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HoUsed Campaign

Senate Committee Holds Hearing on Expanding Opportunity through Infrastructure Investments

The Senate Banking, Housing, and Urban Affairs Committee held a [remote hearing](#) on May 20 regarding “21st Century Communities: Expanding Opportunity Through Infrastructure Investments.” The hearing discussed how the American Jobs Plan Act will include important investments in housing and transit to address the nation’s housing affordability crisis and support low-income communities and jobs. The hearing highlighted the importance of housing as infrastructure. HUD Secretary Marcia Fudge and Transportation Secretary Pete Buttigieg testified.

In her testimony, Secretary Fudge detailed the importance of investing in housing in the next bill:

“Our homes are bedrock, brick and mortar institutions that lay the foundation for a stronger and more connected society—just like our roads, our highways, and our airports. To put it simply, our homes serve as a bridge to greater opportunities and a better life...To pass an infrastructure plan that fails to address our affordable housing crisis would be akin to building a road that leads to nowhere.”

Secretary Fudge addressed concerns raised by Ranking Member Pat Toomey (R-PA) that Emergency Housing Vouchers would be available to illegal immigrants due to documentation-requirement waivers (see *Memo*, [05/10](#)). Secretary Fudge reiterated [previous comments](#) by HUD Senior Advisor Richard Cho correcting this misconception, clarifying that Emergency Housing Vouchers are limited by statute to U.S. citizens and people with legal residency.

Secretary Fudge also addressed Senator Toomey’s concerns about the amount of funding allocated for public housing in the American Jobs Plan and whether it should be shifted to vouchers. Secretary Fudge responded, “The problem is that we have people in public housing now and we do not have enough housing for the demand. We still have to take care of the people in the public housing. . . . For many, many years we have not invested significantly in capital needs of public housing. . . . Even though I agree that we need to find ways to move people into other housing in communities with better opportunities, we still have to deal with the issues we currently have.”

In response to Chairman Sherrod Brown’s (D-OH) question on local leaders’ limitations on transportation and what an extensive infrastructure package can do, Secretary Buttigieg responded, “Certainty local leaders have visionary plans for transportation in their communities but with the resources that have been available, often it’s taken heroic creativity to keep things operating the way they are. . . . With the right resources, the kinds of resources contemplated in the Americans Jobs Plan, we can meet the leaders where they are.”

Some senators raised concerns that exclusionary zoning and discriminatory housing practices have contributed to the ongoing housing crisis. Secretary Fudge addressed these concerns, stating, “NIMBYism (Not in My Backyard) increases the cost of housing and limits where you can build housing. It makes it so you cannot build or makes it more expensive to build. It also says to low-income people and people of color that we don’t want you to live in our neighborhood.” Secretary Fudge further stated that there is funding available and technical assistance in the American Jobs Plan to incentivize communities to address exclusionary zoning, bans on multifamily constructions, and other barriers to more affordable housing.

Senators Tim Scott (R-SC) and Krysten Sinema (D-AZ) raised the importance of manufactured housing and their concerns about disaster recovery and affordability due to construction costs. Secretary Fudge stated that HUD supports manufactured housing, and guidance should be out by the end of the year. Secretary Fudge also addressed the shortage of homes, stating that the American Jobs Plan will assist with this issue on both the supply and demand side.

Senator Tina Smith (D-MN) asked Secretary Fudge how the American Jobs Plan will create more job opportunities. Secretary Fudge stated that through apprenticeship programs, preparing people for construction jobs, and ensuring that contracts and employment are given to people from certain geographic areas, the American Jobs Plan will allow a more focused jobs-creation effort.

Some senators also spoke about legislation they have introduced or plan to introduce related to housing. Senator Kevin Cramer (R-ND) spoke about a bill he [introduced](#) with Senator Chris Coon (D-DE) that would increase the number of rental units that accept Housing Choice Vouchers in high-opportunity neighborhoods. Senator Elizabeth Warren (D-MA) spoke about her recently [reintroduced](#) bill, the “[American Housing and Economic Mobility Act](#),” which seeks to produce nearly 3 million new housing units, reduce rents by 10%, address the racial wealth gap, and reduce exclusionary zoning laws. Senator Chris Van Hollen (D-MD) and Senator Todd Young (R-IN) plan to reintroduce the “[Family Stability and Opportunity Vouchers Act](#)” (see *Memo*, [12/23/2019](#)) which would create 50,000 additional housing vouchers specifically designed for low-income families with young children. Senator Robert Menendez (D-NJ) stated that he plans to reintroduce the “[Livable Communities Act](#),” to fund coordinated development of affordable housing and transit to expand economic opportunities.

A recording of the confirmation hearing can be found at the Senate Committee, on Banking, Housing, and Urban Affairs website at: <https://bit.ly/3u7bcgp>

Read HUD Secretary Fudge’s written testimony at: <https://bit.ly/3vbqh1H>

Learn more about the American Jobs Plan at: <https://tinyurl.com/4m6a4cxc>

Bipartisan Infrastructure Negotiations Slow as Memorial Day Deadline Approaches

Bipartisan negotiations between the Biden administration and congressional Republicans over the president’s approximately \$2.3 trillion infrastructure proposal have slowed. The White House released on May 21 a \$1.7 trillion counter-offer to Senate Republican’s earlier \$568 billion proposal (see *Memo*, [4/26](#)), reducing investments in broadband, roads, bridges, research and development to bring the bill’s cost closer to a number Republicans could find acceptable. However, the proposal maintains tax increases on corporations and the wealthiest Americans to help pay for the cost of the investments, which Senate Minority Leader Mitch McConnell (R-KY) called a “non-starter.”

While the White House says they remain hopeful a bipartisan agreement can be reached, lawmakers are running up against a “soft deadline” to make progress on a bipartisan agreement by Memorial Day. NLIHC is working to ensure that Congress includes in any infrastructure spending plan comprehensive resources to achieve housing justice, including these priorities from the HoUSed campaign:

- Expansion of rental assistance to every eligible household;
- \$70 billion to repair public housing and make energy-efficient upgrades to existing public housing; and
- At least \$40 billion annually for the national Housing Trust Fund to build and preserve homes affordable to people with the lowest incomes.

Take action by signing your organization on to a national letter urging Congress to support robust investments in affordable housing at: <https://tinyurl.com/zbau4kee>

Learn more about NLIHC’s HoUSed Campaign at: <https://nlihc.org/housed>

President Biden Signs Memorandum to Expand Access to Legal Representation

President Biden signed on May 18 a [Presidential Memorandum](#) reasserting the federal government’s role in expanding access to legal representation and court systems by reinstating two initiatives related to access to counsel. The memo directs the Department of Justice (DOJ) to outline a plan to expand the agency’s “[Access to Justice](#)” initiative. The initiative, started under the Obama administration and ended under the Trump administration, aims to promote access to legal assistance and court systems, ensure fair and just outcomes in courts, and increase the efficiency of court systems.

Attorney General Merrick Garland has 120 days to submit a plan on how to expand the initiative to advance policies and practices that support the development of legal aid at the state and federal level; promote access to legal solutions that are less lawyer- and court-intensive; and expand research on innovative strategies to increase the availability of quality legal assistance.

The memo also commits the DOJ to re-establishing the White House Legal Aid Interagency Roundtable, a group designed to help federal agencies better understand how legal aid attorneys can expand access to federal programs. Most notably, the goal of the roundtable is to “identify ways to address some of the most pressing legal services challenges that we face today – including those posed by the COVID-19 pandemic.” This provision may provide an opening to expand legal aid attorneys’ role in enforcing renter protections, help households apply for emergency rental assistance, and bring legal action against landlords who violate a state, local, or federal eviction moratoriums.

Read the Presidential Memorandum at: <https://tinyurl.com/wet3tzcc>

Senator Cortez Masto Introduces Bill to Expand National Housing Trust Fund

Senator Catherine Cortez Masto (D-NV) on May 19 introduced the “[Affordable Housing Production Act](#).” The bill would amend the “Emergency Economic Stabilization Act of 2008” and would make more funding available for the national Housing Trust Fund (HTF) by redirecting Troubled Assets Relief Program (TARP) funds returned to the Department of Treasury. This would result in an estimated investment in HTF of between \$500 million and \$1.4 billion. The bill is cosponsored by Senators Alex Padilla (D-CA), Dianne Feinstein (D-CA), Jeff Merkley (D-OR) and Bernie Sanders (D-VT). Companion legislation, [H.R. 2292](#), was introduced in the House by Representative Norma Torres (D-CA) (see *Memo*, [04/05](#)). NLIHC supports this legislation.

Read more about the bill at: <https://bit.ly/3yr77aj>

Read the press release at: <https://bit.ly/3bEngPS>

Senators Introduce Bipartisan Bill to Increase Choice for Voucher Holders

Senators Chris Coons (D-DE) and Kevin Cramer (R-ND) introduced on May 20 the “[Choice in Affordable Housing Act](#)” to expand and improve the Housing Choice Voucher (HCV) program. The bill would increase funding for and remove programmatic barriers in the HCV program to increase the number of rental units that accept HCVs, also called Section 8 tenant-based rental assistance. NLIHC supports the “Choice in Affordable Housing Act” and urges Congress to enact the bill, along with investments to [expand rental assistance](#) and [strengthen and enforce renter protections](#), to help ensure that people with the lowest incomes and the most marginalized people have stable, affordable homes. The bill is also endorsed by the National Housing Law Project, the Poverty & Race Research Action Council, and other low-income housing advocates.

Landlord participation in the HCV program, which determines the number of available homes and where they are located, is declining, with an average of [10,000 housing providers](#) having left the program each year between 2010 and 2016. The “Choice in Affordable Housing Act” would invest \$500 million to increase voucher holders’ housing choices and improve access to high-opportunity areas by offering incentives to landlords, including signing bonuses to landlords, security deposit assistance, and a financial bonus to public housing agencies (PHAs) that retain a dedicated landlord liaison on staff.

In addition to financial incentives, the “Choice in Affordable Housing Act” would reduce programmatic barriers in the HCV program to help attract and retain landlords. The bill would require the U.S. Department of Housing and Urban Development (HUD) to expand its 2016 rule requiring the use of Small Area Fair Market Rents in certain metro areas to increase the value of rental assistance, reduce inspection delays, and refocus HUD’s evaluation of PHAs to promote an increase in the diversity of neighborhoods where vouchers are used. To help renters on tribal land, the bill would also increase funding to the Tribal HUD-VA Supportive Housing program.

A [growing body of research](#) finds that rental assistance can improve health and education outcomes, increase children’s chances of long-term success, and increase racial equity. “Housing is the foundation to a safe, healthy, and productive life, and by increasing the number of landlords that accept Housing Choice Vouchers, more Americans will have greater choices and opportunities in finding a home to build their foundation upon,” said Senator Coons.

Read the bill text at: <https://bit.ly/2SflhKK>

Read the press release introducing the “Choice in Affordable Housing Act” at: <https://bit.ly/3wp5vvL>

Learn more about the “Choice in Affordable Housing Act” at: <https://bit.ly/3v3kjQt>

Join NLIHC’s National Call on “HoUSed: Universal, Stable, and Affordable Housing” Today at 2:30 pm ET

Join today’s (May 24) national HoUSed campaign call from 2:30-4 pm ET. Senator Mazie Hirono (D-HI) will join the call to discuss the importance of including substantial affordable housing investments in the “American Jobs Plan.” We will provide an update on emergency rental assistance; hear the latest from Capitol Hill; receive updates from the field; and more.

Register for the call at: <https://tinyurl.com/ru73qan>

See the full agenda [here](#).

Recording Available of NLIHC’s May 17 National Call on “HoUSed: Universal, Stable, and Affordable Housing”

During the most recent national “HoUSed: Universal, Stable, and Affordable Housing” call, we were joined by Senators Amy Klobuchar (D-MN) and Patty Murray (D-WA), who discussed the need for affordable housing investments in the “American Jobs Plan.” We also learned about how HUD’s Emergency Housing Voucher (EHV) program can help survivors of domestic violence, dating violence, sexual assault, stalking, and human trafficking find safe, stable housing; received updates on emergency rental assistance (ERA) implementation; heard the latest on the Centers for Disease Control and Prevention (CDC) eviction moratorium; received updates from the field and Capitol Hill; and more.

Senator Klobuchar shared how federal assistance helped her family find an affordable home when she was growing up and emphasized how the pandemic has underscored the vital importance of safe, affordable housing for all. She noted the importance of expanding the supply of affordable housing stock and increasing federal support for affordable housing. Senator Murray discussed the housing provisions in the *American Rescue Plan Act* and highlighted the need for continued investments in the nation's housing infrastructure in order to adequately address the underlying causes of the affordable housing crisis.

Karlo Ng of the [National Alliance for Safe Housing](#) (NASH) discussed HUD's latest guidance for the [EHV program](#) authorized in the *American Rescue Plan Act*. EHV's are specifically for people at risk of or experiencing homelessness, and those fleeing domestic violence, dating violence, sexual assault, stalking, or human trafficking. Karlo shared how the guidance can be used to help survivors find safe, stable, affordable, and accessible housing, and made suggestions for how Public Housing Authorities and Continuums of Care can form partnerships with domestic violence and sexual assault agencies in their areas to connect survivors to vouchers.

NLIHC's Rebecca Yae and Neetu Nair provided an update on tracking ERA programs across the country. As of May 10, NLIHC was tracking 351 ERA programs, representing 65% of jurisdictions that received ERA funds from Treasury and over \$20.5 billion of the almost \$47 billion allocated for ERA. Rebecca and Neetu also shared information about NLIHC's new [ERA Dashboard](#), which tracks the status and design of ERA programs, and the new [ERA Resource Hub](#) loaded with materials to help programs implement best practices for equitable rental assistance distribution.

Arjuna Heim and Abbey Seitz from [Hawaii Appleseed](#) gave a field update, NLIHC's Sarah Saadian provided an update from Capitol Hill, and NLIHC's Jen Butler shared tips and insights on effective communication strategies for pushing forward the [HoUSed campaign's legislative priorities](#).

NLIHC hosts national calls every week. On today's call, we will be joined by Senator Mazie Hirono (D-HI). Register for today's call (Monday, May 24 at 2:30 pm ET) at: <https://tinyurl.com/ru73qan>

Watch a recording of the May 17 call at: <https://tinyurl.com/4heh5y8e>

Access presentation slides at: <https://tinyurl.com/473u69x8>

Emergency Rental Assistance

NLIHC Launches Emergency Rental Assistance Resource Hub

NLIHC launched an Emergency Rental Assistance (ERA) [Resource Hub](#) to facilitate resource-sharing across ERA programs. This hub includes resources from programs funded by the \$25 billion Treasury ERA program appropriated by the December 2020 Consolidated Appropriations Act (ERA1). In the coming weeks, the hub will include information and data regarding the \$21.6 billion appropriated by the American Rescue Plan Act (ERA2). The hub offers a shared space for administrators to access tools and customizable examples to adapt ERA programs to meet new federal guidelines and will be updated regularly to respond to emerging resource needs among administrators.

The most recent [Treasury guidance](#) for emergency rental assistance programs strongly encourages programs to avoid establishing burdensome documentation requirements, requires ERA2 programs to provide direct-to-tenant assistance, and requires programs to explicitly state how they will prioritize applicants, among other notable changes. The [ERA Resource Hub](#) facilitates resource sharing across programs, particularly as administrators begin incorporating this guidance into their program design. Information for the Resource Hub

was collected from state and local partners and from program webpages. The hub includes program forms, applications, procedures, reports, and other materials to serve as adaptable examples. The hub currently includes resources related to: 1) self-attestation; 2) direct-to-tenant payments; 3) prioritization of beneficiaries; 4) streamlined applications; 5) program data dashboards; 6) evaluation reports; and 7) program outreach.

Examples of resources included on the hub include self-attestation forms for applicants to attest to their income, place of residency, experiencing a COVID hardship, and experiencing housing instability. Some forms allow for self-attestation across multiple criteria. Direct-to-tenant forms from Cameron County, Texas and Elkhart County, Indiana provide examples of the kind of documentation programs are requiring when funding tenants directly. The hub also includes data dashboards from the State of Texas, San Antonio, Hawaii County, and Fulton County. These dashboards help ensure program transparency and integrity and can help administrators make mid-course program improvements. NLIHC will continually update the hub with new resources to reflect relevant trends and best practices.

In addition to the Resource Hub, NLIHC recently launched an [ERA Dashboard](#) and [Program Table](#) to monitor which programs are adhering to the new Treasury guidelines and to provide an easily searchable (mobile friendly) database for renters to use to find emergency rental assistance programs.

If your ERA program would like to share resources for the ERA Resource Hub, please email: research@nlihc.org

HUD PIH Posts FAQs Regarding Public Housing and Voucher Households Receiving Emergency Rental Assistance

HUD's Office of Public and Indian Housing (PIH) posted "[Frequently Asked Questions on the U.S. Treasury's Emergency Rental Assistance \(ERA\) and Other Rental Assistance Programs](#)" addressing nine questions regarding the potential for public housing and Housing Choice Voucher residents to receive rent and utility assistance from the U.S. Treasury Department's Emergency Rental Assistance (ERA) program (see *Memo, 5/10*).

Q1 states that public housing authorities (PHAs), Housing Choice Voucher (HCV) landlords, and utility providers may accept funds from the ERA program to cover past-due rent and most utility arrearages for HUD-assisted families. However, before a PHA accepts ERA funds, PIH advises PHAs complete any pending or requested interim income reexaminations. If a family experiences a decrease in income, they can request their PHA conduct an interim income reexamination so their portion of the rent can be adjusted downward. PHAs are encouraged to make the new tenant rent effective the month after the loss of income occurred. If the interim income reexamination already occurred, a PHA should consider making a previously completed interim income reexamination effective for the new tenant rent the month after the change. These recommendations are repeated throughout many of the FAQs.

For utility costs, a family may receive ERA for the utility arrearage that exceeds a PHA's utility allowance. Families may also be eligible to receive ERA assistance for other housing-related expenses and internet service.

Q4 clarifies that ERA payments are not regarded as income. Q3 indicates that a family may receive ERA funds directly and use it to pay their public housing or HCV rent. Q2 states that PHAs cannot accept ERA funds for prospective rent payments for public housing or HCV residents.

To determine whether a family is participating in a rental assistance program, Q5 notes that Treasury advised in its ERA FAQs that grantees administering ERA funds "may rely on an attestation from the applicant regarding nonduplication with other government assistance in providing assistance to a household." For example, families

may be asked if they receive rental assistance from a PHA for a voucher or if they live in public housing or a property with Section 8 assistance. ERA grantees may ask for a copy of a lease or verification of the amount owed in arrearage. PHAs and participating landlords may provide this information if a family consents.

Residents and advocates might want to focus on Q6 because it is a nice one-page summary repeating key provisions peppered throughout, but with separate provisions tailored to the public housing and HCV programs.

Q7 notes that ERA payments may not only cover rent arrearages but also accrued late fees. While Q8 declares that PHAs cannot forgive rent owed by a public housing household or reduce the amount of rent owed, they may remove any fees assessed for missed rent. Q9 adds that an HCV landlord may agree to reduce the amount of rent owed. It also states that an HCV landlord may terminate a tenancy for nonpayment of rent or other amounts due, as long as they is not acting contrary to an existing eviction moratorium.

The PIH FAQ is at: <https://bit.ly/3yrzK70>

More information about ERA from NLIHC is at: <https://nlihc.org/rental-assistance>

More information about public housing is on [page 4-30](#) of NLIHC's *2021 Advocates' Guide*.

More information about Housing Choice Vouchers is on [page 4-1](#) of NLIHC's *2021 Advocates' Guide*.

Coronavirus, Disasters, Housing, and Homelessness

Disaster Recovery and Disability Justice Advocates to Hold May 26 Webinar on FEMA Public Assistance Reimbursements

NLIHC, in partnership with the Association for the Preservation of Rural Independent Living (APRIL), the World Institute on Disability, and the Partnership for Inclusive Disaster Strategies, will host a webinar entitled "Emergency Relocations and Non-Congregate Sheltering: Using Federal Disaster Recovery Resources to Save Lives" on May 26, 1-2:30 p.m. ET. Register for the free webinar [here](#).

Individuals with disabilities are among the groups most vulnerable to COVID-19. Both congregate shelters and congregate care facilities place unhoused individuals and those with disabilities at greater risk of COVID-19 infection and death. While some Centers for Independent Living (CILs) are attempting to access FEMA reimbursements to pay for the cost of moving individuals with disabilities out of congregate facilities and into hotels, others have been unable to do so, being informed by local governments that they plan to only work with shelter providers. Given the dangers congregate care facilities pose during a pandemic and the interconnected nature of independent living, housing, and homelessness, advocates in these respective fields must work together to ensure that FEMA and HUD assistance can be accessed and utilized to care for those most in need during this pandemic and during future disasters.

The May 26 webinar will focus on how this disparity in assistance occurred, its implications, and how housing and disability justice advocates can move forward to ensure that this assistance can be accessed by all.

The webinar will be moderated by Dara Baldwin, director of National Policy at the Center for Disability Rights. Panelists will include Marcie Roth, executive director of the World Institute on Disability; Priya Penner of the Partnership for Inclusive Disaster Strategies; and Jodey Baney, director of Programs and Services at the Roads to Freedom Center for Independent Living of North Central Pennsylvania.

Register for the free webinar at: <https://bit.ly/3vbxgYr>

Public Participation Essential in Post-Disaster Recovery Planning

An article in the *Natural Hazards Review* by Sara Hamideh, “[Opportunities and Challenges of Public Participation in Post-Disaster Recovery Planning: Lessons from Galveston, TX](#),” explores public participation in post-disaster recovery planning after Hurricane Ike using qualitative interviews and analysis of historical documents. The article identifies six themes around opportunities and challenges for participatory recovery planning. Including marginalized groups and displaced households is among the most significant challenges. The author concludes with recommendations for how pre-disaster planning for public engagement can improve outcomes in future post-disaster recovery planning efforts.

The City of Galveston created the Galveston Community Recovery Committee (GCRC) to solicit broad public participation in recovery planning following Hurricane Ike. Hamideh chose the GCRC as a case study because little is known about public participation in post-disaster recovery planning in the U.S. context. She conducted qualitative analysis of GCRC’s efforts using over 300 historical documents and in-depth, semi-structured interviews with 18 stakeholders representing 21 organizations.

Hamideh identified six major themes characterizing the challenges and successes of public participation in the GCRC’s post-disaster recovery planning process. Four themes pertained to the GCRC’s challenges with public engagement: inclusion of marginalized groups, disagreements over forming the committee, handling conflicting ideas, and ensuring implementation of the projects. The GCRC failed to include sufficient participation from marginalized groups, while white, older, professionals were overrepresented. Displaced residents were not adequately represented, particularly Public Housing tenants who were displaced from Galveston after their homes were destroyed and not rebuilt.

Some participants took issue with how the city initially formed the GCRC and with its size. Communication about the initial formation of the GCRC was poor and 248 people were allowed to participate in the group, creating significant challenges for reaching consensus about priorities in a short amount of time. The GCRC was also averse to resolving conflicting recovery priorities advocated by participants and failed to consider the feasibility of many priorities it ultimately adopted.

The two other themes, generating diverse new ideas and the effectiveness of project champions in developing projects, relate to the successes of GCRC’s public engagement. Stakeholders broadly felt enthusiastic about the opportunity for input in the process and contributed a diverse range of ideas for recovery planning. Project champions, especially those whose project ideas pre-dated Hurricane Ike, were particularly successful in utilizing the GCRC process to gain support for and implement community projects.

Hamideh offers several recommendations for improving future participatory recovery planning. Most of the recommendations center on better pre-disaster planning. Among the key recommendations are having a pre-existing plan for including communities in recovery planning, building long-term relationships with trusted groups in marginalized communities, planning for how to include displaced residents across a wide geographic range, and ensuring adequate staffing and resources for city planning departments to handle both recovery-related planning and day-to-day obligations in a post-disaster context.

“Opportunities and Challenges of Public Participation in Post-Disaster Recovery Planning: Lessons from Galveston, TX” is at: <https://bit.ly/3fBkqMq>

Lawmakers Reintroduce Bill to Increase Access to FEMA Disaster Assistance

Senator Elizabeth Warren (D-MA) and Representative Adriano Espaillat (D-NY), along with Congresswoman Jennifer Gonzalez Colon (PR), [reintroduced](#) the “[Housing Survivors of Major Disasters Act](#).” The bill was written with input from NLIHC’s Disaster Housing Recovery Coalition (DHRC) and includes several of the coalition’s top priorities. The House of Representatives unanimously passed last year’s version of the bill.

The bill addresses significant title-documentation challenges that have resulted in thousands of eligible disaster survivors being wrongfully denied FEMA assistance. FEMA turns away eligible disaster survivors unable to present property title, written leases, and other similar documents to show residency and occupancy of disaster-damaged property. In areas where mobile homes and alternative property ownership methods are prevalent, such as in Puerto Rico, the Gulf Coast, Northern California, and the Pacific Northwest, disaster survivors can be prevented from accessing aid because of this requirement.

After Hurricane Maria in 2017, 77,000 households in Puerto Rico were wrongfully denied assistance by FEMA due to title-documentation issues. The bill would create a new framework to make it easier for disaster survivors to prove residency in disaster-impacted areas or ownership of a disaster-damaged home through a “declarative statement” form attesting to their ownership of the property or through the submission of utility bills, credit card statements, pay stubs, and school registration. These changes ensure that disaster survivors with low incomes would be able to access the assistance they need without being forced to endure a lengthy and complicated title clearing process or otherwise go without much-needed assistance.

“Our federal disaster relief programs have been failing for too long. Survivors of natural disasters – from Puerto Rico to Iowa – have been denied assistance due to federal relief programs’ bureaucratic barriers and nonsensical documentation requirements,” said Representative Espaillat in a [press release](#) announcing the reintroduction. “This vital legislation received bipartisan praise in the House last year precisely because of its material importance to the modernization of our disaster relief programs and the immediate health and safety of thousands of US citizens in Puerto Rico and elsewhere.”

“Catastrophic natural disasters from Puerto Rico to California have devastated families and left them searching for safe, stable and affordable housing” said Senator Warren in the same press release. “The Housing Survivors of Major Disasters Act would push the Federal government to step up for these families and make it easier for them to access the help they are entitled to and desperately need.”

Read more about title-documentation challenges in Puerto Rico at: <https://bit.ly/3tLRlIhe>

Read the text of the Housing Survivors of Major Disasters Act at: <https://bit.ly/3brqKVL>

Read the press release announcing the reintroduction at: <https://bit.ly/3olq9dA>

Committee Leadership Sends Bipartisan Letter Demanding Answers from FEMA amid Dramatic Decrease in Disaster Assistance

The leadership of the House Transportation and Infrastructure Committee sent a [letter](#) on May 13 to newly-confirmed FEMA Administrator Deanne Criswell demanding answers to historically low approval rates for FEMA’s disaster recovery assistance programs. The bipartisan letter was signed by Committee Chairman Peter DeFazio (D-OR) and Ranking Member Sam Graves (R-MO), as well as Subcommittee on Economic Development, Public Buildings, and Emergency Management Chair Dina Titus (D-NV) and Ranking Member Daniel Webster (R-FL). The authors cited a recent *Washington Post* [article](#) that placed the current approval rate for FEMA’s Individuals and Households Program (IHP) – FEMA’s main program for providing assistance payments to individual disaster survivors – at 13% so far this year. The letter cited past legislation that directed

FEMA to expand assistance to disaster survivors and called the current approval rate “troubling” and “counter to the Agency’s mission of ‘helping people before, during, and after disasters.’”

The letter also cited a 2020 Government Accountability Office (GAO) [report](#), which contained several recommendations to improve access to FEMA assistance that have yet to be acted upon. These recommendations included improving the language used in assistance determination and appeal letters and providing clear information to disaster survivors about how decisions regarding eligibility and award amounts are made. The letter reiterated the importance of clear communication, saying that “interacting with FEMA and its officials is one of the only personal interactions that many Americans have with the federal government, a lifeline that—depending on the frequency of disasters—hundreds of thousands depend upon each year during their moments of greatest need. Given FEMA’s role as the lead federal agency for coordinating disaster response and recovery, the agency’s communications and processes must be clearer and more accessible for survivors.”

Along with requesting a status update on the agency’s efforts to comply with the GAO recommendations, the letter requested other updates and documents from FEMA, including the documents provided to disaster survivors regarding the IHP program application process and eligibility determinations and scripts and other documents used by FEMA staff to conduct applicant intake. The letter requested that FEMA provide justification for the agency’s claim that it had received over 130,000 fraudulent registrations for disaster assistance in the last 18 months, whether the agency has used initial assistance denials to defer fraud, whether the agency is working to communicate the appeals process more clearly, and how the agency ensures that applicants with limited proficiency in technology are able to apply for its programs.

The concerns expressed in this letter echo those of NLIHC’s Disaster Housing Recovery Coalition (DHRC), a group of over 850 local, state, and national groups working to ensure that all disaster survivors receive the assistance they need to fully recover. The DHRC published its recommendations in a 2020 report coauthored with the Fair Share Housing Center of New Jersey entitled “[Fixing America’s Broken Disaster Housing Recovery System](#)” and will continue to push for greater equity and accessibility for FEMA’s programs.

Read the committee leadership’s letter at: <https://bit.ly/2SV3VU9>

Read the GAO report at: <https://bit.ly/3tMOji9>

Read the *Fixing America’s Broken Disaster Housing Recovery System* report at: <https://bit.ly/3ojRyMF>

Additional Coronavirus Updates – May 24, 2021

Upcoming Event

Join NLIHC, along with the Association of Programs for Rural Independent Living (APRIL) and the Partnership for Inclusive Disaster Strategies, on Wednesday, May 26 at 1 pm ET for a [webinar](#) on “Emergency Relocations and Non-Congregate Sheltering: Using Federal Disaster Recovery Resources to Save Lives.” [Learn more about the webinar and register!](#)

National Updates

Department of Housing and Urban Development

HUD Secretary Marcia Fudge on May 17 [announced](#) an allocation of \$5 billion in American Rescue Plan funds for emergency housing vouchers for individuals and families who are experiencing homelessness or at risk of

homelessness. Through the [Emergency Housing Voucher \(EHV\) program](#), HUD is providing 70,000 vouchers to local public housing authorities.

Department of Treasury

The U.S. Department of the Treasury [announced](#) on May 13 that it has distributed \$742 million to 42 states and three territories through the [Homeowner Assistance Fund](#) (HAF) established by the American Rescue Plan.

Internal Revenue Service (IRS)

The [IRS is urging](#) organizations that work with underserved individuals to share information about Economic Impact Payments, the upcoming advance Child Tax Credit, and other tax details to help eligible people file a tax return so they can receive the benefits to which they are entitled to. People who do not have a permanent address or a bank account may still qualify for stimulus payments and other credits, including the advance Child Tax Credit.

Advocacy & Research

A research brief in [Child Trends](#) finds that as the federal eviction moratorium ends, households with children face a greater risk of homelessness. To prevent these families from experiencing housing instability or homelessness, state and federal policymakers should provide rental and mortgage assistance and additional resources.

Reporting

NLIHC President and CEO Diane Yentel spoke to [ABC News](#) about urgent efforts to get emergency rental assistance to renters before the federal eviction moratorium expires, and the need for Congress to invest in long-term solutions.

NLIHC Vice President for Research Andrew Aurand, Ingrid Gould Ellen of the NYU Furman Center, and Vincent Reina of the Housing Initiative at Penn wrote an article in [Shelterforce](#) outlining five ways to ensure that emergency rental assistance reaches communities of color with high levels of need.

The [Hill](#) reports that U.S. District Court Judge Dabney Friedrich agreed on May 14 to delay the enforcement of her ruling that struck down the federal eviction moratorium. In a [10-page ruling](#) granting the emergency stay, Judge Friedrich said the CDC's "strong interest in controlling the spread of COVID-19 and protecting public health" outweighed other factors, such as the potential loss of revenue to landlords. The Supreme Court [may be asked](#) to consider the CDC eviction moratorium. In a [four-page letter](#) to Judge Friedrich on May 17, the landlord group said they intend to ask both the intermediate appeals court in Washington and the Supreme Court to overturn her stay.

[Reuters](#) reports that a national landlord group brought its case challenging the CDC eviction moratorium to the 11th U.S. Circuit Court of Appeals. Alisa Klein of the Department of Justice highlighted that U.S. District Judge J.P. Boulee in Atlanta correctly [denied the injunction](#) last year.

State and Local News

California

The [Sacramento Bee](#) reports that despite temporary state eviction protections, roughly 600 people have been evicted in Sacramento County during the pandemic. Nearly half the evictions (277) occurred in high poverty communities. The figures do not include illegal eviction cases that never made it to court or those who self-evicted. When those evictions are factored in, the actual number of evictions is likely at least double, and could be as much as 10 times higher.

Florida

A three-part [Orlando Sentinel](#) special report examines how the COVID-19 pandemic has exposed Florida's eviction crisis. According to NLIHC research, Florida ranks among the states with the worst affordable housing shortages in the U.S. "When you pay so much of your already limited income towards your rent, you're always one financial shock away from missing rent and being evicted, in the worst cases becoming homeless," said NLIHC's Diane Yentel. "Pre-COVID, that financial shock might be a natural disaster, or it might be an everyday disaster, a broken-down car, a sick child and missing a day of work. Last March, the COVID-19 pandemic and its financial fallout was the financial shock."

Illinois

Governor Pritzker announced at a press conference on May 17 that Illinois would [end its eviction moratorium](#) in August 2021. The governor also announced that [Illinois residents](#) can now apply to receive the second round of emergency rental assistance funding. The Illinois Rental Payment Program will deploy multiple rounds of funding totaling \$1.1 billion to renters and landlords, and an additional \$400 million in rent assistance will be provided by larger municipalities.

Kentucky

The [State Journal](#) reports that despite the federal eviction moratorium, evictions have continued throughout the pandemic in Franklin County and across Kentucky and the nation. Frankfort shelters have made adjustments to accommodate social distancing guidelines and safety measures, and advocates have worked to spread information about the CDC moratorium and distribute rental assistance. "Our focus over the last year has been relentless on trying to save people's lives by either allowing them to remain healthy at home or trying to get them housed," said Adrienne Bush, executive director of the Homeless and Housing Coalition of Kentucky, an NLIHC state partner.

Maryland

Governor Larry Hogan on May 17 [announced](#) an additional [\\$192.9 million](#) in funding has been awarded to local governments and service providers through the [Emergency Rental Assistance Program](#).

The Maryland Department of Housing and Community Development created a new [emergency rental assistance webpage](#) with state and local eviction prevention resources. Residents can also contact the Maryland Emergency Rental Assistance Call Center at 877-546-5595, Monday through Friday 8 am to 7 pm, and Saturdays 9 am to 4 pm.

Minnesota

The [Mankato Free Press](#) reports that housing advocates in Minnesota are calling on lawmakers to pass legislation to keep people stably housed as nonprofits work to distribute federal rental assistance. The statewide eviction moratorium remains in place as long as Governor Tim Walz's state of emergency is in effect. Governor Walz extended the state of emergency into next month, but it is unclear if it will continue beyond June.

Missouri

With the federal eviction moratorium on shaky legal ground, [Missouri advocates](#) say the race to distribute federal emergency rental assistance has become much more urgent. Since the Missouri Housing Development Commission's online application for more than \$300 million in ERA went live on February 15, the commission has received more than 3,500 applications. They have approved 736 applications, totaling \$3.6 million.

North Carolina

Since April 2020, the [City of Charlotte](#) has allocated \$44.2 million to rent, mortgage, and utility relief and helped 11,400 households. Nearly 32,000 households, however, have applied for assistance with the majority of those denied due to documentation or eligibility issues.

Oregon

The [Salem Statesman Journal](#) compiled information on eviction protections and resources for struggling renters and homeowners.

Pennsylvania

Philadelphia Municipal Court President Judge Patrick Dugan on May 13 [extended](#) the city's ban on evictions and lockouts through June 30. The moratorium had been set to expire on May 17.

[Harrisburg Mayor Eric Papenfuse](#) extended the eviction moratorium for an additional 30 days. This fifth extension continues to ban the eviction, ejection, or displacement of tenants, and prohibits water shut-offs in the city for delinquency, non-payment, or violation of any payment plan.

Texas

In partnership with the Governor's Committee on People with Disabilities, the Texas Department of Housing and Community Affairs will hold a [webinar](#) on Tuesday, May 25 at 2 pm CT, providing information on how people with disabilities facing housing instability or eviction can apply for the Texas Rent Relief Program.

Washington

The [Washington State Supreme Court](#) has taken up a case concerning whether the CDC eviction moratorium applies in Washington state and supersedes Governor Jay Inslee's moratorium guidelines.

Washington, DC

The [DCist](#) reports the D.C. Court of Appeals on May 13 issued a stay pending appeal of a trial court's decision that The District's eviction moratorium is unconstitutional, meaning the trial court's decision will not go into effect as the appeals court reviews the case. Landlords are still barred from filing eviction cases while the moratorium remains in effect.

The [D.C. Council](#) voted down a controversial measure on May 18 that would have allowed landlords to resume sending eviction notices during the pandemic.

Guidance

Centers for Disease Control and Prevention (CDC)

[CDC Interim Guidance for Homeless Service Providers](#) – Updated May 17, 2021

Department of Housing and Urban Development

[HUD Office of Public and Indian Housing: FAQ on Treasury's Emergency Rental Assistance Program and Other Rental Assistance Programs](#) – May 12, 2021

Disaster Housing Recovery Updates – May 24, 2021

NLIHC's Disaster Housing Recovery Coalition convenes and supports disaster-impacted communities to ensure that federal disaster recovery efforts reach all impacted households, including the lowest-income and most marginalized people who are often the hardest-hit by disasters and have the fewest resources to recover.

Learn more about the DHRC's policy recommendations [here](#).

FEMA

FEMA released on May 17 the "[COVID-19 Pandemic Operational Guidance: All-Hazards Incident Response and Recovery](#)," a document to help emergency managers plan for disaster response and recovery while adhering to public health guidelines concerning the COVID-19 pandemic. FEMA is offering a [series of webinars](#) on the pandemic operational guidance throughout June.

Congress

The House Transportation and Infrastructure Committee sent a [letter](#) to FEMA Administrator Deanne Criswell on May 13 regarding ongoing challenges with FEMA's Individuals and Households Program (IHP). The letter states that FEMA's "disturbingly low" approval rate of individual assistance applications seemingly runs counter to the agency's mission of "helping people before, during, and after disasters." To ensure FEMA is better aiding individuals after disasters, the letter asks Administrator Criswell to respond to several significant questions and concerns raised by the committee about FEMA's IHP.

The "[Housing Survivors of Major Disasters Act](#)" was reintroduced in the House of Representatives on May 17. The legislation addresses the significant [title-documentation challenges](#) that have resulted in thousands of eligible disaster survivors being wrongfully denied FEMA assistance. The legislation would provide a new framework to make it easier for disaster survivors to prove residency in disaster-impacted areas or homeownership, either by completing a "declarative statement" form or by submitting a broader range of acceptable documents in lieu of a formal title to property or leases. The Housing Survivors of Major Disasters Act was introduced by Representative Adriano Espaillat (D-NY) and Senator Elizabeth Warren (D-MA) and unanimously approved by the House of Representatives in November 2020.

Major Flooding in South Central U.S.

At least [five people](#) are believed to have died amid [devastating storms in Louisiana](#) that have flooded roads, homes, and businesses. Lake Charles is still recovering from back-to-back hurricanes last year and the severe winter storm in February. "It was just a few weeks ago that President Biden was in Lake Charles to discuss infrastructure and hurricane recovery and here we are with another natural disaster that has set back those recovery efforts," said Louisiana Governor John Bel Edwards, who declared a [State of Emergency](#) on Monday (5/19) evening, allowing state resources to be used to aid local storm-response efforts.

[The Advocate](#) reports that the storms have inundated streets, stranded residents, and flooded hundreds of homes in Lake Charles. "We know that the amount of rain that portions of the City of Lake Charles sustained today will absolutely eclipse what we received from Hurricane Laura and will probably come close to what we received for Hurricane Delta," said Lake Charles Mayor Nic Hunter. Mayor Hunter said at least [400 to 500 homes](#) were affected by the floodwaters, and the Calcasieu Parish Sheriff's Office estimates up to [600 people](#) were displaced by the storm. The city is still waiting for a supplemental disaster relief package to help the region recover from the back-to-back hurricanes last year.

Advocacy and Research

The Center for Disaster Philanthropy held a [webinar](#) on "System Racism: Disasters Expose It – How Do We Address it?" on May 13. You can access the fully captioned [webinar recording](#) and [slide deck](#).

The Pew Charitable Trusts and the American Flood Coalition have created a new partnership to help states prepare for and adapt to natural disasters. The [State Resilience Partnership](#) convenes a broad range of stakeholders to evaluate and promote best practices in state-level resilience planning to natural disasters.

The National Hazards Center published a report, “[Baseline Data to Support Safe Communities, Healthy Ecosystems, and a Rejuvenated Future](#),” written by Kristina Peterson, Lowlander Center facilitator, and Julie Maldonado, associate director for the Livelihood Knowledge Exchange Network. The authors gathered baseline data to better understand hazardous risks in the locations affected by hurricanes Laura, Delta, and Zeta. The hurricanes are the latest in a history of layered disasters and co-occurring injustices to hit communities in Louisiana. The researchers sought to gather data that can be used to support the informed decision-making of individuals, families, and communities about their future well-being.

Congress

Senators Young and Schatz Reintroduce the “Yes in My Backyard Act”

Senators Todd Young (R-IN) and Brian Schatz (D-HI) on May 13 reintroduced the “[Yes in My Backyard Act](#) (YIMBY),” which aims to increase transparency and encourage affordable housing development in more communities by requiring Community Development Block Grant (CDBG) recipients to explain why they do not implement inclusive zoning practices that help increase housing opportunities for low- and middle-income residents. The bill was first introduced on June 20, 2019 (see *Memo*, [07/01/2019](#)) and passed the House after being introduced by Representatives Denny Heck (D-WA) and Trey Hollingsworth (R-IN) (see *Memo*, [03/09/2020](#)).

The YIMBY Act would encourage the implementation of 20 anti-discriminatory land-use policies to facilitate creation of new affordable housing in more communities. The list covers policies such as rezoning areas for high-density housing, encouraging mixed-use development and transit-oriented development, reducing minimum-lot-size requirements, allowing accessory dwellings, donation of vacant land, among other provisions. The bill would require CDBG grantees to submit a report every five years stating: 1) if they have implemented anti-discriminatory land-use policies, 2) if they plan to implement the policies, or 3) the reasons why they have not adopted the policies. These reports would have no impact on the amount of money grantees receive, however.

“Discriminatory local zoning and land use policies drive up housing costs in communities across America,” said Senator Young in a [press release](#). “These policies exacerbate the housing affordability crisis and stifle the ability of Americans to move to areas of opportunity. My legislation will require cities, towns, and rural areas across America to face this reality under a new level of transparency and encourage them to cut these harmful regulations.”

Read about the bill is at: <https://bit.ly/3wiv55x>

Senator Young’s press release about the bill is at: <https://bit.ly/3osNkCI>

Lawmakers, Advocates, and Residents Urge Improvements to Manufactured Housing

Lawmakers, advocates, and residents urged improvements to the quality and affordability of manufactured housing communities (MHCs). MHAAction, a national organization and movement of manufactured home community residents from across the U.S. held a webinar to announce the release of a new report detailing

manufactured housing resident experiences. Representative Cynthia Axne (D-IA) on May 19 introduced legislation to keep manufactured housing communities affordable, offering homeowners more protections and resources. The “[Manufactured Housing Tenant’s Bill of Rights](#)” would establish a minimum set of standards for manufactured housing communities’ tenants that receive federal financing through Fannie Mae, Freddie Mac, or the Federal Housing Administration. These rights include:

- The right to a 60-day written notice of rent increases or new added charges like water or sewer, with longer notice for larger increases
- The right to a one-year renewal lease absent good cause for nonrenewal and protection from evictions without cause
- The right for a tenant to sell their manufactured home without having to relocate it, as well as rights to sublet and post “for sale” signs on the home
- The right to a 5-day grace period for late rent payments and 60 days advanced notice of a MHC’s planned sale or closure

Representative Axne also reintroduced the “[Manufactured Housing Community Preservation Act](#)” which would create a new grant program to help nonprofits, resident-formed cooperatives, and other local entities purchase and maintain an MHC through awards of up to \$1 million. The bill was first introduced on January 1, 2020, then added to the [Moving Forward Act](#) (see *Memo*, 06/06/2020) through a unanimous vote. NLIHC supports Representative Axne’s bills.

The MHAction webinar included manufactured home residents from Michigan, Iowa, and Montana; Representative Axne; Dr. Esther Sullivan, professor of sociology at the University of Colorado Denver; Montana State Senator Brian Hoven; Iowa State Representative Christine Bohannon; and Linda Jun, senior policy counsel at the American for Financial Reform. Residents described their personal experiences of displacement, spikes in rent, and facing the predatory actions by Havenpark, which has bought manufactured home communities across the nation. The report tells the stories of residents who have seen the affordability and livability of their manufactured home communities decrease as Havenpark continues its predatory practices. The report calls on Havenpark, Enterprise Community Partners, state and federal elected officials, the Federal Housing Finance Agency, and Fannie Mae and Freddie Mac to take action to:

- Keep manufactured homes affordable with gradual, justified rent and fee increases and COVID-related rent relief;
- Keep manufactured home residents in their homes with good cause eviction requirements and COVID eviction protections;
- Make manufactured home communities safe and healthy with community maintenance;
- Treat residents decently and fairly; and
- Protect manufactured communities from predatory investors by supporting community ownership by residents, mission-driven nonprofits, and public entities.

In January of this year, Chairman of the Banking, Housing, and Urban Affairs Committee Sherrod Brown (D-OH) sent a letter to Fannie Mae and Freddie Mac on the trend of rent increases and resident displacement in MHCs. He wrote:

“I am writing regarding the increase in private equity investment in and ownership of manufactured housing communities and a troubling trend of rent increases and resident displacement in many of these communities. I have seen first-hand how residents in these communities, many of whom are elderly and have fixed incomes, have experienced rent and other housing cost increases with few consumer protections. The information I am requesting here will help me better understand Fannie Mae’s role in financing private equity-owned MHC properties and what resident protections, if any, are included in the Enterprise’s financing process.”

Learn more about the “Manufactured Housing Tenant’s Bill of Rights Act of 2021” at: <https://bit.ly/3v86Nv0>

Learn more about the “Manufactured Housing Community Preservation Act” at: <https://bit.ly/3hLFxhV>

Read Representative Axne’s statement on the bill: <https://bit.ly/3oEavu0>

Read MHAction’s “Displacement Inc.” report: <https://bit.ly/3wzVQ5R>

Read Senator Brown’s letter on manufactured housing: <https://bit.ly/3bJbO5r>

More information about manufactured housing is on page [6-17](#) of NLIHC’s 2021 *Advocate’s Guide*.

HUD

HUD Multifamily Office: Assisted Households are Eligible for Emergency Broadband Benefit

HUD’s Office of Multifamily Housing announced in an email newsletter on May 18 that Multifamily-assisted households are eligible to enroll in the [Emergency Broadband Benefit \(EBB\)](#), a Federal Communications Commission (FCC) subsidy program to help families and households struggling to afford internet service during the COVID-19 pandemic. Multifamily housing includes private, Section 8 Project-Based Rental Assistance housing, Section 202 Supportive Housing for the Elderly, and Section 811 Supportive Housing for Persons with Disabilities.

EBB provides a discount of up to \$50 per month toward broadband service for eligible households. Eligible households may also be able to receive a one-time discount of up to \$100 to purchase a laptop, desktop computer, or tablet from participating providers if they contribute more than \$10 toward the purchase price.

A household is eligible for EBB if a member of the household meets *one* of these criteria:

- Income at or less than 135% of the Federal Poverty Guidelines or participates in certain assistance programs such as SNAP, Medicaid, or [Lifeline](#)
- Approved to receive benefits under the free and reduced-price school lunch program or the school breakfast program, including through the USDA Community Eligibility Provision in the 2019-2020 or 2020-2021 school year
- Received a Federal Pell Grant during the current award year
- Experienced a substantial loss of income due to job loss or furlough since February 29, 2020, and the household had a total income in 2020 at or less than \$99,000 for single filers and \$198,000 for joint filers
- Meets the eligibility criteria for a participating Internet Service Provider’s existing low-income or COVID-19 program

People can find out if they qualify at: <https://bit.ly/3u6nFB1>

Encourage eligible households to enroll in one of three ways:

- Enroll online at: GetEmergencyBroadband.org
- Connect directly with [participating Internet Service Providers](#)
- Download and print mail-in applications (in [English](#) or [Spanish](#), with instructions available in [9 other languages](#), or call 833-511-0311 to receive applications in the mail)

Resources to use to promote EBB:

- Share [EBB Outreach Materials](#)
- Watch the FCC's [EBB Webinar](#)
- [EBB FAQ](#)

The latest information is available at the EBB website: www.fcc.gov/broadbandbenefit

Questions should be sent to: broadbandbenefit@fcc.gov

HUD PIH Issues Updated Tenant Participation Fund Guidance

HUD's Office of Public and Indian Housing (PIH) issued [Notice PIH 2021-16](#), updating guidance on the use of the \$25 per occupied unit Tenant Participation Fund. This notice supersedes [Notice PIH 2013-21](#). Of the \$25 per occupied unit provided by a public housing agency's (PHA's) Operating Fund Grant, a minimum of \$15 per occupied unit each year must be provided to duly elected Resident Councils at each public housing development and/or jurisdiction-wide council to carry out tenant participation activities. The \$10 per unit balance must be used by a PHA to pay carrying out activities under 24 CFR 964, subpart B, the resident participation regulations.

The updated notice echoes the 2013 version, but in general has more details.

Roles of PHAs and Resident Councils

Section 4 of the Notice discusses the roles of PHAs and Resident Councils (RCs). Unchanged is guidance stating that PHAs may need to provide or encourage RCs to seek technical assistance in administration, budgeting, and financial reporting to comply with HUD requirements for Tenant Participation (TP) funds and an RC's written agreement with a PHA. A PHA may use its portion of the TP funds to provide technical assistance and training in those areas. Also unchanged is that the guidance that states RCs and their leadership should play an active role in determining how TP funds will be used to improve the quality of life for public housing residents. Each RC has the ability to decide which activities they will pursue to use TP funds.

Written Agreements between PHAs and RCs

While the previous guidance required PHAs and RCs to enter into written agreements, [Notice PIH 2021-16](#) has an entire section nearly one-page long. PIH encourages PHAs and RCs to develop agreements that establish a collaborative partnership, provide flexibility, and support RC leaders' autonomy. The notice provides four minimum provisions that must be in a written agreement. It also has eight recommended best practices, for instance encouraging PHAs to provide a written explanation to an RC for any requested use of TP funds the PHA denies, describing why the request to use failed to meet established evaluation criteria. In a separate section, the notice provides 11 suggested evaluation questions similar to those in the 2013 version.

Financial Management

Section 5 is an entirely new section discussing financial management of TP funds. Section 5.A. adds that a PHA may fund an RC above the \$15 minimum. Also, the minimum amount of \$15 to be provided to an RC may be adjusted to reflect an Operating Fund Grant proration rate each year. PIH reminds PHAs that Operating Funds, which include TP funds, must be spent by the cancellation date defined by the appropriations act for that fiscal year. For example, Operating Funds after 2017 cancel in seven years.

PIH encourages PHAs to pay an RC the entire \$15 per unit by the end of a calendar year. Best practices limit the amount of time between distribution of funds and expenditure by an RC, such as quarterly disbursements. Any TP funds remaining in RC-controlled accounts at the end of a calendar may remain in those accounts for subsequent allowable RC expenses. To the extent \$15 per unit is not expended by a PHA because an RC did not use all of its available funds in a calendar year, there is no requirement for the PHA to pay the RC any remaining balance of the \$15 per unit the following calendar year.

If There is No Resident Council

Section 5. B. states if there is no duly elected RC, PHAs are encouraged to inform residents that TP funds are available and PHAs are encouraged to use up to \$10 per unit to carry out tenant participation activities, including training and building resident capacity to establish and operate an RC. If a duly elected RC is formed during the funding year, a PHA must provide the RC with a minimum of \$15 per unit to fund resident activities. These amounts must be available for this purpose for the entire funding year.

If there is interest by residents, a PHA may engage a jurisdiction-wide resident council or separate local RCs to implement local activities at developments that do not have an RC and may make available the TP funding allocated for that local development. In such a situation, if an RC is formed during the funding year, a PHA must provide the RC with the remaining balance of funds allocated for that local development.

At the end of a funding year, if a duly elected resident council has not been formed, a PHA may use the remaining TP amounts for resident participation activities for any eligible Operating Fund expense.

Increasing TF Funding at Other Developments

Section 5.C indicates that PHAs that do not expend TP funds at one public housing project may want to increase TP funding for an RC at another project. Additionally, an RC may transfer their TP funds to resident councils at other projects or to a jurisdiction-wide resident council. The guidance notes that the TP amounts referenced in the notice and in part 964 are minimums, not caps on the amount that can be spent on tenant participation activities because tenant participation is an otherwise eligible use of Operating Funds.

Using TP Funds in Mixed-Income Communities

As was allowed in 2013, public housing residents in mixed-income communities are eligible to use TP funds. The amount of TP funds used for eligible activities should be in proportion to the number of public housing residents living in the development. TP funds along with other sources of funds may be used to support resident participation and self-sufficiency activities benefitting all of a development's residents.

Allowable and Unallowable Expenses

Section 6 discusses allowable expenses in a very general way. The 2013 Notice included a non-comprehensive list of examples of allowable uses. It remains to be seen whether the lack of examples offers more greater flexibility for RCs to propose uses of TP funds or unduly enables PHAs to unreasonably deny proposed RC uses. The unallowable uses remain the same: purchase of alcoholic beverages, entertainment (such as trips to theme parks, sports events, parties), and organized fundraising costs.

Notice PIH 2021-16 is at: <https://bit.ly/33YLsZ4>

NLIHC's summary of superseded Notice PIH 2013-21 is at <https://bit.ly/3hKDiLE> and on NLIHC's public housing webpage at: <https://bit.ly/3ovp1UI>

NLIHC’s outline of key features of the Part 964 Resident Participation Regulations (prior to *Notice 2021-16*) is at <https://bit.ly/3hBOxGe> and on NLIHC’s public housing webpage at: <https://bit.ly/3ovp1UI>

More about resident participation is on [page 2-52](#) of NLIHC’s *2021 Advocates’ Guide*.

HUD Announces Section 3 Self-Paced Training Modules

HUD has posted a self-paced [“Understanding Section 3” training curriculum](#) on the HUD Exchange. The curriculum is intended to provide “participants” (meaning public housing agencies, local and state governments, and business contractors) with information enabling them to be well-versed about this provision of the Housing and Urban Development Act of 1968 and its implementing regulations. Final regulations were issued on September 29, 2020 (see *Memo*, [10/5/20](#)).

The online, self-directed training consists of eight modules that cover a variety of Section 3 topics:

1. Understanding Section 3
2. Implementing Section 3 Requirements
3. Procurement Requirements
4. Grantee Oversight Responsibilities and SPEARS (reporting)
5. Compliance and Monitoring
6. HUD Programs Covered by Section 3
7. Best Practices
8. Opportunity Portal

The materials also include a small contractors initiative training.

The purpose of Section 3 of the Housing and Urban Development Act of 1968 is to ensure that when HUD funds are used to assist housing and community development projects, “to the greatest extent feasible,” preference for some of the jobs and other economic opportunities created go to low-income people, “particularly those who are recipients of government assistance for housing.” Another Section 3 obligation is to support businesses owned or controlled by low-income people or businesses that hire them.

The Section 3 curriculum is at: <https://bit.ly/3f1LKEH>

More information about Section 3 is on [page 7-45](#) of NLIHC’s *2021 Advocates’ Guide*, and on NLIHC’s public housing website at: <https://bit.ly/3v4whJI>, including a [“Brief Summary and Analysis of the Final Section 3 Regulations”](#) and a [“Detailed Summary and Analysis of the Final Section 3 Regulations.”](#)

Fair Housing

HUD AFFH Interim Final Rule Clears Review

HUD’s [interim final rule](#) on Affirmatively Furthering Fair Housing (AFFH) has cleared review by the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB). The proposal has been at OIRA since April 12, 2021 (see *Memo*, [04/19](#)) and will now be sent to the House Financial Services Committee and the Senate Banking, Housing, and Urban Affairs Committee for a 15-day courtesy period (June 7, 2021). After this review period, the interim final rule will be published in the *Federal Register*.

The interim final rule is expected to restore the statutory definition to the AFFH rule but will not reinstate the 2015 rule. More details are expected to be released once it is reviewed at the appropriate committees and published in the *Federal Register*.

This latest action by HUD was conducted in accordance with a [memorandum](#) from President Biden to the secretary of HUD instructing the agency to redress the nation's long history of discriminatory housing practices and policies and reaffirming the administration's commitment to end housing discrimination. The memo also orders the HUD Secretary to take the necessary steps to implement the Fair Housing Act's AFFH requirement (see *Memo*, [02/01](#)).

HUD staff has assured NLIHC and other fair housing advocacy organizations that more information on the interim final rule is forthcoming. NLIHC will inform members and partners when more details and contents of the rule are posted.

The new AFFH Rule will have more information posted to OIRA once reviewed and published at: <https://bit.ly/2RuVtdW>

More information about AFFH is on pages [7-14](#) and [7-17](#) of NLIHC's *2021 Advocates' Guide*.

Racial Equity

Funders for Housing and Opportunity Seeks Input on Needs of BIPOC Leaders

As part of philanthropy's commitment to advancing racial justice and supporting BIPOC leadership in the housing field, [Funders for Housing and Opportunity](#) (FHO) has put together a brief survey to better understand the needs of housing organizers, activists, practitioners, and advocates who identify as BIPOC. The goal of the survey is to learn from BIPOC leaders in the field to understand their holistic leadership development needs. Results will be confidential, anonymous, and aggregated to help philanthropy deepen its support of BIPOC leaders. If you meet these criteria, FHO invites you to share your ideas at: <https://bit.ly/347WU4J>

The survey takes 15 minutes to complete and must be completed by **June 2, 2021**. Please also feel free to share the survey with others.

Low-Income Housing Tax Credit

NLIHC Joins Amicus Brief Urging Court to Uphold Right of First Refusal to Purchase a LIHTC Property

NLIHC joined the National Housing Law Project, Florida Housing Coalition, National Housing Trust, and others in an [amicus brief](#) urging the Third District Court of Appeal for the State of Florida to uphold the Opa-Locka Community Development Corporation's (OLCDC) Right of First Refusal of a purchase of a Low-Income Housing Tax Credit (LIHTC) property in the ruling in [Aswan Village Associates, LLC. vs. Opa Locka Community Development Corporation, Inc.](#)

Aswan Village is an affordable housing complex where residents' incomes are between 30 and 60 percent of the county's median income. The property was going to be sold to an equity firm in New York, which sparked concerns that the 216-unit complex will no longer be affordable. OLCDC sued HallKeen Management, a property management company, over the ownership stakes of the complex after the company did not comply

with the non-profit organization's right of first refusal under Section 42 of the Internal Revenue Code (IRC), the section that establishes the LIHTC program.

NLIHC writes in support of the OLCDC to preserve the affordability and viability of LIHTC projects through long-term nonprofit control.

Read the brief at: <https://bit.ly/3f8IEyC>

Opportunity Starts at Home

Research

Fact of the Week

From the Field

NLIHC is Hiring

NLIHC News

NLIHC in the News