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Rural Housing Preservation Act of 2016 Introduced

Rep. Kuster (D-NH), recently introduced legislation entitled the Rural Housing Preservation Act of 2016.[1] The bill does four things:

- extends eligibility for the Rural Development (RD)[2] voucher program to persons displaced by a loan prepayment or maturity from RD rental or farm labor housing and obligates current or former owners of such developments to accept the vouchers;
- decouples the RD deep rental subsidy program from the RD rental loan programs and thereby authorizes RD to continue to extend the subsidy to owners whose loans have matured;
- requires RD to establish uniform standards for the transfer of RD rental housing under the Low Income Housing Tax Credit program; and,
- permanently authorizes the Multi-Family Housing Revitalization Program (MPR), which is currently authorized as a demonstration program under annual appropriations bills.

A brief description of each section of the bill follows.

Extension of Rural Development Voucher Program

RD has general authority to operate a rural voucher program under Section 542 of the Housing Act of 1949.[3] In annual appropriations, Congress restricts the agency's authority to operate a more limited voucher program intended to protect residents threatened with displacement when an RD rental loan is prepaid or foreclosed. HR 4908 makes that authority permanent and also extends the agency's authority to issue

[1] H.R. 4908. A copy of the bill is available at https://www.congress.gov/bill/114th-congress/house-bill/4908/text?q={%22search%22%3A[%22\%22hr4908\%22%22]}&resultIndex=1. Rep. Kuster was joined by Rep. Nolan (D-MN) as a sponsor of the bill. An identical bill was introduced in the Senate on the same day by Senator Shaheen (D-NH). S. 2783. A copy of the bill is available at https://www.congress.gov/bill/114th-congress/senate-bill/2783/text.

[2] Technically and consistent with the provisions of the Housing Act of 1949, the bill extends its various authorities to the Secretary of Agriculture. *See e.g.* 42 U.S.C. § 1471. Since, however, authority to operate the rural housing programs has been delegated by the Secretary to the Rural Development section of USDA, references in this article will all be to Rural Development.

[3] 42 U.S.C. § 1490r.

vouchers to low-income persons who are threatened with displacement due to a loan maturity that occurs after September 30, 2005. The bill further directs RHS to administer such a program, to the maximum extent possible, in conformance with Section 8(t) of the Housing Act of 1937,[4] which authorizes HUD's Enhanced Voucher program. Under that program, the voucher subsidy is higher than the subsidy extended under HUD's Housing Choice Voucher program, enabling residents to stay in their apartments after the owner has converted the formerly subsidized housing to market rate housing. HR 4908 directs RD to set the subsidy provided to RHS voucher holders in a similar manner that HUD sets subsidies under its Enhanced Voucher program. It also precludes current and former owners of RHS rental housing from refusing to rent available units to RHS voucher holders by virtue of the fact that they are assisted under the RD Voucher program.

Decoupling Rental Assistance payments from existing RD rental Housing financing

Currently RD's deep subsidy program, known as the Rental Assistance program, can only be extended to residents of RD rental housing during the time that the RD financing is in place. The subsidy terminates when the loan matures, is prepaid, or foreclosed upon. H.R. 4908 authorizes RD to continue to extend Rental Assistance to owners of RD rental housing after their RD loan has matured by entering into a rental assistance contract with the owner. The bill requires RD to make an offer to enter into such a contract with the owner at least 24 months before the loan matures. A shorter period is authorized if the time between passage of the bill and the loan maturity date is less than 24 months. The term of such contract is 20-years but its funding is subject to annual appropriations.

The contract must cover all households in the development regardless of whether they were recipients of Rental Assistance and sets the residents' rent subsidy in the same manner it is set under the current Rental Assistance program. Assistance to the residents must be adjusted at least annually to reflect changes in household income and can be changed earlier if the household's monthly income decreases by more than $100. The contract also extends to residents all the substantive and procedural rights that are extended to residents under the RD rental loan program.

The contract, which must be recorded, obligates the owner and successors to continue to operate the development in a manner that conforms to the operation of any other RD rental development, to maintain the development as decent, safe, and sanitary housing, and in accordance with the Rental Assistance contract.

[4] 42 U.S.C. § 1437f(t).

The contract rents for the development are to be based on a reasonable operating budget and may not exceed actual market rental rates for the area in which the project is located as determined by RD. These rents must be adjusted annually.

Uniform Standards for Transfers of RD Rental Projects assisted under the LIHTC program.

The bill requires RD to establish uniform requirements for the sale of any rental property financed by an RD loan and tax credits under the IRS' Low-income Housing Tax Credit Program. This provision is intended to ensure that RD applies its transfer policies uniformly regardless of the form of entity that is purchasing the development.

Permanent Authorization of the MPR Program

Since 2005, RD has been operating a rural multi-family housing revitalization program to preserve and rehabilitate its multi-family housing stock. The program is not authorized in the Housing Act of 1949, but is authorized and funded in annual appropriations acts.[5] HR 4908 authorizes the program permanently. The authorization continues current appropriation bill provisions by making funding and incentives available to owners to preserve and rehabilitate RD rental housing. It also authorizes RD to reduce or eliminate interest charged on its rental housing loans, defer loan payments, and subordinate, reduce or reamortize loan debt. In exchange for the RD assistance, the owner is obligated to enter into a restrictive use agreement that ensures that the property remains subject to low-income use restrictions for a period of time consistent with the terms of the restructuring. As is currently the case, the bill allows RD to move funds from the MPR program to the RD voucher program when there are insufficient funds to run that program.[6]

Conclusion

HR 4908 and its companion Senate bill have been referred to the respective housing authorizing committees in the House and Senate. It is likely that neither bill will be acted upon before congress adjourns in January of 2017. However, the bills should serve as useful basis for discussions of future legislation dealing with the massive potential dislocation of RD households due to the large number of RD rental housing loans that will mature in the next 9 years.

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[5] *See*, P.L. 114-113, Div. A, Tit. III, (H.R. 2029 p. 19).

[6] The current appropriations act allows RD to move funds between the voucher and the MPR depending on the demand for funding under both programs. HR 4098 only allows MPR funds to be transferred to the voucher program.