

Wrap Up of Legislation in First Session of 110th Congress

By the National Low-Income Housing Coalition¹

To kick off the New Year, we have rounded up the major housing policy issues we expect Congress to work on in 2008, the second session of the 110th Congress. While progress was made in 2007, there is much unfinished business for 2008. Senate Committee on Banking, Housing and Urban Affairs Chair Christopher Dodd (D-CT) formally dropped out of the presidential race on January 4. The pace of that committee's work is now expected to increase.

The House and Senate returned for legislative business on January 15 and 22, respectively. The President delivered his State of the Union address on January 28. On February 4, the President delivered his FY 09 budget request to Congress, marking the official start of FY 09 budget and appropriations season.

National Housing Trust Fund

The National Housing Trust Fund made great progress in the first session of the 110th Congress. On October 10, under the leadership of House Committee on Financial Services Chair Barney Frank (D-MA), the National Affordable Housing Trust Fund Act of 2007, H.R. 2895, passed the House with strong bipartisan support.² On December 19, Senators John Kerry (D-MA) and Olympia Snowe (R-ME) were the lead sponsors along with six other senators in introducing bipartisan legislation to establish a housing trust fund in the Senate. The Senate bill, S. 2523, is very similar to the House version and has been referred to the Senate Committee on Banking, Housing and Urban Affairs. In 2008, the National Housing Trust Fund Campaign will work to get additional cosponsors and line up votes to have the trust fund bill passed in the Senate.

Both the House and Senate bills would establish dedicated sources of funds for the production, preservation and rehabilitation of 1.5 million affordable homes over the next ten years. At least 75% of the funds will be for housing for households that are extremely low income, earning less than 30% of the area's median income.

¹This article is reprinted with permission from NLIHC's Memo to Members (vol. 13, issue no. 1, Jan. 4, 2008). Join NLIHC and receive this helpful resource for free at www.nlihc.org. References to Memo throughout this article refer to issues available on NLIHC's website, www.nlihc.org. Bills that are referenced can be obtained from http://thomas.loc.gov/home/bills_res.html.

²See NHLP, *House of Representatives Passes Affordable Housing Trust Fund Bill*, 37 HOUS. L. BULL. 196 (Nov./Dec. 2007), as well as NLIHC Memo to Members dated October 12 and December 21, 2007, available at www.nlihc.org.

There are two sets of current legislation that have seen action in the first session of the 110th Congress that establish funding sources for the trust fund. First, the House passed H.R. 1427 (see Memo, 5/25/07), a comprehensive reform bill for the government sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, that also calls for providing dedicated funds from the GSEs to the trust fund. In the Senate, Senator Jack Reed (R-RI) has introduced S. 2391, the GSE Mission Improvement Act of 2007 (see Memo, 11/30/07) that includes funds from the GSEs to support an affordable housing fund. This measure has been referred to the Senate Committee on Banking, Housing and Urban Affairs. GSE reform legislation (S. 1100) introduced by Senator Chuck Hagel (R-NE) on April 12, 2007, does not contain the affordable housing fund provision. Comprehensive GSE reform is expected to be taken up by the Senate Banking Committee sometime this year.

A second source of revenue for a trust fund is included in House-passed legislation to modernize the Federal Housing Administration (FHA), H.R. 1852 (see Memo, 9/21/07). The bill creates new FHA revenue by expanding the home equity conversion mortgage (HECM) program and dedicating some of this new revenue to a Trust Fund. The Senate has passed a similar modernization measure for the FHA, S. 2338, but it does not include the funding provision (see Memo, 12/14/07). The two measures now must go to a House-Senate conference committee where differences in the bills will be reconciled. The National Housing Trust Fund Campaign will work to see that the FHA provision providing funding for the Trust Fund remains in the final legislation.

Budget and Appropriations

President George W. Bush signed the FY 08 omnibus spending bill, which includes funding for HUD, on December 26.³ The House and Senate had passed three continuing resolutions to keep government spending flowing in FY 08 after the October 1, 2007, start of the fiscal year came and went.

With 2008 an election year, the process for enacting FY 09 spending bills could be even more partisan. On February 4, the President delivered his FY 09 budget request to Congress, marking the official start of FY 09 budget and appropriations work. The House and Senate Budget Committees will work to enact an FY 09 budget resolution by April 15 and then use the spending levels and directives in that document to guide the work of the appropriations committees and subcommittees.

Advocates' work in this area will begin with seeking a higher domestic discretionary spending limit, compared to FY 08, in the FY 09 budget resolution. Such an increase

would enable the House and Senate Appropriations Committees to allot additional funds, compared to FY 08, to their subcommittees, including the Transportation, HUD and Related Agencies Subcommittees. Of course, keeping any gains made by a better budget resolution will be possible only with enough votes to push back against any cuts or requests for level funding proposed by the President's budget, a task that proved impossible for the FY 08 appropriations. Obtaining a more generous budget resolution will be especially important to permit appropriation of additional funds for programs left short by the FY 08 appropriations process, including the funds needed for public housing and to fully fund one-year terms for all expiring project-based Section 8 renewal contracts.

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Public Housing

The biggest challenge facing public housing in 2008 will be sufficient funding to operate and maintain existing public housing units. Funding for both functions in recent years has lagged well behind need. Today's public housing authorities are operating on only 85.4% of what HUD knows they need to operate, according to the November 14 paper by the Center on Budget and Policy Priorities, and their more than \$20 billion backlog of capital needs is widely known.

Legislation to reauthorize the HOPE VI program is likely to receive additional attention in 2008. The House is expected to take up its HOPE VI reauthorization bill, H.R. 3524, the week of January 14. The bill, introduced by House Financial Services Subcommittee on Housing and Community Opportunity Chair Maxine Waters (D-CA), passed out of committee on September 26 (see Memo, 9/14/07 and 9/28/07). The Senate bill, introduced on March 6 by Senator Barbara Mikulski (D-MD) received a hearing in the Senate Banking, Housing and Urban Affairs Committee on June 20, but no further action has been taken on the legislation (see Memo, 3/9/07 and 6/22/07). The bills are very different from one another. The House bill requires one-for-one replacement of units, a right to return by former residents and many other protections and improvements long sought by advocates. The Senate bill does not contain any of these improvements and reverses some of the gains won when the program was last reauthorized in 2003 under legislation sponsored by Representative Mel Watt (D-NC).

³See the accompanying article on FY 08 HUD appropriations on page 1 of this issue.

Section 8 Housing Choice Vouchers

Adequate funding to renew all vouchers and to fund vouchers that are currently authorized but unused will continue to be critical issues for the FY 09 HUD appropriations bill. Advocates will also continue to ask for new vouchers in FY 09. The approximately 20,000 vouchers funded in the FY 08 HUD appropriations bill for homeless veterans, non-elderly disabled people and the family unification program were the first new vouchers funded since FY 02. In FY 09, advocates will continue to seek 100,000 additional new vouchers.

The Section 8 Voucher Reform Act will be a focal point for advocacy in 2008. The House bill, H.R. 1851, includes a long list of important and positive reforms to the voucher program, and advocates will work hard in 2008 to enact this legislation. H.R. 1851 passed the House on July 12 (see Memo, 7/13/07), but the Senate bill has yet to be introduced.⁴ A draft Senate bill was circulating in the fall of 2007 and introduction is expected shortly after the Senate returns to work.

H.R. 1851 addresses the distribution of voucher funds to administering agencies, simplification of rents, voucher portability, replacement vouchers for lost project-based assistance, project-based vouchers, fair market rents, rent burdens, inspections, the moving to work/housing innovation program and the family self-sufficiency program, among other voucher issues. The bill also authorizes 20,000 new, incremental vouchers each year for FY 08 to FY 12.

Project-Based Housing Preservation

While Congress considered some legislation to preserve existing affordable housing in the first session of the 110th Congress, the main thrust of preservation legislation will occur in the second session. On October 31, the House Committee on Financial Services, chaired by Representative Barney Frank (D-MA), passed H.R. 3965, the Mark-to-Market Extension and Enhancement Act of 2007 (see Memo, 11/2/07). This legislation would amend the Mark-to-Market program to include properties with below-market rents and to expand the number of instances of nonprofit debt relief, among other changes. The Congressional Budget Office concluded, in a report dated November 30, 2007, that these expansions of the program would have a direct spending cost, potentially triggering a rule of the House of Representatives that would prohibit consideration of the bill without offsetting revenue increases.

In addition, on October 31, the Committee approved H.R. 3873, the Section 515 Rural Housing Property Transfer Improvement Act of 2007, by voice vote. The bill is intended to expedite the transfer of Section 515 rural multifamily housing projects from one owner to another. The

⁴See NHLP, *Proposed Congressional Reforms to the Section 8 Voucher Program*, 37 HOUS. L. BULL. 169 (Oct. 2007).

Senate did not take up any preservation legislation in the first session.

Chair Frank is expected to introduce a major preservation bill in February, and he has committed to moving this legislation through the Financial Services Committee early in the second session. This legislation is likely to include many of the provisions sought by advocates and the HUD Housing Preservation Working Group. In addition, the non-cost provisions of H.R. 3965 may be included as well as the provisions of the Rural Housing Preservation Act of 2007, H.R. 4002. Senator Chuck Schumer (D-NY), chair of the Senate Banking, Housing and Urban Affairs Subcommittee on Housing, Transportation and Community Development, is also expected to introduce preservation legislation early in the session.

Low Income Housing Tax Credit

While no legislation has been formally introduced as yet, House Committee on Ways and Means Chair Charles Rangel (D-NY) is looking at ways to improve the Low Income Housing Tax Credit program (LIHTC). And, House Committee on Financial Services Chair Barney Frank (D-MA) is working on ways to better coordinate the HUD programs with the LIHTC program. Legislation developed by both members will be part of a larger tax reform measure that Mr. Rangel plans to consider in the second session of this Congress.

NLIHC is working to promote deeper income targeting for the LIHTC program as well as a better distribution of the credits in order to house more extremely low-income families.

In other LIHTC news, the House rejected attempts to include a provision to exclude military service members' basic allowance for housing from their calculation of income for purposes of determining eligibility for the program, in its legislation providing military service members additional tax benefits (see Memo, 11/2/07). The Senate amended its version of this bill on December 19 to include this provision. NLIHC opposes this action because the responsibility for housing for active military people lies with the Department of Defense, and it would take units away from low-income civilians.

McKinney-Vento Reauthorization

Bills have been introduced in both the House and Senate to reauthorize McKinney-Vento homeless programs. The bills would consolidate all HUD McKinney-Vento housing programs, except Emergency Shelter Grants, into one competitive program with a broad set of eligible activities, including homelessness prevention, permanent or transitional housing for any homeless population, and supportive services.⁵

⁵See NHLP, *Congress Considers Reauthorization of Homeless Programs*, 37 HOUS. L. BULL. 174 (Oct. 2007).

On February 6, Representatives Julia Carson (D-IN), Geoff Davis (R-KY), Barbara Lee (D-CA) and Rick Renzi (R-AZ) introduced H.R. 840, the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH) (see Memo, 2/9/07). Ms. Carson passed away on December 15, and Representative Maxine Waters (D-CA) is expected to carry McKinney-Vento legislation through the committee.

The Gulf Coast Housing Recovery Act of 2007 remains stalled in the Senate due to opposition by Senator David Vitter. The bill would, among other things, require that any redevelopment of public housing owned by the Housing Authority of New Orleans (HANO) or any Gulf Coast public housing agency include one-for-one replacement and a right to return for all displaced tenants.

Ms. Waters, chair of the House Financial Services Subcommittee on Housing and Community Development, held two hearings on the bill in October, 2007 (see Memo, 10/12/07 and 10/19/07). S. 1518, the Community Partnership to End Homelessness Act of 2007, was introduced by Senators Jack Reed (D-RI) and Wayne Allard (R-CO) on May 24 (see Memo, 5/18/07 and 5/24/07). The Senate Committee on Banking, Housing, and Urban Affairs voted in favor of S. 1518 on September 19 (see Memo, 9/21/07).

Each bill would expand the definition of homelessness, to different degrees. In S. 1518, households would be considered homeless for the purposes of receiving services if they: are living in somebody else's housing because they do not have the resources to obtain other housing; have been notified that the arrangement is short-term; have moved either three times in the past year or twice in the past three weeks; and are not contributing significantly to the cost of the housing. The definition would also include people who have moved frequently (three times in the past year or twice in the past twenty-one days) and are currently living in a hotel or motel in which they will not be able to stay for more than a brief period. The definition of homelessness in H.R. 840 would be more closely aligned with the definition used by other federal agencies by including people who are living in doubled-up situations or in hotels/motels due to lack of adequate alternatives.

A Senate floor vote on S. 1528 is as yet unscheduled. The House Financial Services Subcommittee on Housing and Community Opportunity is expected to mark up a manager's amendment of H.R. 840 in the spring.

Disaster Recovery

S. 1668, the Gulf Coast Housing Recovery Act of 2007, remains stalled in the Senate due to opposition by Senator David Vitter (R-LA). The bill, introduced by Senators Mary Landrieu (D-LA) and Christopher Dodd (D-CT) on June 20 (see Memo, 6/22/07), would, among other things, require that any redevelopment of public housing owned by the Housing Authority of New Orleans (HANO) or any Gulf Coast public housing agency include one-for-one replacement and a right to return for all displaced tenants. Companion legislation, H.R. 1227, passed the House on March 21 (see Memo, 3/23/07). Advocates continue to push for S. 1668 to be voted on in the Senate Banking Committee. In the meantime, Senator Landrieu may soon introduce new legislation related to New Orleans public housing that would better reflect the negotiations and compromises made thus far on S. 1668.

Another supplemental spending bill for the wars in Iraq and Afghanistan will be taken up by Congress in late winter. As with past supplemental spending bills, this will be an opportunity for additional funds to be allocated to Gulf Coast housing recovery.

Legislation to revise the Stafford Act, particularly the way the Federal Emergency Management Agency responds to temporary and long term housing needs after a disaster, will be introduced by Senator Landrieu in late winter or early spring. ■

You can find more information about the status of these bills and other federal housing legislation on NLIHC's website at www.nlihc.org.