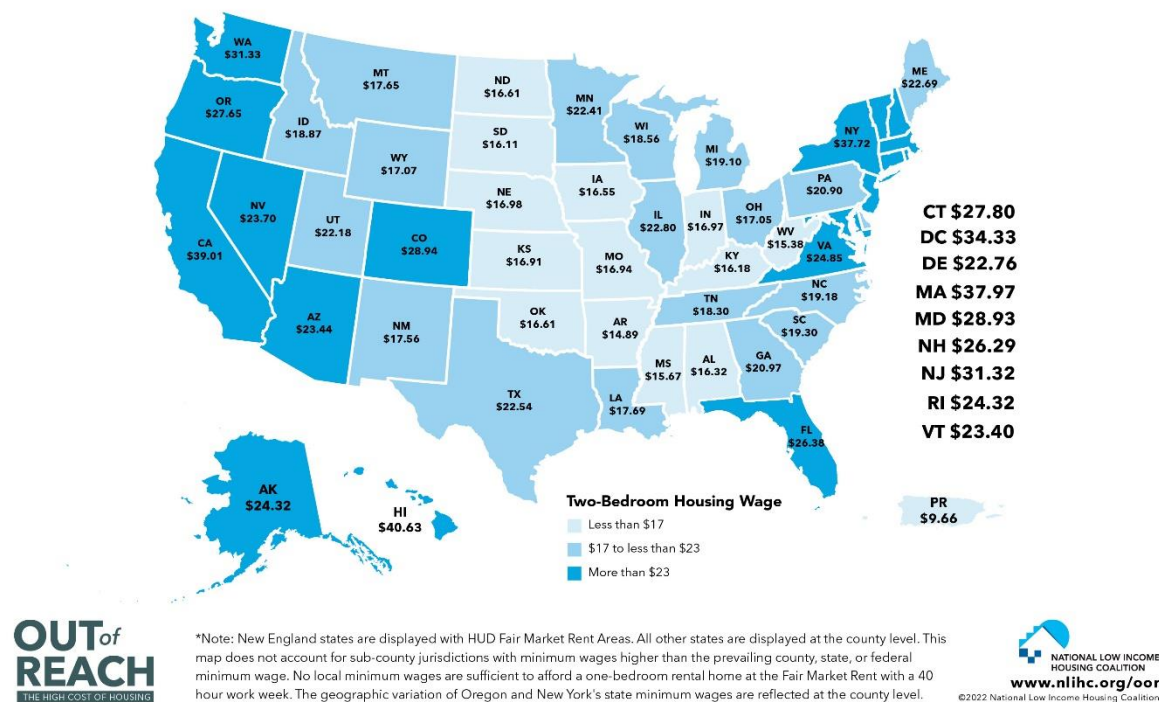
Eleven of the 25 largest occupations in the U.S. pay a lower median hourly wage than the wage a full-time worker needs to earn to afford a modest one- or two-bedroom apartment at the national average fair market rent. More than 24 million people work in the five lowest-paying occupations – retail sales, food and beverage services, food preparation, home health aide and personal care services, and building cleaning. Workers in these occupations earn median wages that fall more than \$6 short of what a full-time worker needs for a one-bedroom apartment.^{xiii}

The average minimum wage worker must work 96 hours per week (nearly two and a half full-time jobs) to afford a two-bedroom rental home, or 79 hours per week (two full-time jobs) to afford a one-bedroom rental home at the fair market rent. People who work 96 hours per week

and need eight hours per day of sleep have around two hours per day left over for everything else – commuting, cooking, cleaning, self-care, caring for children and family, and serving their community.

Low-wage workers are not the only renters who struggle to afford their housing. Housing is unaffordable for low-income families in a variety of circumstances. Three-quarters of the nation's 4.4 million senior renters with incomes less than 50% of AMI are housing cost-burdened. Over 2 million households are very low-income, have a disability, and are not in the labor force, with most of these households paying more than 30% of their income toward rent. Of the country's approximately 850,000 very low-income householders who are single-adult caregivers or students, 93% are cost-burdened.^{xiv xv}

2022 TWO-BEDROOM RENTAL HOUSING WAGES



Lack of Federal Resources

The shortage of rental homes affordable to the lowest-income people is caused by market failures and the chronic underfunding of solutions. Government intervention, in the form of subsidies, is necessary to fill the gap between what the lowest-income people can afford to pay and the costs of developing and operating rental homes. Congress has consistently underfunded housing subsidies such that only one in four households eligible for housing assistance receives any.^{xvi} Millions of families are placed on waitlists for housing assistance, many of them faced with homelessness or overcrowding while they wait.^{xvii}

Critically Needed Reforms to the Low-Income Housing Tax Credit

Deeper Income Targeting

To address America's housing crisis, Congress must prioritize federal housing investments to address the severe shortage of homes affordable and available to our nation's lowest-income and most marginalized households.

Despite the incredible need, the nation's primary source of financing to build and preserve affordable homes – LIHTC – is not sufficient on its own to build homes affordable to extremely low-income households. LIHTC is targeted to build homes affordable to households earning up to 50% or 60% of the area median income. As a result, extremely low-income households generally can only afford rent in a LIHTC development if they receive rental assistance. The majority (58%) of extremely low-income renters living in LIHTC developments who do not receive rental assistance are severely cost-burdened, paying more than half of their limited incomes on rent.^{xviii} One emergency or unexpected expense could send these households into homelessness.

To help increase the supply of deeply affordable housing for America's lowest-income households, Congress should include in any housing supply tax legislation:

- **A 50% basis boost for housing developments where at least 20% of units are set aside for households with extremely low incomes or those experiencing homelessness.** This reform, as included in the Affordable Housing Tax Credit Improvement Act, would help facilitate the development of more affordable housing for populations with special needs, such as formerly homeless individuals and people with disabilities.
- **A 10% set-aside of tax credits to help offset the costs to build these homes, as proposed by Chair Wyden (D-OR) in the “Decent, Affordable, Safe Housing for All (DASH) Act.”** To ensure that more housing developments built using LIHTC serve extremely low-income households, Congress should set aside 10% of the program's resources for developments where at least 20% of units are set aside for households with extremely low incomes or those experiencing homelessness.

Improved Access in Rural and Tribal Communities

Likewise, rural communities face unique barriers to developing affordable rental homes, including lower incomes, higher poverty rates, and lack of access to private capital. Indigenous people have some of the worst housing needs in the U.S. They face high poverty rates and low incomes, overcrowding, lack of plumbing and heat, and unique development issues. Despite the growing need for safe, decent homes, however, federal investments in affordable housing on tribal lands have lagged for decades, particularly in more rural and remote areas. As a result, far too many rural families live in rental homes that are unaffordable or are in substandard condition. To address the significant housing needs for Indigenous people and those in rural America, Congress should include in housing supply tax legislation:

- **Changes to designate tribal communities as “Difficult to Develop Areas” (DDAs).** Most tribal areas do not qualify under current DDA standards. This reform, as proposed in the Affordable Housing Credit Improvement Act, would make housing developments in tribal communities automatically eligible for a 30% basis boost, making it more financially feasible for developers to build affordable homes in these areas.

- **Changes to designated rural communities as “Difficult to Develop Areas” (DDAs)**, making housing developments in rural America automatically eligible for a 30% basis boost.

Preservation of LIHTC Developments

Congress must use LIHTC to ensure long-term affordability of LIHTC properties.

- **Eliminate the “Qualified Contract” loophole from the LIHTC program**, as proposed in the DASH Act. Under the Qualified Contract loophole, LIHTC owners can avoid federal and state affordability restrictions after just 15 years, rather than the 30-year minimum requirement. The QC loophole has led to a substantial loss of affordable rental homes, harming low-income residents and wasting scarce federal investments.
- **Clarify and strengthen the “right of first refusal” (ROFR) for nonprofit owners**, as proposed in the DASH Act. By statute, Congress provides nonprofit organizations with a ROFR to help facilitate their ability to purchase LIHTC developments. In recent years, some private investors have challenged the ROFR in hopes of preventing the preservation sale in order to raise rents or of extracting additional payments from the nonprofit. This puts the long-term financial health and condition of the properties at risk.

Other Needed Reforms

Other reforms are needed to provide greater oversight and transparency of LIHTC and ensure renter protections for those living in these homes.

- **Provide HUD access to IRS data on LIHTC properties.** HUD’s LIHTC database, the primary data source about LIHTC properties, includes critical information needed to protect residents and preserve federal investments. However, the database is incomplete and some datapoints can be unreliable. While HFAs report critical property-level data to IRS, federal law does not allow IRS to share this data with HUD. Without more accurate and complete data, long-term tracking of LIHTC properties and the ability to preserve these homes is more difficult.
- **Extend renter protections to tenants living in LIHTC properties.** Tenants in LIHTC properties have few protections, placing tenants and applicants in a vulnerable position, as they may be evicted or denied admission for arbitrary or unlawful reasons.

Opposition to the Middle-Income Housing Tax Credit

During today’s hearing, Chair Wyden may bring attention to his DASH Act. While some provisions in the DASH Act provide critically needed resources to help struggling households, other measures – such as a proposal to create a Middle-Income Housing Tax Credit (MIHTC) – are misguided and wasteful. NLIHC is eager to work with Chair Wyden, and the Finance Committee, and craft legislation to ensure that tax legislation addresses the needs of the lowest-income renters.

The DASH Act includes several housing provisions that would help address America’s housing crisis. By fully funding rental assistance and investing robust resources in the national Housing Trust Fund, the bill would ensure that millions of households can afford their rent. The bill also includes an innovative proposal to create a new project-based renters’ tax credit that could be layered onto LIHTC to ensure that homes built with the tax credit are affordable to people living in poverty. Among other important reforms, the legislation would close loopholes in the LIHTC program that developers have exploited to convert federally assisted properties to market rate and prevent nonprofit organizations from preserving the properties as affordable.

NLIHC strongly opposes any efforts to create a tax credit for middle-income households, as there is no sound rationale for using scarce federal resources for this purpose. The DASH Act would create a new federal tax credit to incentivize developers to build and preserve market-rate apartments – housing that is affordable to families earning 100% or below of the area median income (AMI). [Research](#) shows, however, that middle-income families comprise less than 1% of those facing significant housing challenges, while 92.5% of these households have very low- or extremely low-incomes and would not be served by this new tax break for investors. At a time when there are more than four times as many homeless households as there are severely cost-burdened middle-income renter households, we must target federal funding to where it is most needed: making homes affordable for the lowest-income and most marginalized people.

To address the housing needs of middle-income households, Congress should instead incentivize or require state and local governments that receive federal transportation and infrastructure funding to eliminate restrictive zoning rules that increase the cost of development, limit housing supply for all renters, and reinforce segregation and structural racism in housing and other systems. Local communities can and must do their part in eliminating the exclusionary zoning policies that put pressure on middle-income renters in a handful of metro areas.

Other Innovative Tax Approaches

To address the housing crisis, Congress should expand rental assistance to make it universally available to all eligible households in need. Making rental assistance available to all eligible households is central to any successful strategy for solving the housing crisis. Rental assistance is a critical tool for helping the lowest-income people afford decent, stable, accessible housing, and the program has a proven record of reducing homelessness and housing poverty. A growing body of research finds that rental assistance can improve health and educational outcomes, increase children's chances of long-term success, and advance racial equity.

The Senate Finance Committee should consider legislation to use the tax code to help bridge the gap between incomes and housing costs. NLIHC supports the creation of a renters' tax credit, like the programs proposed in both the "Rent Relief Act of 2022" (S. 4728, H.R. 8357) introduced in the 117th Congress by Senator Raphael Warnock (D-GA) and Representative Danny Davis (D-IL), and the "Housing, Opportunity, Mobility, and Equity Act" (S.5228, H.R. 9466) introduced in the 117th Congress by Senator Cory Booker (D-NJ) and Representative Jim Clyburn (D-SC).

A new, refundable tax credit could put more money in the pockets of families at a time when growing inflation is making housing even more unaffordable, particularly for people with the lowest incomes, who are disproportionately people of color. Based on the success of the Child Tax Credit, a renters' tax credit should provide monthly support to the lowest-income renters who spend at least 30% of their gross income on rent and utilities. Through this design, a renter's tax credit could help serve the three in four households eligible for rental assistance who are unable to receive assistance because of chronic underfunding by Congress.

Conclusion

Thank you again for the opportunity to submit a statement for the record for this hearing on tax policy's role in affordable housing. By holding this hearing, the Committee is taking important steps in using the tax code to increase housing supply. NLIHC will continue to support efforts to expand and reform the Low-Income Housing Tax Credit so that it better meets the needs of extremely-low income families. We look forward to working with members of the Committee to enact vital tax policy that improves families' access to affordable housing.

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