



April 29, 2024

Dear Representative:

The undersigned national real estate associations represent a broad coalition of housing providers that are committed to working together with policymakers and the Administration to address America's housing affordability crisis. Congress, the Biden Administration, regulators, housing providers, lenders, and other stakeholders must join together to pursue bipartisan solutions that remove the barriers to developing and preserving the housing that is needed at all price points. We applaud the Biden Administration for recognizing the nation's critical shortage of affordable housing and for offering innovative solutions such as the Housing Supply Action Plan and investments as part of its Fiscal Year (FY) 2025 Federal Budget proposal.

Today, too many hard-working Americans are unable to rent or buy homes due to increased housing costs. These rising costs are driven by a lack of supply created by barriers to development that increasingly make it extremely challenging, particularly a price affordable to low- and middle-class families. The total share of cost-burdened households (those paying more than 30 percent of their income on housing) increased steadily from 28.0 percent in 1985 to 36.9 percent in 2021, while other households have been priced out of communities altogether in their search for affordable housing¹. This is not sustainable, particularly in a period of high inflation. It is critical that we start now to enact policies that will incentivize new housing production and preservation. We, therefore, recommend that policymakers immediately move forward on the following measures that would go a long way to increasing the nation's housing supply and, therefore, have a positive impact on the housing affordability crisis:

¹ NMHC tabulations of 1985 American Housing Survey microdata, U.S. Census Bureau; 2021 American Housing Survey, U.S. Census Bureau.

- **Yes In My Back Yard (YIMBY) Act:** Bipartisan legislation sponsored by Sens. Todd Young (R-IN) and Brian Schatz (D-HI) in the Senate (S. 1688) and Reps. Derek Kilmer (D-WA) and Mike Flood (R-NE) in the House of Representatives (H.R. 3507) that would help eliminate discriminatory land use policies and remove barriers that depress production of housing in the United States. By requiring Community Development Block Grant (CDBG) recipients to report periodically on the extent to which they are removing discriminatory land use policies, and promoting inclusive and affordable housing, the *YIMBY Act* will increase transparency and encourage more thoughtful and inclusive development practices.
- **Housing Supply and Affordability Act:** Bipartisan legislation sponsored by Sens. Amy Klobuchar (D-MN) and Tim Kaine (D-VA) in the Senate (S.3684) and Reps. Lisa Blunt Rochester (D-DE), Brian Fitzpatrick (R-PA), and Joyce Beatty (D-OH) in the House (H.R. 7132) that would create a new Local Housing Policy Grant (LHPG) program at HUD to provide grants to local governments to support efforts to expand housing supply.
- **Eliminate Exclusionary Zoning and Harmful Land Use Policies:** For decades, exclusionary zoning laws – like minimum lot sizes, mandatory parking requirements, and prohibitions on multifamily and manufactured housing – have inflated housing and construction costs and locked families out of areas with more opportunities. The Biden Administration has proposed a number of solutions aimed at reforming harmful land use policies. On March 21, the White House released the [2024 Economic Report of the President](#) which includes initiatives that are designed to reduce the cost of renting or buying a home, while encouraging local governments to change zoning laws to allow development of more affordable housing. The Department of Housing and Urban Development (HUD) recently launched the Pathways to Removing Obstacles to Housing (PRO Housing) program, which provides grant funding to jurisdictions that are taking steps to remove barriers to affordable housing. The PRO Housing grant program was a result of funding included in the Consolidated Appropriations Act, 2023, and based on the *Housing Supply and Affordability Act* and the *Yes In My Backyard Act*. President Biden included an innovative, new competitive grant program in his Housing Supply Action plan called the Unlocking Possibilities Program that would award flexible and attractive funding to jurisdictions that take concrete steps to eliminate such needless barriers to producing affordable housing.
- **HOME Investment Partnerships Reauthorization and Improvement Act:** Legislation from Sen. Cortez Masto (D-NV) in the Senate (S. 3793) and Reps. Beatty (D-OH) and Garamendi (D-CA) in the House (H.R. 7075) that would reauthorize the HOME Investment Partnerships Program, increase the authorized funding level for the program to \$5 billion, and make several needed program improvements.
- **Build More Housing Near Transit Act:** Bipartisan legislation led by Reps. Scott Peters (D-CA) and McMorris Rodgers (R-WA) in the House (H.R. 6199) and Sens. Schatz (D-HI) and Braun (R-IN) in the Senate (S. 3216) that would direct the Department of Transportation (DOT) to incentivize local governments to promote housing development and regional growth in and around the transit corridors.
- **The Choice in Affordable Housing Act:** Bipartisan legislation introduced by Sens. Coons (D-DE) and Cramer (R-ND) in the Senate (S. 32) and Reps. Cleaver (D-MO) and Chavez-DeRemer (R-OR) in the House (H.R. 4606) that would address many overlapping and redundant programmatic procedures that have deterred owners and operators from

participating in the Section 8 Housing Choice Voucher Program. The bill enjoys broad support from both housing advocates and housing providers.

- **Manufactured Housing Affordability and Energy Efficiency Act:** Bipartisan legislation introduced by Reps. Terri Sewell (D-AL) and David Kustoff (R-TN) would re-affirm HUD's primary role over the manufactured housing construction code and streamline processes for the timely adoption of future updates to the code. Clarifying regulatory roles, and providing updates long endorsed by manufactured housing experts, is among the best ways Congress can act promptly to boost the supply of more energy efficient, affordable homes.
- **The Rural Housing Service Reform Act:** Bipartisan legislation introduced by Reps. Luetkemeyer (R-MO) and Cleaver (D-MO) in the House (H.R. 6785) that would provide for structural improvements for several programs administered by the United States Department of Agriculture's (USDA) Rural Development ("RD") agency. Specifically, the legislation would allow for the decoupling of the Section 521 Rental Assistance ("RA") program when the Section 515 mortgage loan expires. While RD has been given authority in Fiscal Year (FY) 2024 to implement a demonstration program for 1,000 units in properties where a mortgage will expire, H.R. 6785 would permanently allow decoupling and allow RA to continue on the properties, preserving an important source of housing for low-income residents in rural communities throughout the country.

We also encourage Congress to consider the following tax proposals that all have a significant influence on addressing housing affordability.

- **Affordable Housing Credit Improvement Act:** Bipartisan legislation introduced by Sens. Cantwell (D-WA), Young (R-IN), Wyden (D-OR), and Blackburn (R-TN) in the Senate (S. 1557), and Reps. LaHood (R-IL), DelBene (D-WA), Wenstrup (R-OH), Beyer (D-VA), Tenney (R-NY), and Panetta (D-CA) in the House (H.R. 3238) that would expand and strengthen the Low-Income Housing Tax Credit (LIHTC) program. LIHTC is the nation's most successful tool for encouraging private investment in the production and preservation of affordable rental housing, and passage of the *Affordable Housing Credit Improvement Act* will finance the construction of nearly 2 million affordable homes over the next decade.
- **Workforce Housing Tax Credit Act:** Bipartisan legislation introduced by Sens. Wyden (D-OR) and Sullivan (R-AK) in the Senate (S. 3425) and Reps. Panetta (D-CA) and Carey (R-OH) in the House (H.R. 6686) that would establish a new tax credit to produce affordable rental housing for households earning 100% or less of the area median income (AMI). The Workforce Housing Tax Credit Act, which is modeled on the successful Low-Income Housing Tax Credit, would address the housing shortage for individuals who comprise the very fabric of strong communities nationwide, including teachers, firefighters, nurses, and police officers whose wages are not keeping pace with costs.
- **Incentivize Conversion of Underutilized Commercial Properties:** Given the nation's shortage of affordable rental housing, many are considering turning unused and underutilized commercial real estate structures, including offices, hotels, and retail spaces into housing. Not only would such repurposing help address the nation's housing supply challenge, but it would also create jobs and boost local property tax revenues.

Sen. Stabenow, joined by Sen. Brown as a cosponsor, last Congress introduced the *Revitalizing Downtowns Act* (S. 2511) that would provide a 20 percent tax credit to convert office buildings into other uses, including residential use. This Congress, Rep. Gomez has introduced this legislation (H.R. 419) in the House of Representatives. The real estate industry is actively working with lawmakers on both sides of the aisle – Reps. Carey and Gomez and Sen. Stabenow – to improve the measure and ensure bipartisan support. The enhancements would enable other types of commercial properties (e.g., shopping centers and hotels) to qualify for the tax incentive; ensure REITs could utilize the benefit; and clarify that the credit does not reduce other tax benefits including the Low-Income Housing Tax Credit.

- **Revitalize and Enhance Opportunity Zones to Incentivize Rehabilitation of Housing Units:** While we expect the Opportunity Zones program to be beneficial in spurring the production of new multifamily housing, to fully maximize the potential of Opportunity Zones, Congress should:
 - Enable States to recertify and/or redesignate Opportunity Zones to account for current economic realities and changes since Zones were originally designated; and
 - Establish new investment deadlines so that taxpayers are incentivized to receive both a longer deferral period and the potential for a 10 percent or 15 percent basis increase with respect to reinvested capital gains.

The program could also be improved to incentivize the rehabilitation of existing multifamily units. Statutory modifications could be made to reduce the basis increase necessary to qualify a multifamily rehabilitation project for Opportunity Zone purposes.

Background

More recent economic instability poses a serious threat to the ability of housing providers to leverage the private-market capital necessary to generate needed housing. The Federal Reserve's rate increases have contributed to a period of economic volatility, which is driving up the already expensive cost of building new housing and discouraging new investment as the cost to maintain existing properties increases. NAHB and NMHC estimate that regulations alone account for an average of 40.6 percent of the cost of a new multifamily development².

There are various estimates regarding the extent of the housing shortage, but all agree that housing construction has not kept pace with demand for quite some time. This shortage remains despite extremely high levels of housing construction during the past few years. However, we are seeing significant pullbacks in construction of new communities in recent months, which is a result of the combined effects of economic uncertainty and elevated labor, insurance, material and financing costs. We simply do not have enough homes to meet this long-term demand—this housing shortage is immense, widespread, and enduring.

The undersigned organizations stand ready to help meet the rising need for attainably priced housing, but we cannot do it alone. It requires a strong partnership between the private and public sectors. First and foremost, we must seek solutions that support increased supply—at all price points. Without investment in our nation's housing, we will face housing instability and affordability challenges now and in the future. In addition to increased supply for all types of

² <https://www.nmhc.org/research-insight/research-report/nmhc-nahb-cost-of-regulations-report/>

housing, we must also deliver short-term solutions to renter populations that need support. Increased subsidies and emergency housing support for those of modest means are critical to keeping struggling families afloat. Policies which shift the full burden of increased costs onto housing providers, on the other hand, will only exacerbate the lack of available and affordable rental housing for that population, as it stalls new development and causes existing housing providers – especially smaller providers who own just a few units – to leave the market entirely.

The Biden Administration’s Housing Supply Action Plan is a thoughtful proposal that rightly acknowledges that there is no single solution to our housing shortage. The comprehensive package of regulatory and legislative measures would go a long way toward addressing the supply shortage, and we urge Congress to work with the Administration to enact policies included in the plan. In addition, the Housing Supply Action plan includes new financing mechanisms to build and preserve more housing where financing gaps currently exist. Further, we are particularly encouraged that both the Housing Supply Action plan and the [2024 Economic Report of the President](#) include proposals to reward jurisdictions that have reformed zoning and land-use policies with higher scores in certain federal grant processes, for the first time at scale. We urge the Congress to work with the Administration to continue to execute the goals included in the plan.

Additionally, we were encouraged by several proposals included in the President’s FY25 Federal Budget proposal. The Budget proposes to expand and enhance the Low-Income Housing Tax Credit (LIHTC), which provides critical support to the nation’s affordable housing production but could be made even more impactful. Between its inception in 1986 and 2022, the LIHTC program has, according to the A Call To Invest in Our Neighborhoods (ACTION) Campaign, developed or preserved 3.85 million apartments, served 8.97 million low-income households, supported 6.33 million jobs for one year, generated \$257.1 billion in tax revenue, and produced \$716.3 billion in wages and income³. It is also a critically important program for those in the seniors housing space who are dedicated to developing and operating affordable communities with supportive services but challenged by the high costs of serving a low- or middle-income, older adult population.

The President’s FY25 Budget also proposes a new allocated tax credit (called the Neighborhood Homes Credit in the FY25 Budget), which would support building or renovating affordable owner-occupied housing. The purpose of this proposed program, which seems to be very similar to the bipartisan *Neighborhood Homes Investment Act* (S. 657 / H.R. 3940), is to encourage new construction or rehabilitation of homes for sale and the rehabilitation of existing homes by their current owners who will remain in the neighborhoods. Because this could result in as many as 500,000 more affordable homes for moderate- and middle-income families in now-distressed but improved neighborhoods, we believe this proposal deserves consideration.

Additionally, the President’s Budget proposes grant funding to incentivize state and local governments to expand housing supply by reducing barriers to development. It would increase funding for the HOME Investment Partnerships Program (HOME), which is an important tool to support building, buying, and rehabilitating affordable housing, and provide \$7.5 billion for critically needed new Project-Based Rental Assistance (PBRA) contracts to encourage housing production that is affordable to the lowest-income households. It includes an expansion of the Housing Choice Voucher (HVC) program, which would expand assistance to another 130,000 households. These types of investments will have a meaningful impact on the supply of housing and provide assistance to populations that need support now. Increased subsidies and emergency

³ https://rentalhousingaction.org/wp-content/uploads/2022/12/ACTION-NATIONAL-2022-NEW-LOGO_01.pdf

housing support for those who need it are critical to keeping struggling renters and their families afloat.

While we are encouraged by the Administration's support for proposals to increase the supply of housing, we are concerned about certain revenue-raising proposals included in the FY25 Budget that would negatively impact the housing industry and ultimately could limit the supply of housing. Specifically, we urge Congress to reject proposals included in the budget to:

- Increase the top marginal income and capital gains tax rates;
- Tax carried interest as ordinary income;
- Expand the net investment income tax to encompass active business income;
- Require 100 percent recapture of depreciation deductions as ordinary income for real estate; and
- Limit deferral of taxable gain from a like-kind exchange.

These types of proposals would directly impact the operations of housing providers, as most are structured as "flow-through" entities where earnings are passed through to owners who pay taxes at the individual level. The tax increases under consideration would reduce real estate investment and inhibit the capital flows that are so critical to the development and preservation of critically needed housing.

Lastly, we support the Administration's Housing Supply Action Plan and increased funding for programs to assist those in need; however, we are concerned about the White House "Blueprint for A Renters Bill of Rights," released in January 2023, that will create potentially duplicative and confusing federal regulations that interfere with state and local laws meant to govern the housing provider and resident relationship. Policymakers, at all levels of government, should resist pressure to take actions that while well-intended, unnecessarily complicate the provision of housing and do nothing to address the underlying supply shortage. Additional complexity will not help households that are struggling to find affordable housing and could, in fact, discourage much-needed private-market investment in new housing construction.

The proposals described above will work best when paired with the policies that state and local governments can pursue to meet the demand for rental homes. For example, they can streamline and fast-track the entitlement and approval process; provide density bonuses and other incentives for developers to include workforce units in their properties; enable "by-right" zoning and create more fully entitled parcels; defer taxes and other fees for a set period of time; lower construction costs by contributing underutilized buildings and raw land; create incentives to encourage higher density development near job and transportation hubs, and address NIMBYism as an obstacle to solving the affordable housing challenge. Ultimately, a public-private partnership is essential to addressing this shortage.

Conclusion

Housing has always been a bipartisan issue. Policymakers at every level of government have a role to play in removing obstacles to housing production and preservation and in addressing the housing affordability challenges that have faced this country for decades.

Across all markets, the supply of housing at a variety of price points will play a vital role in promoting economic growth, attracting and retaining talent, and encouraging household stability for all American families. Using a combination of incentive-based programs, streamlined regulatory burdens and innovative solutions, we stand ready to work with Congress and the

Administration to address the housing affordability challenges faced by communities across the nation.

Sincerely,

American Land Title Association
American Seniors Housing Association
Argentum
Building Owners and Managers Association
CCIM Institute
Commercial Real Estate Finance Council
Council for Affordable and Rural Housing
Housing Advisory Group
ICSC
Institute of Real Estate Management
Manufactured Housing Institute
Mortgage Bankers Association
NAIOP, the Commercial Real Estate
Development Association

Nareit
National Affordable Housing Management
Association
National Apartment Association
National Association of Home Builders
National Association of Residential Property
Managers
National Housing Conference
National Leased Housing Association
National Multifamily Housing Council
NATIONAL ASSOCIATION OF REALTORS®
The Real Estate Roundtable