THE AFFORDABLE HOUSING CRISIS IN RURAL AMERICA: ASSESSING THE FEDERAL RESPONSE

HEARING

BEFORE THE

SUBCOMMITTEE ON HOUSING,
COMMUNITY DEVELOPMENT,
AND INSURANCE

OF THE

COMMITTEE ON FINANCIAL SERVICES

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THE AFFORDABLE HOUSING CRISIS IN RURAL AMERICA: ASSESSING THE FEDERAL RESPONSE

Tuesday, April 2, 2019

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING,
COMMUNITY DEVELOPMENT,
AND INSURANCE,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:07 p.m., in room 2128, Rayburn House Office Building, Hon. Wm. Lacy Clay [chairman of the subcommittee] presiding.

Members present: Representatives Clay, Sherman, Gonzalez of Texas, Maloney, Heck, Vargas, Axne; Duffy, Luetkemeyer, Huizenga, Tipton, Zeldin, Gonzalez of Ohio, Steil, and Gooden.

Ex officio present: Representatives Waters and McHenry.

Chairman CLAY. The Subcommittee on Housing, Community Development, and Insurance will come to order. Without objection, the Chair is authorized to declare a recess of the subcommittee at any time. Also, without objection, members of the full Financial Services Committee who are not members of the subcommittee are authorized to participate in today's hearing.

Today's hearing is entitled, "The Affordable Housing Crisis in Rural America: Assessing the Federal Response." I now recognize myself for 5 minutes to give an opening statement. And subsequently, we will recognize the ranking member.

I would like to start by welcoming everyone to the first hearing of the Subcommittee on Housing, Community Development, and Insurance in the 116th Congress. I am honored to serve as the Chair of the subcommittee, and I look forward to working with Ranking Member Duffy and all of the distinguished members of this subcommittee on both sides of the aisle. There are a number of issues that I am hopeful that we can work on in a bipartisan way, and rural housing is one of those issues.

Although my congressional district is not considered rural, the State of Missouri certainly is, and in many ways is symbolic of rural States and communities across this great nation. And though we are not considered rural, USDA's National Financial and Accounting Operations Center and Customer Service Center are housed at the Goodfellow Federal Center, which is squarely within my district.

Also, I know how critical it is to understand the distinct housing needs of rural communities and the importance of USDA rural housing programs in meeting those needs. Unfortunately, there is a serious and growing crisis with regard to Section 515 Rural Rental Housing loans and Section 514 Farm Labor Housing loans and the rental assistance contracts tied to those loans.

As the loans mature or are prepaid, the rental assistance terminates, leaving residents at immediate risk of displacement. We shall hear more from our witnesses about this problem.

Also, the foreclosure crisis has been very harmful in rural areas, and the Missouri Farm Bureau has stated that this Administration's tariffs are hurting soybean farmers and that estimates are at $600 million in lost trade revenue. There has yet to be a comprehensive strategy by the USDA or Congress to address this crisis.

In fact, we do not even have sufficient data to fully understand the scope of this issue. That is why I have released a discussion draft that would be a first step towards addressing this crisis. It would require USDA to come up with a strategy for preservation and prevention of tenant displacement.

It would also set up an advisory council of key stakeholders to advise USDA on this plan. And it would require USDA to regularly and publicly report detailed information about these properties.

As chairman, I fully intend to ensure that the subcommittee engages in the housing issues facing Americans. Remember, if you ask most Americans what is their most prized possession, persistent goal, and cherished dream, it is home ownership. And that is why the American lexicon is filled with metaphors about homes, housing, and the proverbial "roof over our heads."

My mission is to promote sound policies through smart legislation, intelligent collaboration, and sound policy to actually help make that dream a reality again. And I am really looking forward to working closely with you as we fight to reform the housing finance system to ensure that underserved borrowers in our more challenged neighborhoods have access to mortgages, insurance, and fair appraisals to give them a real chance at home ownership.

I look forward to hearing from the witnesses today about this discussion draft as well as other legislative proposals to address this and other rural housing issues.

And at this time, I will recognize the ranking member of the subcommittee, the gentleman from Wisconsin, Mr. Duffy, for 5 minutes.

Mr. DUFFY. I want to thank Chairman Clay for hosting today's hearing. I also look forward to working with him on these important issues. Although he comes from a more urban district, and I come from a rural district, he recognizes that this is an important issue for so many Americans.

I also want to highlight to my colleagues that I am circulating a letter that Members can sign onto that would help fund the Multi-Family Preservation and Revitalization Program, so I ask you to take a look at that and, hopefully, sign on.

Under Sections 514 and 515 of the U.S. Housing Act, we created a loan program that helped provide housing options for domestic farm laborers, low-income families, elderly persons, and persons with disabilities in rural parts of the country. Those loans will be maturing in the next decade.

The multifamily developers and owners of those properties will have fulfilled their contracts and will then be able to rent those properties as they see fit; they won't be under contract. So, according to the GAO, there are north of 14,000 of these properties and as many as 427,000 units that could be impacted.

According to the Housing Assistance Council's testimony, we have 109 Section 15 properties with 2,200-plus occupied units in my district. And by 2030, 29 of those properties with 471 occupied units will have exited the program, which will have a real impact on our community. We also ran some numbers for the State of Wisconsin, and we have 370 properties with over 6,500 units that would also exit the program. Again, significant.

Some of the people living in these units also participate in the Section 521 rental assistance program in which residents pay a maximum of 30 percent of their income towards their rent and the government then subsidizes the rest. We also have public housing stock that has gotten so much into a state of disrepair that they are being demolished.

In, I think it is Cairo, Missouri, 200 families were forced to uproot their lives and move to a different city because of the sad state of public housing stock. A recent HUD IG report stated that over 50 other public housing authorities have been designated as troubled.

Housing regulations continue to hamper new development. A study by the National Multifamily Housing Council and the National Association of Home Builders found that regulation from the government accounts for an average of 32.1 percent of the multifamily development cost, 32.1 percent of the cost from regulation. An average of 7 percent of the costs come from building codes that have changed over the past 10 years.

Suburban sprawl has also contributed to the cost of buying a home in rural America. If you bought your home 20 years ago on the edge of a city, more than likely you now live in the city. We are now seeing record low unemployment levels and yet we still see a struggle to find housing options.

We have just highlighted some of the problems with rural housing and it is meant to highlight that there isn't one single solution, and I think our panel will agree on that. But I do think we need to see what happens in the demonstration program that was included in the appropriations bill earlier this year.

There is a bill that is part of this hearing that would decouple the rental assistant contracts from the multifamily contracts and I think we should explore that further. I think that is probably a pretty good idea. But I do have some trepidation about other language in some of the other bills that we will be discussing.

The most concerning for me is the language that seems to force an owner to continue to take housing vouchers when they are no longer under contract. That should concern us all in a country that believes in the rule of law. I believe if you fulfilled your contract, the government should no longer be able to place requirements on you as an owner.

This was also mentioned in testimony from the Council for Affordable and Rural Housing, and I fully agree, when they said, "They cannot support any bill that would require obligations of a borrower in a mortgage program to follow that owner or that property ad infinitum." It has a little something to do, I think, with property rights. We should all support those.

We should also think about incentives for owners to continue to provide housing to our farmers, low-income, elderly, and our disabled, and I am looking forward to hearing from our panel on how we do that.

Maybe we should look at how we can streamline and consolidate who is actually handling these loans. Is HUD the most appropriate agency? We recently streamlined the family self-sufficiency program and consolidated oversight at HUD. We potentially could do the same here.

I think we have areas in the housing realm that we can work on together. And I appreciate, again, Mr. Clay holding this hearing and his willingness to work together. This is a problem. that I think all of us recognize, and we have to work together to resolve the problem. And I look forward to the panel discussing the best solutions on how this Congress can move forward to resolve this issue in rural America.

I yield back.

Chairman CLAY. I thank my colleague from Wisconsin, and I ask unanimous consent to allow 1 minute per side for additional opening statements.

Without objection, I want to recognize the chairwoman of the full Financial Services Committee, Ms. Waters of California, for 1 minute.

Chairwoman WATERS. Thank you very much, Chairman Clay. I am very pleased that you are focusing on rural housing as the first hearing held by this subcommittee. It is one of the many housing issues that has been overlooked for far too long, and it is an issue that I am hopeful we can work on in a bipartisan way.

We know rural Americans are more likely to live in poverty and are more likely to live in moderately or severely substandard housing. The need for investment in rural housing is clear, particularly when it comes to preservation of the aging stock of affordable housing. But Federal investment in rural housing programs is insufficient and the Federal response to the growing preservation issues with USDA housing has been wholly inadequate.

In particular, there are 400,000 families living in properties backed by USDA Sections 515 and 514 loans who could be at risk of displacement in the coming years if we do not figure out a strategy for preserving these properties and preventing displacement. These are rural families with an average income of $13,000, the majority of whom are elderly or disabled, and they deserve better from us in Washington.

Mr. Chairman, the Housing Subcommittee today is taking an important step towards creating the conditions for a broadly-shared American renaissance, both in rural areas and urban areas. Thank you for holding this hearing, and I look forward to hearing from the witnesses.

Chairman CLAY. Thank you so much.

Chairwoman WATERS. I yield back.

Chairman CLAY. I now recognize the ranking member of the full Financial Services Committee, Mr. McHenry from North Carolina, for 1 minute.

Mr. MCHENRY. Well, thank you, Chairman Clay, and thank you for having this as your first subcommittee hearing.

I thank the ranking member of the subcommittee as well for his leadership in this policy area.

I would like to highlight an important point of this discussion on rural housing. As we look at this issue, we have to be aware of housing shortages generally in rural areas, particularly for families living below the poverty line. But it doesn't stop there. Middle- and lower-middle-income families also are experiencing housing shortages in rural areas.

For example, there is a shortage of workforce housing in rural areas. This is an issue of concern in my district, in my State, and across the United States. And industries are questioning whether or not they can even locate in rural areas because of this shortfall in housing. So, as we look at solutions, I would also raise this as part of a comprehensive approach to rural housing.

I thank you all for being here on the panel, and I think the chairman and the ranking member of the subcommittee.

Chairman CLAY. Thank you.

Today, we welcome the testimony of Gideon Anders, senior attorney of the National Housing Law Project; Stan Keasling, president of the National Rural Housing Coalition; David Lipsetz, CEO of the Housing Assistance Council; Andres Saavedra, senior program officer of the Local Initiatives Support Corporation; and Tanya Eastwood, president of the Council for Affordable and Rural Housing.

Witnesses are reminded that your oral testimony will be limited to 5 minutes. And without objection, your written statements will be made a part of the record.

Mr. Anders, you are now recognized for 5 minutes to give an oral presentation of your testimony.

STATEMENT OF GIDEON ANDERS, SENIOR ATTORNEY, NATIONAL HOUSING LAW PROJECT

Mr. ANDERS. Thank you, Mr. Chairman, and Ranking Member Duffy.

I am Gideon Anders, a senior attorney with the National Housing Law Project (NHLP) and I am honored to have this opportunity to present this brief overview of the 14-page statement that we have submitted to the subcommittee.

In the 50 years that the National Housing Law Project has been operating, we have advanced the housing rights and interests of low- and very-low-income households through policy advocacy, litigation, technical assistance, and training. My tenure at NHLP has focused exclusively on the Rural Housing Service (RHS) housing programs, which are the subject of today's hearing.

Let me start by urging the subcommittee to hold oversight hearings on RHS's administration of the rental housing prepayment process and of the voucher program. The Emergency Low-Income Housing and Preservation Act of 1987, commonly known as

ELIHPA, was intended to preserve RD rental housing and protect its residents from displacement. RD is simply not meeting either one of these objectives because it is not following ELIHPA. It is allowing many prepayments in clear violation of the Act.

It is also not running the voucher program consistent with ELIHPA. It allows owners to raise rents after prepayments and tells residents that vouchers are the only way that they can be protected, even when a prepayment is subject to use restrictions. This is wrong.

ELIHPA use restrictions were intended to protect residents against displacement. Vouchers were intended to protect residents when use restrictions were not made a condition of the prepayment. We estimate that about 60 percent of the residents receiving vouchers don't need them. RD's practice is encouraging prepayments.

Over 545,000 units of housing have been financed subsidized by 515 and the 514, 16 programs at a substantial multibillion-dollar Federal investment. Unfortunately, over 100,000 of these units have already been lost. By 2050, the entire RHS housing stock will be gone.

NHLP supports the draft bills that are before you because they address the RHS prepayment and maturing mortgage crisis.

First, we endorse the proposal to decouple the rental assistance subsidy from the RD loan programs when mortgages mature. It will give RHS authority to continue to subsidize the housing after the loans are paid off. HUD has been doing this for years and the GAO recently recommended that RHS do the same thing.

The additional cost of the program will average only about $15 million for the first 5 years. Yes, it will cost more after 2028 when a large number of RD properties mature, but there is no better way to protect residents in RD rental housing and preserve the investment that has been made in rural housing and communities.

No one that I have talked to has suggested an alternative. What do we do? Do we simply abandon 413,000 housing units and allow for the displacement of mostly elderly persons who occupy these units? I say no.

Second, rental assistance contracts should be extended from their current one-year term to a 20-year term that is subject to annual appropriations. This will enable owners to secure private and tax credit financing to rehabilitate an aging inventory. HUD does it under the Project-Based Section 8 Program and it works there.

Third, until a decoupling program is in place, eligibility for RD vouchers must be extended to cover residents and developments with maturing mortgages and residents of famer labor housing. Moreover, the program should be made permanent and allow RD to adjust voucher subsidies to meet increased rents and respond to changes in household income or size. This will not increase the program cost if RHS stops issuing vouchers to people who don't need them.

Fourth, RD must formulate and adopt the plan—as you suggested, Mr. Chairman—for preserving its housing stock. A draft bill before you proposes that and requires RD to present it to Congress and to report annually and measure the successes or failures that the agency has made in meeting that plan.

Fifth, we also support Representative Panetta's bills to permit nonprofit sponsors of famer labor housing to access low-income housing tax credit programs, and a bill that requires the voucher program to be subject to the Violence Against Women Act.

Chairman CLAY. Mr. Anders, your 5 minutes has expired.

Mr. ANDERS. Thank you.

[The prepared statement of Mr. Anders can be found on page 29 of the appendix,]

Chairman CLAY. Mr. Keasling, please observe the 5-minute rule. You may proceed.

STATEMENT OF STAN KEASLING, PRESIDENT, NATIONAL RURAL HOUSING COALITION

Mr. KEASLING. Thank you, Mr. Chairman. My name is Stan Keasling. I am president of the National Rural Housing Coalition and it is a pleasure to be here to testify before you today. I am also the CEO of the Rural Community Assistance Corporation, which is a nonprofit working across the western United States to support the development of rural communities and the sustaining of rural communities.

Rural America is in need of more housing. The declining investment in the renovation of existing housing and in the construction of new homes in our small towns has had a critical impact on housing in rural America.

The census data shows that, between 1999 and 2008, the average annual production of new single-family homes in non-metro areas totaled 221,000 units. In the last 10 years, that same number was only 68,000 units, a two-thirds reduction in the amount of new housing being constructed in rural America.

In addition, of the 25 million units located in rural and small communities, over 5 percent, or 1.5 million units, are considered to be either moderately or severely substandard. As a result, in many rural communities, economic growth is impeded not by the lack of jobs but by the lack of housing where workers can live.

USDA's Rural Housing Programs also provide much-needed access to affordable rental housing. Today, approximately 422,000 units exist in the Section 515 portfolio. The average age of that portfolio is now 34 years and, as a result, the increasing costs of preserving that portfolio continue to rise with an estimated 20-year replacement and repair cost today of over $5.6 billion.

For these reasons, we urge you to reject the Administration's Fiscal Year 2020 budget proposal and to reject the staff reductions that are included in that budget proposal. The proposal to reduce staffing by 25 percent again this year is just unacceptable, and we hope that you will not move forward in accepting that budget.

We also think that it is important to provide and support the single-family housing programs of USDA, both the Section 502 Direct Loan Program in addition to the guarantee program and the Self-Help Housing Program. Combined, 502 Direct and Self-Help Housing provide housing opportunities for the lowest-income families in rural America and an opportunity to live the American dream and to obtain home ownership.

Renovating and preserving the existing stock of rental housing financed by USDA and the rising tide of maturing mortgages documented by HAC research is a dual challenge for USDA. It is important to note that extending or deferring an existing loan through the MPR program or providing a subsequent loan through 514 and 515 has the added and important benefit of making it possible to extend rental assistance throughout the loan term.

For this reason, we support a substantial appropriation of $75 million for the MPR program and $200 million for the Section 515 loan program. We support efforts included in Chairwoman Waters' and Chairman Clay's proposal to encourage the transfer of properties to nonprofit owners that will keep the properties affordable for their useful life. We support the chairman's draft bill, the Strategy and Investment in Rural Housing Preservation Act, to provide incentives to owners to keep their properties affordable for the long term.

We think that the demand for farmworker housing in rural America is significant and requires additional contributions. In Texas, the shortfall is over 28,000 units today. We support Congressman Panetta's bill to modernize and make USDA decision-making more transparent on farmworker housing under Sections 514 and 516.

We also support Representative Gonzalez's bill to include rural housing vouchers as a covered program under VAWA. We also support current funding levels for small grant programs like RCDI and REDI, both of which are critical. Thank you.

[The prepared statement of Mr. Keasling can be found on page 56 of the appendix.]

Chairman CLAY. Thank you.

Mr. Lipsetz, you are recognized for 5 minutes

STATEMENT OF DAVID LIPSETZ, CHIEF EXECUTIVE OFFICER, HOUSING ASSISTANCE COUNCIL

Mr. LIPSETZ. Chairman Clay, Ranking Member Duffy, Mr. Luetkemeyer, and members of the subcommittee, it gives me great hope that the subcommittee's first hearing in the 116th Congress calls us together to assess the Federal response to a housing crisis in rural America, our small towns and rural regions.

My name is David Lipsetz. I am the CEO of the Housing Assistance Council, often referred to here as HAC. HAC is a nonprofit intermediary, founded in 1971, that works in all 50 States to build and sustain local housing and community development organizations. We provide technical assistance and training, information and research, and below-market financing as a certified community development financial institution.

For policymakers like yourselves and the public, HAC is often referred to as the information backbone for rural America. We remain independent and strictly nonpartisan, and regularly respond to congressional committees and member offices that want to know how a program or policy impacts America's smallest towns. We stand ready to help you, providing research and information, and are honored to be here today in that capacity.

My colleagues are presenting extraordinary detail on USDA's programs, so let me pull back for a moment and talk about the broader context in which housing exists. It is no secret that in recent decades public policy and private markets have pushed opportunity and wealth to a select number of metropolitan regions, mainly along our coasts.

This consolidation has stripped many rural regions of their economic engines, financial establishments, and anchor institutions. It has forced a generation of rural kids to seek opportunity elsewhere. Small towns, frontier communities, and rural regions stretch across every State and nearly every congressional district in America. And it is in these places where you are going to find, if you take a good look, the more persistent and deepest poverty our nation faces.

You asked us here today to assess the Federal response to a rural housing crisis. I suggest to you the response has been modest at best and the Federal policy may actually be a driver of parts of rural America's decline.

To cite but one example, the mortgage interest deduction is the nation's largest housing program. It is not a subsidy program, it is not a rental housing program. Mortgage interest deduction is the nation's largest housing program and provides six times more subsidy than all other affordable rental housing programs provide combined.

I am not here to argue whether the deduction is good or bad policy, only to point out that less than 10 percent of rural home owners can take advantage of this program. And the vast majority, the estimated $46 billion in subsidy we put to this deduction, go to suburban and urban households. Repeat that imbalance over the several generations in which we have had a mortgage interest deduction in place and Federal policy's response has given cities and suburbs a trillion-dollar head start toward prosperity.

One issue that demands our immediate attention today involves the young families, singles, elderly, and disabled in small towns who are most likely to rent an apartment and least likely to be served by private market housing. Congress addressed this market failure several decades ago with USDA Section 515 Rural Rental Housing.

The program generated more than 540,000 privately-owned apartments that are affordable to low-income renters. The remaining 400,000-plus apartments are at risk of aging out of this system, as you have heard from my colleagues.

HAC produced the most detailed report on this topic to-date, which shows there are 1,800 units to mature every single year for the next 8 years. Following that, we are going to enter an era in which nearly 16,000 apartments in the rural areas that you represent will disappear from the program.

The good news is that we know what to do to address persistent poverty and reinvigorate communities. The power of capacity building and access to capital cannot be overstated. For capacity-building housing and urban development programs, such as Section 4, Continuum of Care and others are helping us solve problems that are predominantly urban and suburban. We can do the same for rural communities.

In conclusion, we are a stronger and more cohesive nation when all of us are productive, when all of us have the basic necessities to contribute to the success of the whole. Reform to our housing programs and most especially to our housing finance system will address these needs.

Thank you for your time. I look forward to answering your questions.

[The prepared statement of Mr. Lipsetz can be found on page 66 of the appendix.]

Chairman CLAY. Thank you.

The Chair recognizes Mr. Saavedra for 5 minutes.

STATEMENT OF ANDRES SAAVEDRA, SENIOR PROGRAM OFFICER, LOCAL INITIATIVES SUPPORT CORPORATION

Mr. SAAVEDRA. Chairman Clay, Ranking Member Duffy, and members of the subcommittee, my name is Andy Saavedra, and I am a senior program officer with the Local Initiatives Support Corporation's Rural LISC Program. Established in 1979, LISC is a national nonprofit housing and community development organization that is dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity.

In 1995, LISC launched Rural LISC, a national program created to expand LISC's reach beyond urban areas to include rural communities. Today, Rural LISC partners with 87 rural community-based organizations in more than 2,000 counties across 44 States.

Thank you for the opportunity to testify today on affordable rural housing. I have spent my entire career supporting nonprofit affordable housing organizations, working to improve rural housing conditions for the poor, including 14 years living and working in the Mississippi Delta region.

Eighty-five percent of persistently poor communities, those with 20 percent of the population being at or below the poverty level for 3 decades, are in rural areas with geographic concentrations in Central Appalachia, the Mississippi Delta, Border Colonias, Native American lands, and southeastern communities. LISC works with community-based organizations and we have seen how resources can rebuild communities when they have sufficient capacity and resources.

Two of the most important Federal capacity-building tools are the USDA Rural Community Development Initiative, and the HUD Section 4 Capacity Building for Community Development and Affordable Housing program.

For example, Lake Region Community Developers of Laconia, New Hampshire, used Section 4 to build their capacity to build Gilford Village Knolls, an affordable senior rental housing development, which is the first multifamily building in New Hampshire to be passive house certified for energy efficiency.

Tunica County CDC used RCDI funds to help develop Cypress Manor Subdivision in Tunica, Mississippi. Groups like that are often the only groups in rural communities working to improve housing conditions and modest capacity-building investments from the Federal Government can achieve transformational results.

HUD and the U.S. Department of the Treasury also administer other important affordable housing and community development programs benefiting low-income rural communities through CDBG and HOME. Many public housing and HUD-financed and assisted properties are in rural communities. Treasury administers the low-income housing tax credit, which is the largest rental housing finance subsidy source. Around 22 percent of all exiting LIHTC-financed projects are in rural communities.

Lastly, Treasury's Community Development Financial Institutions Fund, CDFI, administers important programs for nonprofit developers and mission-based lenders, such as the Capital Magnet Fund, which provides resources for production and preservation of affordable single-family and rental housing.

On rental housing preservation, LISC has helped preserve 515 housing and understands the complexity of closing those transactions. An example of this is in Garrett County, Maryland, where Garrett County Community Action Committee renovated two aging 515 elderly projects along with new construction to provide 90 units of affordable housing for seniors in western Maryland. There is a great need to develop legislative solutions to improve rural housing conditions and help USDA address 515 preservation challenges.

LISC supports Representative Clay's legislation, which would direct USDA to submit a plan for preserving their rural rental housing stock, create an advisory committee to inform the department on rural preservation, and provide the public the needed data on the characteristics of the portfolio. This data will help LISC and other stakeholders better identify preservation opportunities and inform future legislative and policy recommendations around this important issue.

We support Congressman Panetta's legislation to align USDA farmworker housing programs with the low-income housing tax credit amongst other important reforms. LISC supports Representative Gonzalez's proposal to include the Section 542 voucher program as a covered program under the Violence Against Women Act (VAWA) and proposals to broaden voucher assistance to tenants in properties with maturing USDA mortgages. Those bills provide sorely needed tenant protections.

We also support proposals to test out new models for preserving USDA rental housing stock and believe USDA should receive additional resources for existing programs that help preserve USDA-financed rental housing legislation, including 515 and multifamily preservation program.

Affordable housing needs on Native American lands are some of the most important and severe in the country and the toughest to solve. In 2018, USDA announced a 502 relending pilot program to help families living on tribal lands in South Dakota and North Dakota receive a home mortgage. LISC is working to assist—

Chairman CLAY. Your 5 minutes has expired, Mr. Saavedra.

[The prepared statement of Mr. Saavedra can be found on page 75 of the appendix.]

Chairman CLAY. At this time, we will recognize Ms. Eastwood for 5 minutes.

STATEMENT OF TANYA EASTWOOD, PRESIDENT, COUNCIL FOR AFFORDABLE AND RURAL HOUSING

Ms. EASTWOOD. Thank you. Good afternoon, Chairman Clay, Ranking Member Duffy, and members of the subcommittee.

I am Tanya Eastwood, the chairman of the board and the past president of the Council for Affordable and Rural Housing, more commonly known as CARH.

For those of you who are not familiar with us, we are a national industry trade association, representing the professional interests of both for-profit and nonprofit owners, operators, developers, builders, and other suppliers of the affordable housing industry, but specifically those focused in the rural communities.

I am also the current Chair of Fannie Mae's Rural Duty to Serve Advisory Council. And for the past 14 years, I have had the honor to serve as the president and CEO of Greystone's Affordable Development division based out of Raleigh, North Carolina. While Greystone is primarily an FHA and agency lender, my team's focus is primarily on affordable housing development, specifically with the preservation of Section 515 properties.

In fact, Greystone consistently ranks as a top rural affordable developer in the country and we have preserved over 13,000 Section 515 units in multiple States. And we currently have about another 3,500 units that are underway. I appreciate the opportunity to speak before you today with our firsthand real-world experience, recognizing RD's preservation policies, what works, areas of efficiencies and improvements that are needed, as well as some of the current challenges that we face.

It is important to note that both CARH and Greystone have excellent relationships with RD's national teams, and we are very pleased with some of the recent process improvements and commitments that we are now seeing. But collectively, we all must do more as, indeed, affordable housing is in crisis and affordable rural housing is an absolute necessity. We see rural renters are more than twice as likely to live in substandard housing compared to people who own their own homes.

In many communities, the Section 515 housing is the only safe and decent and affordable housing option in those communities, and 515 communities have already started to drastically decline since the program's inception. Specifically, according to RD's most recent report that was just published a month or so ago, there are now just over 375,000 remaining 515 properties down from its peak of 533,000.

I mean, stop and think about that for a minute. Thirty percent of the housing that was originally constructed using 515 financing is no longer in the program. I just find that staggering. And to compound the issue, RD confirms that they have not financed any new properties in the rural community since 2011. That is 8 years with no new housing.

And to compound the issue even further, maturing mortgages have now become the most pressing issue of our time. According to that same published report by RD in February, almost 10,000 units, 10,000 homes of the most vulnerable populations, were removed from the program in the past 2 years alone. As you have heard today already, that loss is projected to only climb annually until the program is effectively eliminated in 2050, unless something changes.

You know, most celebrate when a mortgage is prepaid or paid-off. But when a 515 mortgage ends, whether through either prepayment or maturity, the associated project-based assistance that supports those low-income residents also ends. This necessity exposes these residents to higher market rents, or worse, the project is converted to another use altogether, eliminating the housing.

But neither the private nor the public sector can produce or preserve affordable rural housing independently of each other. This must be a partnership so that the housing and the infrastructure needs of rural America can successfully be met. CARH members believe there are several areas within the rural housing arena that Congress and the Administration should consider as priorities in order to chart a better course.

For starters, we strongly support decoupling of the Section 521 Rental Assistance for mortgages upon prepayment as well as termination and maturity. Second, we recommend that Congress adequately fund specific preservation RA as well as give clear direction to RD to use it for that purpose.

We encourage Congress to modernize the 4 percent housing credit and we would also like Congress to instruct RD to allow income averaging, as included in the recent Tax Cuts and Jobs Act. And finally, we request tax relief for older properties and older owners that never caught up after the 1986 Tax Reform Act so that they can sell and preserve these properties without a large exit tax bill, avoiding the alternative of holding onto the aging asset until they die.

The current draft legislation proposals presented with this hearing certainly are a great start, but with some strongly recommended modifications. I thank you for the opportunity today, and I welcome any questions that you may have.

[The prepared statement of Ms. Eastwood can be found on page 43 of the appendix.]

Chairman CLAY. Thank you, Ms. Eastwood, and the entire panel for your testimony. We will now enter into the Q&A segment of this hearing, and I will begin by recognizing myself for 5 minutes.

This first question is to all of the witnesses, or any of you can chime in. While we have some data on the maturation and prepayment of Section 515 and 514 mortgages so far and in the coming year, there are still several unanswered questions in terms of the scope of this issue.

For example, the effect that this has had on tenants so far is unclear. Has USDA adequately shared information with owners and the industry about properties nearing mortgage maturity and options available to preserve affordability? We will start with Mr. Anders and move down.

Has USDA adequately shared information with—

Mr. ANDERS. No. The short answer is no.

Chairman CLAY. Okay.

Mr. ANDERS. We do not know exactly the extent to which various State offices are dealing with maturing mortgages. We do not know how many mortgages are being extended. We don't know how many rental assistance contracts are being extended. And I think we need to ask RD to provide that information.

Chairman CLAY. Anyone else?

So, Mr. Anders, it means that they need to be more transparent?

Mr. ANDERS. Yes.

Chairman CLAY. They need to be more upfront to the owners and the stakeholders in this process?

Mr. ANDERS. Definitely. Generally, to the public, yes.

Chairman CLAY. Mr. Keasling?

Mr. KEASLING. Not to disagree with my friend, Gideon, but I am not sure that the department actually knows the answer themselves. And much of the information is stored at the State offices and is not easily collected and reported out. So, obviously, they could use better processes.

Chairman CLAY. Let me ask, the National Housing Law Project has sued the USDA, alleging that it is violating existing statutes that place certain restrictions on owners seeking to prepay their Section 515 or 514 loans and thereby accelerating the loss of affordable housing in rural areas.

Specifically, USDA appears to be incentivizing owners to prepay their loans by offering rural development vouchers to residents who should be protected by use restriction. Would you walk us through your concerns with USDA's actions?

Mr. ANDERS. Sure. The problem is that RD, at least currently because of, I believe, staff changes, does not understand the interplay between ELIHPA and the Rural Development Voucher Program. And what they are doing is, whenever an owner asks permission to prepay a loan, they are telling the owners and they are also telling the residents that the project can be prepaid and, yes, they will put use restrictions on the project, however, "We will provide all of the residents in the development with vouchers."

The use restrictions, which were adopted by ELIHPA, were supposed to protect residents without their requiring any vouchers. That was a disincentive that Congress put into the Emergency Low-Income Housing and Preservation Act of 1987 so that owners would have to calculate the rents of residents after prepayment the same way that they were calculated before.

And what RD is doing now is basically providing vouchers to owners and it is basically telling the owners, you can convert the housing from subsidized housing to nonsubsidized housing while you get a cashflow from the vouchers that you are going to get, which you wouldn't have gotten under the ELIHPA program. And that is how it is encouraging prepayments.

It is also not properly evaluating whether prepayments will have a major impact on minority housing opportunities. The agency has to then take into position that instead of looking at the impact of minority housing opportunities, we will look at whether or not the impact is disproportionate, and that is a different standard than looking simply at the impact upon low-income minority residents.

And in doing so, what I have seen is the State offices are saying, "No, there is no disproportional standard because all of the residents are being displaced." Or, "No, there is no disproportional standard because they are all going to get vouchers." That was not the intent of the Emergency Low-Income Housing and Preservation Act.

Chairman CLAY. And, Mr. Anders, it sounds as though that contributes to the number of lost units—

Mr. ANDERS. It definitely does.

Chairman CLAY. Also by incentivizing it through the—

Mr. ANDERS. Yes. In fact—

Chairman CLAY. Thank you.

Mr. ANDERS. In one of the cases we are involved in, in Oregon, we challenged the RD decision because they made the wrong decision. And after we challenged them, they immediately went back and came up with a new decision.

In the first decision, they said, "We will allow the owner to prepay subject to use restrictions." After going back and looking at the data, they went back and said, "No. We will not allow the owner to prepay. We will require the owner to market the property to nonprofit and public agencies."

Chairman CLAY. Thank you, Mr. Anders, for your—my time has expired.

I recognize the ranking member of the subcommittee for 5 minutes.

Mr. DUFFY. I appreciate the chairman for yielding.

To the panel, is the Rural Housing Service a well-run agency? Mr. Anders? And we will go down the line.

Mr. LIPSETZ. Mr. Duffy, I am happy to address that in that I, at one point, was the Associate Administrator of the Rural Housing Service. It is an organization that does tremendous work with very few resources. If we are going to have something that functions well, we need to pay for it. We need to pay for the systems and the staff to be able to do it.

And the reason why we have a significant amount of staff and some very challenging systems issues at Rural Housing Service is because the model for delivering affordable housing in nonfunctioning markets where we cannot get private market debt on these properties in a way that serves the community, necessitates government intervention.

There aren't many places where we would make that argument. But in this case, where you have credit elsewhere issues, we would suggest that you will need that much staff, and more, to get the job done.

Mr. DUFFY. I appreciate the rationale, but you are somewhat skirting the issue. You tell me why it maybe doesn't work well. You don't have the money, you don't have the resources. By the way you have answered the question, you are ceding the point that it does not work well, whatever the reason might be. I mean, the staff, the money, the skillset. Fair enough? It doesn't work well right now?

Mr. ANDERS. It has been set up to fail by the funding levels that it gets.

Mr. DUFFY. And I just want to make—does anyone disagree with that, that it doesn't work well?

Mr. SAAVEDRA. May I?

Mr. DUFFY. Yes.

Mr. SAAVEDRA. I will say this about USDA as somebody who lived in a small town of 7,000 people and worked with the USDA and HUD. My old boss used to say HUD works critically, but HUD works with programs, whereas USDA works with people.

I mean, having USDA staff locally, regionally, was very important in terms of me doing my work, whereas my HUD field office at the time was in Shreveport and couldn't really do that much for me. So, structurally, there are good people out there doing some good work, some criticisms aside. It is a gray—

Mr. DUFFY. I really meant that question to be a quick answer and I appreciate the insight that you all gave me.

[laughter]

And I guess the point is, we all agree there is a problem. I notice we have a problem on our hands or on our horizon. And I guess my point is, before we dump more money to fix the problem, we have to probably fix the agency that is going to be responsible for fixing the problem, right?

Fix the agency or decide who is going to fix the problem and make sure it is well-functioning and then put money into it. Would anyone disagree with that assessment? No one is telling me I should put money in first and then say, okay, how do I make the agency function well? No disagreement?

Mr. LIPSETZ. Sure. I would fundamentally disagree that, if you are going to get a car to drive faster on really old tires, one of the first things you should do is replace the tires.

Mr. DUFFY. Right. But I am not talking about investing—we are talking about a lot of units that are about to expire. Before I give you money ans say, how do I fix that, I should make sure the agency works well. We are talking about two different silos of money.

Mr. LIPSETZ. And one of the ways in which I think you fix it—because this program has been an extraordinary private market, public partnership. And these are private owners. And to keep private owners in the program, incentivize them to stay in. There is not a market incentive right now to do so.

Mr. DUFFY. I get that, but I guess my point is, if we are going to put—this is going to take dollars and I want to put money into a program that I know is—an agency that I know is going to work. And if we need to have a conversation about how we make the agency work better or who should be responsible for administering these dollars, that is a conversation I am willing to have.

But you are going to find it hard-pressed to get me to put a lot of money into an agency that doesn't have a great track record thus far. And you might give me reasons why it doesn't have a good track record, but that is one concern I have upfront.

I only have 40 seconds left. I want to get to some of the bills that have come up. Does anybody—

Okay. Does anybody have the viewpoint that we should force owners into extending their contracts after those contracts legally expire?

Ms. EASTWOOD. Quite the—

Mr. DUFFY. Ms. Eastwood?

Ms. EASTWOOD. Quite the opposite. I think that is punitive for the owners that they have done their—they have kept their commitment based on the contract that they entered into 20, 30 years ago. They have honored those commitments and should have the right to then have their property rights returned to them.

Mr. DUFFY. Does—

Ms. EASTWOOD. Are there things that we can do to incentivize them to stay in the program and to continue under those restrictions? Absolutely. But straight-out continuing just in exchange for vouchers, no.

Mr. DUFFY. Does anybody disagree with that?

Mr. ANDERS. Well, I don't believe any of the bills that are in front of you require owners to extend their contracts. All of the proposals before you are voluntary.

Mr. DUFFY. You don't disagree with the concept, though? Because I think that the problem becomes if you enter into an agreement with the government and you don't want the government at some point to later change that agreement, and I think that would be a prohibitor of—

Mr. ANDERS. Yes. But none of the proposals that are before you, in fact, encourage—

Mr. DUFFY. And does everyone agree that we should decouple the rental assistance contracts from the multifamily contracts? Is that a good thought process for us?

Ms. EASTWOOD. Absolutely.

Mr. ANDERS. I definitely believe so, yes. I think it is the only way in which—

Mr. DUFFY. Does anyone disagree? If I could just for one—this is a space that we have to deal with, and we all know we have to spend some money here. But to get your best advice as we go through the process would be welcome. We have great minds and a willingness in the Congress to make this work. And thank you for your testimony and insight today.

Chairman CLAY. All right. I thank the gentleman from Wisconsin. It sounds like it is an area we are going to work together on.

Mr. DUFFY. I hope so.

Chairman CLAY. Yes. I recognize the gentleman from Texas, Mr. Gonzalez, for 5 minutes.

Mr. GONZALEZ OF TEXAS. Thank you, Mr. Chairman. And I would like to thank the panel for being here on such an important issue that is impacting America.

An astounding 92 percent of homeless women have experienced severe physical or sexual violence while almost 50 percent of all homeless women report that domestic violence was the immediate cause of their homelessness. Additionally, upwards of 25 percent of women in rural areas live more than 40 miles from programs that can provide that type of assistance.

I want to, first of all, take the time to thank Congresswoman Wagner and Congresswoman Sylvia Garcia and Congressman Trey Hollingsworth for their support and hard work on the VAWA Protections for Rural Women Act of 2019. Unfortunately, the Rural Housing Voucher Program was not originally included under the VAWA, leaving individuals holding these vouchers extremely vulnerable to homelessness, and without help that might be available in other settings.

This legislation is designed to fill the gap in housing support for rural victims. All other rural housing programs are currently included as covered housing programs under VAWA, programs such as HUD's rental assistance programs and low-income housing tax credit programs.

My first question is for the panel at mass, if anyone thinks that applying the Rural Housing Voucher to VAWA Protection is a bad idea. Well, that is good to hear.

[laughter]

Mr. ANDERS. Mr. Gonzalez, I believe it was simply an oversight because the voucher program is not technically authorized by the Housing Act of 1949. It was authorized, at least the way it is operating now, under an Appropriations Act. And I think it was an oversight and I clearly believe that it should be extended.

I should also point out that right now RD is using HUD documents, which, in fact, enforced VAWA in the context of the voucher program.

Mr. GONZALEZ OF TEXAS. Thank you.

Mr. ANDERS. It is a question of continuing it.

Mr. GONZALEZ OF TEXAS. Mr. Anders, can you tell me how VAWA and housing programs intersect?

Mr. ANDERS. Sure. There are some people who are much more expert than I am in that. But basically what happens is there are questions of what happens when you have women who are victims of domestic violence, or men for that matter, that there are ways of allowing them to move to another unit, that they get away from the person who is an abuser, allowing them to break their leases, and various protections which allow the person to take advantage of all the protections that are included in VAWA.

Mr. GONZALEZ OF TEXAS. Thank you. And what kind of challenges have you seen in rural areas that are more pronounced or different than challenges that you face in urban settings?

Mr. ANDERS. I, unfortunately, do not have any experience in it. And I could get back to you with one of my colleagues who really works in the area more so than I do.

Mr. GONZALEZ OF TEXAS. Perfect. Thank you. I yield back.

Chairman CLAY. The gentleman has yielded back. And I recognize the gentleman from Missouri, Mr. Luetkemeyer, for 5 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman. I come from a rural area. My town is 336 people when you count the dogs, cats, and pregnant ladies twice.

[laughter]

So, I think I can qualify as somebody who probably understands what you are talking about when you are talking about rural housing. So, just to try and talk about—I think, Ms. Eastwood, you were talking a while ago in your testimony about something with regards to incentivizing the property owners to extend. I take it that when you say you are losing units these people are not extending their contracts or not continuing to rent to individuals that normally they would be renting to. Is that correct?

Ms. EASTWOOD. That is right. One of the main challenges is really getting our arms around what is happening with these units is really the complexity of the data. It is not just as simple as the mortgage maturing. And those units—

Mr. LUETKEMEYER. So, these units are not being torn down?

Ms. EASTWOOD. They are not being torn down.

Mr. LUETKEMEYER. The owner is continuing to rent them, but not necessarily to people who—is he throwing all the folks out or is he continuing to rent sometimes to the people who have been renting previously?

Ms. EASTWOOD. In most cases, the housing stays, and it has continued to rent. But then those residents who have rental assistance are exposed to their rents going up to market rent. There are maybe situations where communities used to be rural that are now no longer rural, that that owner may decide that that use is better for some other purpose other than housing.

Mr. LUETKEMEYER. Okay. So, how do you want to incent folks to continue in the program?

Mr. ANDERS. Most owners, I think, that go into affordable housing go in for the mission, right? But it has has to make financial sense. And so, these properties are old, and they need to be rehabbed. And really the main tool in today's environment to do that is the Low-Income Housing Tax Credit.

That is really tough in the rural communities. They can't compete very well QAPs. They score very well. So, how do you go about doing that? And if there are things like the preservation RA that has been discussed in some of the proposals. If there are ways that you can incentivize that. Funding the MPR program at $75 million is critical.

We do a lot of preservation and there are owners and investors who are very motivated to keep the housing, but they have to make financial sense. And I think our biggest barrier is just the resources to do just that.

Mr. LUETKEMEYER. One of the statistics that was on the screen a while ago was that there is 16.4 percent rural poverty, which is 3 percent greater than urban poverty. In one of the testimonies I think I saw, or maybe it was on the screen here a minute ago, that one in four in the rural area, 50 percent or more are paid their income in rental assistance.

What is the number for urban? Do any of you know off the top of your head? Does that compete? Is that similar? So, one in four people pay 50 percent or more of their income on rent. Is that roughly the same in urban areas as well or is it higher in—don't know? Okay. That is fine.

Let me talk a little bit about something a little bit different, but I think it has an impact here. How many of you have heard of Current Expected Credit Losses (CECL), sort of a new accounting standard called CECL? Okay. I hope you get up to speed on it because this is what it is about.

It is about anybody who lends in the home mortgage space—in fact, it affects credit card companies and securities companies as well—to have on their balance sheet a better reflection of the risk in their mortgage portfolio. And you are asked to reserve more money. As a result of that, you are probably going to see the people in the financial services industry have to put more money into reserves, which means they are going to have to probably charge more.

For instance, the GSEs, we are working with them right now. They have a $5 trillion portfolio. If they have to put a whole lot more money in their portfolio, that means they are going to have to raise the guarantee fees in order to be able to afford to do that, which means people are going to have to pay more for their loans.

When that happens, home builders, if you look on our website when they had the—in this committee, we had testimony back in December, every thousand dollars increase in home in the cost of a loan means 100,000 people no longer have access to credit. That is kind of a dramatic effect whether it is in urban areas, suburbs, or whether it is in rural areas.

So, you all need to be aware that this is coming. Maybe work with your financing folks. Understand they are going to have to—understand how to reserve for this because it can have a dramatic effect on what you are doing. And when you get done with your studies, please let me know because I need to have some numbers for me to be able to do this.

Mr. Keasling, I have 20 seconds left here. But you said from, I guess, earlier in the early 2000s, we had 221,000 homes that were purchased or built. And in the 10 years after the crash, we had 68. Was that all due to the recession or is that just normal ebb and flow of the cycle?

Mr. KEASLING. Well, I think it is too dramatic just to be the normal ebb and flow. And actually, both of those numbers were the average production for the 10-year span. So, the average before the crash was 221,000. The average after the crash for 10 years was 68,000. And it is just a very dramatic reduction, I think, in access to credit. And the challenges that rural communities have in being able to—

Mr. LUETKEMEYER. Okay. Perfect. Thank you. I yield back.

Chairman CLAY. The gentleman yields back. I recognize the gentlewoman from Iowa, Mrs. Axne, for 5 minutes.

Mrs. AXNE. Thank you, Mr. Chairman, and thank you to the witnesses for being here today. I appreciate it. I was looking through some of the Section 515 and Section 514 properties in Iowa and noticed that very few of them had been built in the last 25 years. In fact, none since, I believe, 2011. And that over the next 15 years, Iowa is projected to lose more than 2,500 units, or approximately 40 percent of this housing.

Mr. Lipsetz, in particular, do you think the lack of new construction in rural areas is causing some of the population declines that we are seeing in particular rural areas?

Mr. LIPSETZ. Thank you. That is an excellent question. Anecdotally, yes, in that a driver of household formation is the quality of house and the amenities it is surrounded by. And absent a new stock or vibrant stock, you are going to see a younger generation leave without those things. That is anecdotally around household formation. Our numbers look very similar to what you described for loss of property in Iowa.

Mrs. AXNE. Thank you. And to follow-up on that, I am sure you are probably aware of our recent flooding that we have had in Iowa. And my district was hurt the worst as a result of that. We have towns that are irreparable at this point. They are completely underwater.

And of course, we have been working hard to get FEMA there and get people moved into temporary rental areas. But to follow up on this, I know that FEMA makes use of local rental housing after disasters. And my question is, do you think a shortage of affordable rural housing makes it more difficult for areas experiencing disaster to recover? And if so, is that exacerbating our problem of our rural communities, you know, quite honestly, being left behind and people moving to urban areas?

Mr. LIPSETZ. Again, an excellent question. I do note that the way in which disaster recovery occurs usually is focused on an urban center and deploying FEMA forces to that center and distributing the two different kinds of assistance. And often times you will find the outlying areas without the capacity, without the infrastructure to be able to respond to FEMA recovery or any of the Stafford Fund distribution and delivery.

And that is, to us, an issue that runs across many different programs or disaster and other things like that, that if you don't take the time to build the capacity of local organizations to be able to address disaster or the rural rental housing crisis or anything of those things, then you are not going to have boots on the ground to be able to respond in the time of real need.

Mrs. AXNE. Thank you. Mr. Keasling, a question for you. I was wondering if we could talk a little bit more about the Administration's plans for the rural housing programs. And considering that 2 million rural households pay over 50 percent of their income in rent, and all of the testimony we have heard today leads us to understand that, do you believe that it is appropriate for the Trump Administration's budgets to have proposed drastic cuts, as much as 25 percent, to the staff of the Rural Housing Service?

Mr. KEASLING. So, definitely, we do not support that and think that it will have an extremely adverse effect on the delivery of the programs. There is also a shift that is happening between the allocation of staff in the State offices and in the local area offices to national office functions, and that is also further exacerbating the problem.

So, the combination of the cuts and the redirection of staff is just—I think it is a huge problem that is going to make correcting the agency and helping the agency to get a handle on all the problems that it is trying to deal with even more difficult.

Mrs. AXNE. Thank you. And as a member of the House Agriculture Committee as well, I just want to let you all know I am looking forward to engaging more with Secretary Perdue to ensure that the programs that we are discussing here today are implemented and that our rural areas have access to the housing that they need. Thank you.

I yield my time back, Mr. Chairman.

Chairman CLAY. Thank you. I now recognize the gentleman from Ohio, Mr. Gonzalez, for 5 minutes.

Mr. GONZALEZ OF OHIO. Thank you, Mr. Chairman, for holding this hearing and for recognizing us. Thank you to the witnesses for all the time that you put into today's hearing. I have the privilege of representing Ohio's 16th Congressional District. And as part of that, I have one of my favorite counties in the world, which is Wayne County. And Wayne is home of J.M. Smucker's and is our most rural county.

One of the things that we have been talking about with local elected officials is precisely rural housing shortages and homelessness in Wayne County. Kind of building off of the ranking member's questions earlier, I want to start by basically trying to think through how efficiently we are managing our dollar and, quite frankly, whether the USDA is even the right place for RHS.

So, I will start with a statement, which is that the 2018 fiscal year budget for RHS was $244 million out of a $22.5 billion total, so roughly 1 percent of the USDA's total budget.

When you hear that, Mr. Lipsetz, in particular, you mentioned, hey, we are not funded well. And I hear you, but at the same time I wonder, if we are only spending 1 percent of the budget, how big of a priority is this inside of the USDA in your estimation?

Mr. LIPSETZ. As an Ohio native myself, it is great to see you here. And in direct answer to your question, I not only worked at USDA, I was at HUD for awhile. And I may be one of the only people in the room, or maybe the city, who has had those two distinct experiences.

And what I might suggest that it taught me is you grapple with fundamentally different policy issues in the two places. That understanding the function of a rural market is significantly different than what you need to do as a policymaker to provide housing in an urban market and a suburban market.

We are a suburban nation, right? We have a population where 52 percent of America now lives in suburban environments. We are pulling folks out of rural places to populate that. And if you expect to be able to function in a rural market with what is left, you need a different delivery model than HUD has.

HUD has—I am sure someone could help me here—7,000 or 8,000 staff. Rural Development has nearly 5,000.

Mr. GONZALEZ OF OHIO. But they are not working, though, right? I mean, that is the—

Mr. LIPSETZ. They work very differently.

Mr. GONZALEZ OF OHIO. I don't mean to interrupt, but I guess my challenge is, I think we have all kind of come to the realization that RHS—and again, thank you for your work, this is not a criticism of your work or anybody's work. But it is just not working the way that it needs to. The programs aren't delivering the way that they need to.

And I guess in my head, I think one of the biggest problems we have in this town is we have a million programs for a million different things, and they are all well-intentioned. I think folks generally are all trying to do the best that they can. But when you have so much duplication, I am just concerned that we are—I hear you. They are different markets.

But if you understand urban housing, surely you could develop inside of HUD a similar expertise. Although, you are suggesting no, so.

Mr. LIPSETZ. Yes. I mean, it is the Housing and Urban Development Department to its core.

Mr. GONZALEZ OF OHIO. Yes.

Mr. LIPSETZ. And what I would suggest is that we think about moving HUD programs over to USDA or at least use the USDA model. Look, when we talk about efficiencies, we are also putting consolidation in front of competition.

I am a market person who appreciates the way in which we have to have private finance in the delivery of our housing system. If we are consolidating for efficiency and efficiency alone, the competition and the way to drive resources to different types of geographies is going to exist in several different places in our big company, the Federal Government.

Mr. ANDERS. Mr. Gonzalez?

Mr. GONZALEZ OF OHIO. Yes. Go ahead.

Mr. ANDERS. If I can just—

Mr. GONZALEZ OF OHIO. I am curious for this. I want to—yes. So, anybody, please.

Mr. ANDERS. Personally, I believe that if you move the RD programs over to HUD, they are going to be basically stopped.

Mr. GONZALEZ OF OHIO. But isn't that what is happening now?

Mr. ANDERS. HUD does not have the capacity to deal directly with borrowers. It has never done that, with one exception, which is the 202 Program. It deals with intermediaries in every case. RD does not do that. And it has a totally different outlook in terms of how you serve rural communities than does HUD.

The RD offices at one time had 1,800 offices throughout the nation. Unfortunately, that has been cut to about 700, so that has to deal with the staffing issue. And if you keep cutting the staffing issues, yes, the agency's going to centralize and it is not going to be serving as well as it has in the past.

Chairman CLAY. The gentleman from Ohio's time has expired.

We now go to the gentleman from California, Mr. Sherman. You are recognized for 5 minutes.

Mr. SHERMAN. Why, thank you. I want to focus on the role that manufactured housing can play in providing housing to rural Americans. I am told 22 million people live in manufactured housing in our country. That the average price is under $72,000, without the land of course. Some 76 percent of manufactured homes are titled as personal property. Two-thirds of the manufactured homes are in rural areas, hence the reason I am focusing on that here in this hearing. And that 75 percent of all new homes sold for under $150,000 are manufactured housing.

Now, we have the Section 502 program. The question is, why doesn't 502 support chattel financing, which is the method most often used for mobile homes? And so, I will ask Ms. Eastwood to comment on this and then we will see if anybody else wants to comment.

Ms. EASTWOOD. So, we primarily focus on the multifamily side, not on the single-family side.

Mr. SHERMAN. Okay. We will see if anybody else is—

Mr. KEASLING. I would like to stick my foot in that water.

[laughter]

It seems to me that it is even more important that we not have mobile homes—manufactured housing financed as chattel. That, in fact, figuring out ways—I mean, the housing is most durable if it is on a permanent foundation. And if you put it on a permanent foundation, then you can get a conventional mortgage. So, there are real advantages, it seems to me, to constructing it and placing it in places in that—

Mr. SHERMAN. But, at least in my district, the tendency is for the owner of the manufactured housing not to own the land. You rent the land. That is not all that different from being a homeowner subject to a community association that you have to pay money to every month. In fact, some homeowners' associations charge more than you sometimes pay to accommodate a mobile home.

Now, I know that there are two pilot projects under Section 502: one that is exclusively for those who own a fee simple interest in the underlying real estate; and the second pilot project allows homes in a land-lease community, that is to say chattel. Are any of the witnesses familiar with these two pilot programs?

Mr. KEASLING. I thought that the second model was actually for resident-owned cooperatives where basically, the residents of the mobile home owned, in common, the land. And therefore, the tenant had the ability to place their home on a permanent foundation again, which allows them to finance without—

Mr. SHERMAN. You are still, under the second program, a chattel mortgage because the individual homeowner doesn't own and fee simple the underlying real estate. But I gather from your testimony that what we need to be focusing on here is that permanent foundation. How expensive is it to attach a home to a permanent foundation?

Mr. KEASLING. Well, it is somewhat more expensive than to leave it on just blocks or piers. But, as I say, I think the long-term costs are a substantial advantage to placing it on that permanent foundation. The second thing that I would say is—

Mr. SHERMAN. Yes. But I will point out there are some situations where you may want to move the home. Especially if there is an oil boom or something in a particular town, construction boom, that may only employ you there for a couple of years. So, there will be times when you don't want the permanent foundation but times when you do.

In either way, we need a program that will allow you the flexibility to either have it not on a permanent foundation, on a permanent foundation but you don't own the land, or on a permanent foundation and you do own the land. With that, my time has expired now.

Chairman CLAY. I thank the gentleman for his observance of time.

Let me now go to the gentleman from Colorado, Mr. Tipton. You are recognized for 5 minutes.

Mr. TIPTON. Thank you, Mr. Chairman, and I thank the panel for taking the time to be here. Sorry. I had to step out for another committee meeting.

But I just wanted to bring up something that we are facing currently in Colorado in my district. We have been becoming keenly aware that there is a need for affordable housing, particularly in our smaller communities. And I believe that is true across the country.

And when I talked to some of the housing advocates back at home, a theme that comes up often is the need to be able to provide affordable housing for growing senior populations. In Colorado, as an example, the population of folks who are age 65 and over is projected to increase by a little better than half a million by the year 2030.

Many of these people will, obviously, need to be able to have affordable housing and they are going to be seeking it out, probably, in some of the rural areas, simply because of the costs in the urbans areas, seek out more affordable housing, and it is just a dollar amount that they are going to have to try and address.

Also, we have seen evidence in Colorado that people who are nearing retirement age are also going to have a real difference in terms of the amount that they have saved, and we are seeing the same problem with Baby Boomers as well when it comes to having resources as the population does age.

When we talk about national initiatives on housing, like the ones that are being advanced by our colleagues across the aisle, we ought to be able to make sure that we are taking into account the needs of rural Americans as well and also taking into account that for senior citizen populations who will need affordable housing.

So, I have a general question that maybe each one of you on the panel would like to address: What are some of the challenges that communities are going to face in providing that affordable housing for seniors in rural places, especially as that demographic continues to grow?

Mr. Anders, would you have some short comments on that?

Mr. ANDERS. Sure. You have to realize that the 515 program is currently serving— over 60 percent of the residents of 515 housing are elderly people or people with disabilities. And the real problem has been that Congress has basically starved the 515 program. In 1994, the program was funded at about $1 billion annually. It is currently being funded at about $35 million, and that is a major problem.

Congress has actually dealt with it in the 202 program recently, where it has pumped more money into the 202 program for the first time in years. It put about $105 million into the program in the last 2 years. It has not done the same thing for the 515 program, and that needs to be done at this point.

Mr. TIPTON. Great.

Mr. ANDERS. The appropriations for the program just need to grow.

Mr. TIPTON. Okay. Any other comments on that?

Mr. KEASLING. I would just say that the program needs those appropriations in order to build new housing. And new housing is definitely a need in rural areas, and that is the only way you are going to respond. And frankly, the 515 program is a very cost-effective way of doing that.

Ms. EASTWOOD. And I would echo that. With the aging population in places, like he said, 67 percent are the elderly. And to get new construction, new development that is out there, you know, the numbers have to work. And the 515 program, it is very hard to compete in today's financial environment with that 1 percent, you know, 50-year AM.

And those smaller communities that we are talking about here today, there are smaller properties that are being built, so you don't get those economies of scale. And so, to attract that, you have have toget either favorable financing of some form or fashion. And it is starving.

On the deals that we do, we spend an average of about $1.1 million of new debt, and these are all in recapitalization reservations. So, on a a program that is currently only being funded at $40 million, I mean, you do the math. It is not going very far at all.

Mr. TIPTON. Well, Ms. Eastwood, that kind of brings up a question in regards to some of the multifamily properties in Rural Housing Service, should we retain all of those? Are there some we shouldn't retain? What are you thoughts on—

Ms. EASTWOOD. There are some that are ready to come out of the program. There is either alternate housing, they are now in the suburban areas. There is some that the market has—it is no longer needed, you know? The area has dried up, the out-migration has certainly happened. But I say that is more the abnormal. There is certainly a built-up need for housing in these rural markets and we are just not meeting that need with the supply.

From the homeowners back in the day—people are going from home ownership into rentals. There are demographic changes where people are not buying their first home as early as they did back in prior generations. So, that pressure, even with out-migration, is putting a strain on the housing options that are available in these communities.

Mr. TIPTON. Great. Thank you.

My time has expired, Mr. Chairman. I appreciate it.

Chairman CLAY. Yes. Thank you. And let me thank all of the witnesses for your testimony today. You have certainly shared what the possibilities are to this subcommittee and really educated me on some of the aspects of rural housing that I was not aware of, so I appreciate that. And hopefully, we can hammer out something that is beneficial to the rural community in this country.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

This hearing is adjourned.

[Whereupon, at 3:33 p.m., the hearing was adjourned.]

A P P E N D I X

April 2, 2019

April 2,2019
Subcommittee on Housing and Insurance
"the Affordability Crisis in Rural America: Assessing the Federal Response"

Congressman Cleaver's Statement for the Record

I would like to thank my good friend, Chairman Clay, for Convening this important hearing on how the affordable housing crisis is impacting rural America. Many of my colleagues have heard me say that my district stretches a broad 90 miles. From the urban core of Kansas City to the farms of Marshall. They have heard me lament that some of the rural areas in my district have not seen new home construction in decades.

Too often, I fear, we forget that economic hardships know no race, creed, or geographical location. My rural communities of Ray, Saline, and Lafayette have a poverty rate outpacing the national average. The need for affordable housing is no less important for them than for my constituents in Kansas City, who also face considerable headwinds.

My staff provided me with a report from the Urban Institute released this past October. The report highlights that while rural areas represent over 70 percent of the land area of this country and 14 percent of the population, they have a higher rate of poverty than their urban counterparts. Those in rural areas face lower earnings and higher prevalence of persistent poverty.

According to the same Urban Institute report, "rental housing in rural communities poses significant challenges in terms of types of housing, age, quality, affordability and overcrowding." 35% of rural and small-town renter occupied housing were built before 1960 and are more than 50 years old. As of 2010, 7.3 million rural households had a worst-case housing need – that is the unit lacked complete plumbing or kitchen facilities or the tenants were cost burdened.

To add insult to injury, section 514 and 515 programs aimed at assisting rural households are facing a crisis potentially resulting in significant displacement for many rural communities. About 20 percent of 514 program units have been lost. 4,000 of 515 program units are being lost annually due to prepayment and loan maturation with the number expected to spike over the next decade. These programs largely serve senior citizens, households lead by women, and low-income households.

I am proud to support Chairman Clay's bill, which goes to the heart of this problem. It calls on the USDA to devise a plan on preserving Section 514 and 515 housing. I look forward to working with the committee to advance this important effort.

Statement of Gideon Anders,
Senior Attorney, National Housing Law Project
House Financial Services Committee
Subcommittee on Housing, Community Development, and Insurance
April 2, 2019

The National Housing Law Project (NHLP) is pleased to submit this statement for the record in support of our testimony to the Housing, Community Development and Insurance Subcommittee of the House Financial Services Committee. NHLP has just celebrated its 50th year of operation. Throughout this time we have operated nationally to advance the housing rights and interests of low- and very low-income households through policy advocacy, litigation, technical assistance, and training. We have focused on improving the manner by which both the Department of Housing and Urban Development (HUD) and the Rural Housing Service (RHS)[1] meet their obligations to provide decent, safe and sanitary housing to low- and very low-income beneficiaries of their programs.

In the 1970s, NHLP successfully challenged RD's 25-year failure to implement its single-family moratorium relief program, and successfully advocated for the establishment of the due process appeals process that is currently available to homeowners and renters in RHS financed single and multi-family housing. In 1987, we promoted the adoption of the Emergency Low-Income Housing Preservation Act of 1978 (ELIHPA), which currently governs the prepayment of RHS rental housing loans. In the 1992, we worked successfully with the Housing Assistance Council (HAC) and other organizations and officials to advocate and promote the creation, and ultimately the establishment, of the RHS National Office of Rural Housing Preservation, currently authorized by 42 U.S.C. § 1490p-1. Since 1989, we have been actively involved in the preservation of RHS Section 515 housing and ensuring that the residents of that housing are not displaced by rent increases caused by the conversion of the RD rental housing to market rate housing. We are proud to report that in each of the prepayment cases in which we have been involved, including three currently pending cases, we have successfully protected the interests of tenants in RHS rental housing and have advanced the goals of ELIHPA. We offer our comments and recommendations about the draft bills that are before you today from the perspective of ensuring that the Section

[1] The RHS has legal responsibility for administering its housing programs nationally. However, RHS staff is located almost exclusively in Washington D.C. Rural Development (RD), a U.S.D.A. mission area, is administering the RHS programs in the 50 states. Accordingly, we make reference to both RHS and RD throughout this testimony.

514 and 515 programs continue to serve the housing needs and interests of low- and very low-income rural households and that residents of that housing are not harmed by increased rents or dislocation due to loan prepayments or maturities.

Before addressing the draft bills that are before you, I urge the Subcommittee to hold oversight hearings on RHS' administration of the prepayment approval process and its administration of the RD voucher program. I make this request because I have reviewed numerous RD prepayment decisions and have not found any case in which RD has properly applied the ELIHPA's imposed prepayment restrictions. For example, ELIHPA requires RD to determine whether a prepayment will have a 'material impact on minority housing opportunities.' 42 U.S.C. §1472(c)(5)(G)(ii)(I). When it does, it obligates RD to require the owner to offer the development for sale to a nonprofit or public agency so that the housing can be preserved and continue to serve households that it was intended to benefit. Notwithstanding this clear statutory requirement, since 2004, when RD modified its prepayment regulations, it has used a disproportional, comparative, standard' to determine a prepayment's impact on minority housing opportunities. This allows RD staff to conclude that a prepayment will not have a disproportional impact on minorities because all residents, including racial and ethnic minorities, will be displaced. It also leads to decisions that there is no differential standard because all displaced residents will receive RD vouchers. These decisions are simply wrong. They result in a greater number of prepayment approvals and leads to the loss of developments that serve minorities and, in accordance with ELIHPA, must be preserved by a sale to a nonprofit or public agency. 42 U.S.C. § 1472 (c)(5)(G)(ii).

RD staff also erroneously advises both owners and residents that if a prepayment is made subject to use restrictions the owner may raise the rent after prepayment and that only RD vouchers will protect the residents against displacement. This is also not true. ELIIHPA requires RD to place use restrictions against prepaid developments in cases when there is no impact on minority housing opportunities but the residents of the prepaid development cannot be relocated to other affordable housing in the community as of the date of prepayment. 42 U.S.C. § 1472(c)(5)(G)(ii)(II). These use restrictions are intended to protect remaining residents against displacement for as long as they choose to remain in their homes and obviate the need for RD vouchers. *See* RD Handbook 3-3560, Chapter 15, Ex. 15-G. Moreover, RD voucher subsidies are inferior to use restrictions because, as I explain later, the voucher subsidy does not cover utility allowances, does not permit adjustments when household income decreases or increases, and permits owners to raise residents' rents after the first year in which the voucher is in place. Because RD is offering and providing vouchers to residents who are not in need of vouchers it is unnecessarily subsidizing owners of prepaid RD housing and thereby encouraging prepayments, something ELIHPA was intended to discourage. This practice has totally undermined the ELIHPA authorized use restrictions, which are intended to protect residents of prepaying development against rent increases and displacement.

Unfortunately, these problems, as well as others, are not only attributable to a handful of misinformed RD employees. They are systemic. Each of the prepayment and voucher decisions that I have reviewed over many years were made by the chief of the multi-family housing division in multiple Rural Development state offices throughout the country. These are the highest multi-family housing officials in each state who should be familiar with the RD prepayment and voucher processes. Moreover, these decisions are made without coordination and review with the RD's National Office of Rural Housing Preservation, which was established to monitor and review RD prepayments. 42 U.S.C. § 1490p-1. Accordingly, I urge that you hold oversight hearings that will review RHS' prepayment approval processes as well as its administration of the RD Voucher Program and that you require RD to correct its outright violations of ELIHPA. Should you decide to hold such hearings, I am prepared to provide the Subcommittee and its staff with numerous documents that clearly show that RD staff fails to follow critical elements of ELIHPA when it reviews prepayment requests and administers the RD Voucher program.

Turning to the proposed legislation that is before you, NHLP enthusiastically supports all of the bills that are before you today and we offer our comments and recommendations in support of the goals that they seek to achieve. Because several of the bills have similar provisions, we will not direct our comments to a particular bill. Instead, we will focus on the provisions that are proposed in these bills. In addition, we have two other legislative suggestions that should be considered by the Subcommittee and, hopefully, included in these or other bills as they come before you. I will discuss these proposals at the end of this testimony.

1. Background

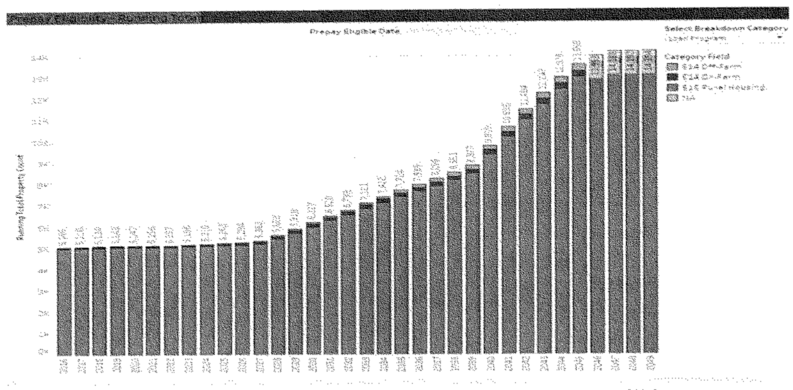
For the past 56 years, RHS has been provided a vital resource to rural communities throughout the country and to low income persons living in those communities by financing the construction and subsidizing the operation of decent and affordable rental housing through its Section 515 rural rental and Section

514/516 farm labor housing programs. Since the inception of these programs, over 530,000 housing units have been financed and subsidized under the Section 515 program and over 14,000 through the Section 514 program. The Federal government has invested tens if not hundreds of billions in financing and operating these developments. Unfortunately, over 100,000 of those units, about 20 percent of the total number of units that have been constructed, have already been lost due to prepayment, loan maturity or foreclosure. We need to take steps to preserve the balance of the units that have been financed under these programs and make sure that they continue to serve very low and low income households as well as the communities in which these developments were built.

Sixty two percent of the residents in the Section 515 program are senior citizens and persons with disabilities. Female-headed households comprise 71% of all households in the program. Racial and ethnic minorities comprise over 34% of the households in the program. As of September 2018, the average income of households living in deeply subsidized Section 515 housing was $10,911. It was slightly higher, $13,112, for all Section 515 households. The Section 514 off-farm labor program serves low and very low income farmworkers. The average income for households living in farmworker housing is $25,073. In many, if not most, communities housing financed under both programs is the only available decent and affordable housing.

At this time the operation of the 515 program is facing a critical crisis that is threatening its continued successful operation and negatively affecting the communities and residents that it serves. Loans that were financed 40 and 50 years ago are maturing, the housing is aging and is in need of rehabilitation, and vulnerable residents are facing displacement. This situation is exacerbated by the fact that practically no new Section 515 housing has been constructed in the last ten years, funding for rehabilitation and revitalization has been limited, some owners are prepaying their loans prior to maturity, and some developments are being foreclosed upon. Unfortunately, to date, RHS has not seriously responded to this crisis.

Approximately 4,000 units are being lost annually due to prepayments and loan maturations. These numbers will increase dramatically over the next decade because the owners of over 5,100 developments, representing approximately 125,000 units, are currently eligible to prepay their loans. As is evident from the following chart this number continues to increase steadily over the next 30 years.



While loan maturations are relatively modest at this time, they will increase gradually until 2027 and then substantially in 2028 and thereafter. RHS and others have predicted that practically all Section 515 housing will leave the program by 2050 due to loan maturation.

Figure 2: Estimated Number of Rural Housing Service Rental Properties and Units That Could Exit RHS's Program between 2017 and 2050, by Year

Year mortgage matures	Properties	Units
2017	69	1,944
2018	74	1,909
2019	41	985
2020	36	774
2021	53	937
2022	61	1,135
2023	95	1,722
2024	102	1,942
2025	110	2,318
2026	94	2,161
2027	163	4,420
2028	450	13,225
2029	561	16,581
2030	623	18,213
2031	610	17,593
2032	554	16,282
2033	648	18,824
2034	712	20,399
2035	791	23,370
2036	806	24,900
2037	640	20,325
2038	680	20,847
2039	725	21,300
2040	925	30,955
2041	835	27,286
2042	832	26,231
2043	744	23,293
2044	729	22,564
2045	590	19,821
2046	458	16,509
2047	253	7,622
2048	4	411
2049	4	271
2050	3	357

Source: GAO analysis of Rural Housing Service (RHS) data. | GAO-16-265

There are several steps that Congress can take to ameliorate this impending crisis. First, it can decouple the Rental Assistance subsidy from the Section 515 loan program. Second, it can extend Rental Assistance contracts from their current one-year term to a twenty year term that is subject to annual appropriations. Third, it can extend eligibility for the Rural Development Voucher Program to persons living in developments with maturing mortgages in both the Section 514 and 515 programs, and modify the voucher subsidy to conform to the subsidies provided by HUD to urban households. Fourth, it can force RHS to conform to ELIHPA's prepayment restrictions when approving prepayments.

2. Decoupling Rental Assistance from the Section 515 and 514 Programs

The RHS subsidy programs are statutorily restricted to Section 514 and 515 developments. That means that when one of these loans is paid off, the subsidy to the owner and residents of the matured loan is terminated and, in practically all cases, residents are displaced because they cannot afford to pay the rent necessary to operate the housing without the RHS subsidy. This is particularly true if the owner secures private financing to rehabilitate properties that will serve higher income households after the prepayment.

This problem can and must be solved to avoid the loss of practically the entire 515 and 514 inventory and the displacement of hundreds of thousands of residents. This can be done by decoupling the Rental Assistance subsidy from the RHS Section 514 and 515 loan programs. Representative Kuster and Senator Shaheen have introduced legislation for the past three years to authorize decoupling. A copy of Representative Kuster's bill is among the bills that you have received in anticipation of this hearing. A demonstration decoupling program is proposed in another of the bills now before the Subcommittee.

HUD uses decoupling successfully in the Project-Based Section 8 program and the General Accountability Office has recommended decoupling for the RD programs in its recent report titled RURAL HOUSING SERVICE, BETTER DATA CONTROLS, PLANNING, AND ADDITIONAL OPTIONS COULD HELP PRESERVE AFFORDABLE RENTAL UNITS (May 2018) (see page 26).

Decoupling will allow RHS to continue to make Rental Assistance subsidy payments on behalf of eligible residents to owners of Section 514 and 515 housing who want to continue to serve low- and very-low income households after their loans have matured. This accomplishes three purposes. First it prevents displacement of residents. Second, it allows owners to secure private financing to repair and rehabilitate their housing. Third, it maintains affordable housing in rural communities that frequently lack other affordable rental housing.

We recommend that RHS be authorized, subject to annual appropriations, to enter into 20-year Rental Assistance contracts with all current owners as well as those whose loans mature. Such contracts are sufficiently secure for financial institutions to make long term loans to rental housing owners. I know this from my own experience as a board member of a 100 unit, 40-year old development in West Oakland, California, that has a HUD Project-based Section 8 contract. Five years after we paid off our first 30 year loan, we decided that the exterior of the development needed complete rehabilitation. To do so we secured a $6.3 million, 30-year, FHA insured loan that allowed us to replace the exterior siding, roofing, and all exterior windows and doors. We are now rehabilitating the interiors of all the units by using operating funds and remaining loan funds.

Decoupled Rental Assistance contracts will allow RHS to continue to monitor and enforce project maintenance, reserves and operations just as it does with current Section 514 and 515 developments. In fact, it may save some funds and staff resources by not having to annually review and approve rent increases or project budgets. RD may also be relieved of its administration of project reserves, which could become the responsibility of private financial institutions.

While we recognize that decoupling of Rental Assistance contracts will ultimately cost more than RD is currently paying for the Rental Assistance program, we strongly believe that increased expenditures are justified to avoid displacement of hundreds of thousands of rural households and the preservation of housing that is critical to rural communities. Moreover, for reasons that we discuss next, we think that the increased costs will not be dramatically higher than the current program costs.

First, the decoupled contract costs will be offset by savings from the current Rental Assistance contracts that will terminate upon the maturation of current 515 and 514 loans. Second, the contract costs will also be offset by the cost of not having to provide RHS vouchers to residents who face displacement due to loan maturation. Third, developments that are rehabilitated should have lower utility costs than those that are currently deeply subsidized by RHS. Fourth, judicious use of the Low Income Housing Tax Credit program and other local and federal funds will reduce the cost of subsidizing preserved developments through the Rental Assistance program. Significantly, we believe that the cost of a decoupled Rental Assistance contracts will not be higher than the subsidy costs RHS currently incurs when it authorizes non-profits to purchase and rehabilitate existing developments as part of a prepayment transaction. Nor will these costs be higher than the rental assistance costs that the agency currently incurs when it approves the purchase and rehabilitation of multiple developments containing hundreds of Section 515 units by private developers.

We have recently made some very conservative estimates of what a decoupling program will cost. These estimates show that for the first five years, expenditures for decoupling will be $4.4 million, $7.9 million, $13.8 million, $19.9 million and $30.6 million. While annual expenditures continue to rise, they will not exceed $100 million until 2028 when the number of RD maturing mortgages increases dramatically. These estimates are conservative because they assume that every RD unit that matures will be assisted under a decoupled Rental Assistance Program, which is not likely to be the case.

For these reasons, we strongly support and urge the committee to approve one of the decoupling programs set out in the draft bills before you. The demonstration program may be preferable and should give RHS an opportunity to gain experience and monitor the decoupling program before expanding it to the entire Section 514 and 515 maturing inventory.

3. Expanding Use of RD Vouchers, Enhancing their Benefits, and Permanently Authorizing the Voucher Program

The RD voucher program was first authorized and funded through the 2005 Agriculture Appropriations Act and has since been annually reauthorized and funded through the annual appropriation process. NHLP supports this program and urges that it be permanently authorized with modifications that address current needs.

Loan maturation was not considered to be a significant issue 14 years ago when the voucher program was first authorized and funded. Unfortunately, this is no longer the case. In its recent report, HAC estimated that 74 properties with approximately 1,788 units will mature each year between 2016 and 2027. RHS and others project dramatic increases in the number of maturing mortgages thereafter. Accordingly, we urge that the Subcommittee approve, as it and the full House did in 2017, the expansion of the voucher program to cover households living in properties with maturing mortgages.

The subsidy authorized by the program since 2005 has been permanently set as the difference between the eligible household's pre-prepayment shelter payment and the post-prepayment RD approved market rent for the same unit. This means that the cost of a utility allowance, if any, is excluded from the voucher subsidy and RD is not authorized to adjust the voucher subsidy when rents increase, household income decreases, or household size increases. These limitations are unfair and cause severe hardships to a significant number of voucher assisted households.

The exclusion of a utility allowance from the voucher subsidy unfairly impacts households that pay part or all of their utility costs. Households living in developments where all the utilities are paid by the owner have all utilities included in their voucher subsidy because it is part of the unit rent. There is no reason why households should be treated differently depending on whether utilities are paid by the owner or the tenant.

The fact that the utility allowance is not included in the voucher subsidy can also cause a hardship to extremely low income residents. It is not uncommon for such households to pay a small amount, such as $90 or less, per month, for shelter costs, which covers both rent and utilities. While such households are receiving Rental Assistance, the cost of utilities is covered by the Rental Assistance subsidy and that cost is excluded from the household's monthly rent payment. Thus, in a development with a $40 utility allowance, the $90 monthly shelter cost is reduced to a $50 rent payment while the remaining $40 is used by the household to pay for utilities. By contrast, when the utility allowance is excluded from the voucher subsidy, the household has to pay $90 to the landlord and an additional $40 to the utility providers. This results in a nearly 70 percent cost increase to the voucher household. In most instances this renders the voucher useless because the household cannot absorb this increase and it is forced to move in with family or friends or even face homelessness.

Hardship is also very likely for a two person elderly household. When that household qualifies for a voucher the subsidy that it receives at the time of prepayment equals the difference between 30 percent of household income and the RD approved market rent for the prepaid unit. This is consistent with the current statutory requirement for the percentage of household income that has to be paid at the time of prepayment. However, in the case of two person elderly households, it is not uncommon for one of the household members to move to medical or other facilities or to pass away. In these cases, assuming that both household members had relatively equal incomes at the time of prepayment, the remaining household member becomes severely overburdened by having to suddenly pay 60 percent of household income, or more, for rent. Clearly, the remaining resident cannot afford to pay the higher percentage of income for rent and, consequently, is forced to move from his or her home.

Another problem created by RD's inability to adjust the voucher subsidy affects voucher portability. Frequently, elderly persons living in RD developments that are about to be prepaid consider using the RD voucher to move closer to family members, friends, or medical or other services. Their capacity to move, however, is limited by the fact that they are unable to move to communities where the market rents are higher than where they currently live. This is because the voucher subsidy is based, in part, on the market rate of comparable rents in the community in which the development is located. If they try to move to a community with higher rents, they will have to pay a higher percentage of household income for shelter. Most often, households, particularly elderly households, cannot afford the higher rents which limit their capacity to move.

All these problems are resolved if RHS can operate the voucher program in accordance with Section 542 of the Housing Act of 1949, which directs RHS to operate its voucher program in the same fashion as HUD. We, therefore, urge the committee to encourage the Agricultural Appropriations Committee to remove the subsidy limitations that are included in the current appropriations act. In the alternative, the committee should permanently authorize the RD voucher program and eliminate the restrictions that are currently included in the program's annual appropriations.

As part of the voucher program changes, RD should be allowed to keep its vouchers active in the community in which the prepaid or maturing loan was located. Prepayment and loan maturation not only impacts residents but also the number of affordable units in the community. To address this problem, RD should be allowed to keep vouchers in the community after the initial voucher holder gives up the voucher. This practice is followed by HUD when Enhanced Vouchers, are issued to tenants displaced from HUD financed housing, are no longer needed by the displaced tenant. HUD converts the voucher to a regular Housing Choice Voucher that remains in the community and is administered by a local housing authority. RHS should do the same thing.

Making these changes should not increase the cost of the voucher program over the next several years if the Subcommittee directs RD to only issue vouchers to households that are facing actual financial hardship or dislocation from prepayments. Currently, RD actively encourages all residents of prepaid developments to apply for vouchers by informing them that unless they secure vouchers they will experience rent overburden or displacement. In fact, in the course of litigation in which NHLP is representing residents of a Section 515 development whose owner has applied to prepay the RD loan, the agency admitted that most of the vouchers that it issues go to households that have remained in developments prepaid subject to use restrictions that are intended to protect the remaining residents against displacement. Congress did not intend these households to receive vouchers when a development is prepaid.

In the Joint House and Senate Report issued with the 2006 Agricultural Appropriations Act the conferees made it clear that sufficient funding was provided to "provide adequate funding for vouchers **as a safety net** to prevent displacement of low-income rural tenants that currently reside in Section 515 projects that are subject to prepayment." Hse. Report 109-255, p. 92 (Oct. 26, 2005) (emphasis added). The report goes on to state that passage of the voucher program was not intended to "alter prepayment restrictions or intend vouchers to be used in a property that would not be eligible or able to prepay without the use of such voucher." *Id.* RD clearly understands Congress' intent. Each year when it publishes a notice in the Federal Register outlining the purpose and administration of the voucher program, it opens the notice with the following statement:

> The [Rural Development Voucher Program] is intended to **offer protection to** eligible Multi-Family Housing (MFH) **tenants** in properties financed through RD's Section 515 Rural Rental Housing Program (Section 515 property) **who may be subject to economic hardship due to the property owner's prepayment of the RD mortgage.**

82 Fed. Reg. 21972 (May 11, 2017) (emphasis added).

Unfortunately, in administering the program RD ignores the fact that residents of prepaid RD developments prepaid subject to use restrictions, who received Rental Assistance prior to the prepayment, do not need protection against economic hardship beyond that which is provided by the restrictions. The restrictions obligate owners to protect residents living in these developments as long as they choose to remain in their homes.

ELIHPA and RD regulations make that clear. Section 502(c)(5)(G)(ii) obligates owners who prepay subject to use restrictions "to ensure that tenants of the housing and related facilities financed with the loan will not be displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of the prepayment." RD regulations underscore this requirement when they require the owner to operate the development after prepayment in conformance with Section 515 regulations and agree "to set rents, other charges, and conditions of occupancy to meet these restrictions." 7 C.F.R. § 3560.662.

RD can save more than half of the annual voucher program appropriations by stopping the issuance of vouchers to residents that do not need them for protection. Stopping this illegal practice will also slow prepayments because owners who prepay subject to use restrictions will no longer be assured of a stream of income generated by vouchers during the period that they are transitioning their developments from subsidized to market rate housing. Accordingly, we support the provisions, included in two of the bills before you, that limit the use of vouchers in projects prepaid subject to use restrictions.

We also endorse the extension of RD vouchers to residents in prepaid farm labor housing. There simply is no reason why residents of farm labor housing are not included as eligible voucher recipients when a farm labor housing loan is prepaid. Farm labor housing residents, who are among the lowest paid workers in the United States, are in as much, if not greater, need of RD vouchers as any other household in RD rental housing that is prepaid.

Lastly, we support the provisions in Representative Gonzalez's bill, which subjects the RD voucher program to the provisions of the Violence Against Women Act (VAWA). We believe that the drafters of the VAWA legislation were not familiar with the RD voucher program and overlooked it when drafting the statute. Extending VAWA to the RD voucher program will not place additional burdens on RD because the program currently operates using the HUD's Housing Assistance Payment contract, which already requires owners to comply with VAWA. As we expect RD to publish its own regulations and RD voucher contracts, we believe that Section 41411(a) of VAWA be modified to include the RD voucher program among the programs covered by the act.

4. RD Reporting Bill

One of the bills before you requires RHS to submit to the Subcommittee a preservation plan that addresses the loss of Section 515 and 514 housing due to the large number of maturing mortgages. It also requires RHS to annually report, to the Subcommittee, progress that is made under the plan and to make recommendations, including suggestions for new legislation, that may further improve the preservation of the RD rental housing stock. The bill also requires RD to provide the Subcommittee with details about on-going prepayments, the use of vouchers, letters of priority entitlement, and the preservation of the existing housing stock. This bill also requires RD to implement the GAO recommendations contained in its May 2018 report and to provide the public with more information about the prepayment of loans and administration of the RD voucher program. We endorse this bill and ask the Subcommittee to adopt it.

5. Facilitating the use of the Low Income Housing Tax Credit Program with the Farm Labor Housing Loan Program.

NHLP also supports Representative Panetta's proposed bill that directs RHS to explore ways in which the federal Low-Income Housing Tax Credit program can be used to construct or rehabilitate farm labor housing. The bill proposes to facilitate the use of the tax credit program by allowing farm labor housing to be sponsored by private partnerships, which are the only entities that are eligible for tax credits, if they are controlled by a nonprofit general partner.

6. RD Direct Single Family Loan Program Amendments

We request that the Subcommittee consider two amendments, not currently before you, to the RD single family direct loan program that will help homeowners retain their homes when facing hardships. Under Section 505(a) of the Housing Act of 1949, RD is authorized to extend a moratorium on payments to homeowner-borrowers whenever the borrower is unable to continue to make mortgage payments for reasons beyond the borrower's control without unduly impairing his or her standard of living. In cases of extreme hardship, RD is also authorized to forgive interest accrued on the loan during the moratorium period in order to facilitate the borrower's capacity to resume making mortgage payments. In spite of this provision, mortgage payments of borrowers who have completed a moratorium are always higher than what they were before the moratorium. This is because, even when interest is forgiven, the principal amount of the loan that was deferred during the moratorium has to be added to the outstanding balance of the loan and the new, and higher, loan balance has to be reamortized over the remaining loan term, now shorter than it was before the moratorium.

Borrowers who face hardship, such as the loss of a job or a medical emergency, are frequently unable to resume making regular mortgage payments at the end of a moratorium, let alone make higher mortgage payments. Accordingly, we recommend that Section 505 of the Housing Act of 1949 be amended to require RD to extend the remaining term of the loan to a point where the post-moratorium mortgage payment becomes affordable to the homeowner. Specifically, we recommend that the second sentence in Section 505(a) be revised to read:

> Whenever, at the end of a moratorium, a borrower is required to pay more than 25 percent of household income for principle, interest, taxes and insurance, the Secretary must cancel the interest that accrued during the moratorium and, in order to reduce the borrowers' monthly payments for principle, interest, taxes and insurance costs to 25 percent of household income, to extend the outstanding term of the loan for a period that will allow the borrower to meet housing related costs at no more than 25% of household income.

Second, we propose that Section 505(b) also be amended by adding the following sentence at the end of the section: "Acceleration of the promissory note and initiation of foreclosure sale proceedings shall not terminate a borrower's eligibility for a moratorium, loan reamortization, special servicing, or other foreclosure alternatives."

We make this recommendation because RHS, in conflict with Section 505(a), currently takes the position that all special servicing options, including moratoria and loan modifications, are cut off upon acceleration of the note. This position is contrary to case law and rules that apply to FHA, GSE, and other loans and is not in line with RESPA procedures that contemplate loss mitigation throughout the foreclosure process. It is particularly troubling because in the direct loan program the government is the lender of last resort. It should extend all possible forms of assistance that will help borrowers to retain their homes. In addition to helping borrowers, this amendment should also prevent unnecessary agency losses because the losses typically incurred by a foreclosure will be mitigated if the borrower continues to be a successful homeowner.

I am pleased to inform you that the National Consumer Law Center, which works with and advocates on behalf of households that face foreclosure, also endorses these amendment to the servicing of RD single-family loans.

* * *

I thank you for the opportunity to submit this statement and look forward to working with the Subcommittee in advancing these proposals that are before you. Should anyone on the Subcommittee, or its staff, need clarification or have any questions about this testimony, please feel free to contact me at ganders@nhlp.org.

TESTIMONY OF TANYA EASTWOOD ON BEHALF OF THE COUNCIL FOR AFFORDABLE AND RURAL HOUSING BEFORE THE SUBCOMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT AND INSURANCE, HOUSE FINANCIAL SERVICES COMMITTEE

THE AFFORDABLE HOUSING CRISIS IN RURAL AMERICA: ASSESSING THE FEDERAL RESPONSE

April 2, 2019

TESTIMONY OF TANYA EASTWOOD ON BEHALF OF THE COUNCIL FOR AFFORDABLE AND RURAL HOUSING BEFORE THE SUBCOMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT AND INSURANCE, HOUSE FINANCIAL SERVICES COMMITTEE THE AFFORDABLE HOUSING CRISIS IN RURAL AMERICA: ASSESSING THE FEDERAL RESPONSE

April 2, 2019

Chairman, Ranking Member, and members of the Committee, on behalf of the Council for Affordable and Rural Housing (CARH), we would like to submit written testimony in support of efforts to preserve affordable rural rental housing. CARH is an industry trade association with headquarters in Alexandria, Virginia, representing the interests of for-profit and non-profit builders, developers, management companies, and owners, as well as financial entities and suppliers of goods and services to the affordable rental housing industry in rural America.

Affordable Rural Rental Housing Is A Necessity

Affordable rental housing issues affect residents and a broad array of local government, non-profit, and for-profit participants working together in partnership. Rural renters are more than twice as likely to live in substandard housing compared to people who own their own homes. With lower median incomes and higher poverty rates than homeowners, many renters are simply unable to find decent housing that is also affordable. While the demand for rental housing in rural areas remains high, the supply, particularly of new housing, has decreased. The adverse effects of housing instability on the education and health of this country's greatest asset, our children, has been well documented. Neither the private nor the public sector can produce affordable rural housing independently of the other; it needs to be a partnership. There are several areas within the rural housing arena that Congress and the Administration should consider as discussions continue on the infrastructure needs of rural communities.

CARH is pleased to be part of the Rebuild Rural Coalition which has been organized in order to bring focus to the infrastructure needs of rural America. We support the efforts of the Coalition and agree that infrastructure legislation by Congress should specifically address the unique needs of agriculture and rural communities. We applaud efforts to increase broadband in rural America. Broadband will do much to increase rural American's access to health care and business opportunities. However, an overlooked aspect of broadband development is how it will also increase the livelihood of residents to access the internet from their homes. Roads and other infrastructure needs that have been identified by other committees are important, but without housing for rural Americans to live in, Congress is not addressing all of rural communities' needs.

We recognize that a private-public partnership is needed. The various housing programs outlined in this testimony are evidence of the success of this partnership. However, we know that more can and must be done so that the housing and infrastructure needs of rural America can successfully be achieved.

Key Tools - Rural Development Rental Housing Programs and the Housing Credit Program

The United States Department of Agriculture's (USDA)/Rural Development (RD) Section 515 rural multifamily housing and Section 514 farm labor multifamily properties are a lynchpin for affordable rural housing. Poverty rates in rural areas are substantially higher than in urban areas. Therefore, rental assistance under the Section 521 Rental Assistance (RA) program is essential for many family and elderly households residing in rural America. At the same time, most federally supported multifamily properties are 35+ years old and need modernization. These properties have suffered from federal funding shortages and statutory and regulatory barriers that make recapitalization difficult or impossible.

Rural housing is dependent on several sources of funding for construction and preservation of the existing housing stock. The Low-Income Housing Tax Credit (Housing Credit) program is certainly a vital source for this important housing. The Housing Credit program has worked successfully since its creation in 1986. It helps to bridge the gap between what the market provides and what the market demands. In short, America's elderly, working families, civil servants, and working poor seek to live in or near their jobs, families, and communities. In much of rural America, this need cannot be met due to the lack of affordable housing options. Homeownership is often out of reach or not financially viable. Furthermore, the cost of providing any new housing or rehabilitating existing housing to current standards without public-private assistance results in rents that are simply too expensive for most low-income Americans. In contrast, the Housing Credit program allows non-profit and for-profit companies to work together with local and state governments to raise private equity and to help bridge the financial gap. In turn, the savings are passed on to the residents in the form of lower rents and affordable rental housing. Approximately 43% of Section 515 properties are financed with Housing Credits.

The Consolidated Appropriations Act, 2018, created a new occupancy threshold by allowing income averaging. In sum, this allows flexibility to new Housing Credit properties by varying income limited at 10 percent increments between 20 percent and 80 percent. Section 515 and 514 properties already permit this income range and certain existing properties will benefit from this program to help lower rents for certain units, permitting unsubsidized units that remain vacant for extended periods to be reoccupied more quickly in very low-income areas. But the income averaging is prospective only and RD policy limits projects to one rent per unit type, and when incomes vary that much, rents need to also vary to accommodate the tenants. A statutory change is needed to both make income averaging available for existing properties as well overcome this RD limitation. Of course, any such proposal will need to be implemented protecting existing residents and existing use restrictions.

RD's Section 521 Rental Assistance Program Is Essential

Households in rural rental properties are among the most vulnerable in the nation. Furthermore, female-headed households currently occupy over 71% of these affordable housing units, with over 62% occupied by senior (62 or older) or disabled households. The project-based Section 521 RA program is an essential component of the Section 515 program and continues as a critical preservation tool. The average annual income of residents in rural housing properties is under $13,600, even less for the senior and disabled households. To put into context, that is approximately 75% less than the average household income in the U.S. RA provides deep subsidy to very low-income residents by paying the difference between the resident contribution (30% of their adjusted income) and the basic rent required to operate the property; over two-thirds of Section 515 units are subsidized with RA. It is important to note, that under current regulation, Section 521 Rental Assistance is only provided to properties with an outstanding Section 515 or 514 mortgage. When the USDA mortgage is prepaid or matures, the project based rental assistance subsidy is no longer available for that property or those residents. The RA program must continue to provide sufficient funds for both current levels of RA and additional RA to support increasing program costs and preservation efforts. RA budgets have been constrained for at least four years, even before sequestration issues impacting the program at the end of Fiscal Year (FY) 2013. Historically, RA budgets on a per unit basis are about half the cost of other rental subsidy programs. Much of that has been achieved by delaying needed repairs and restricting operating funds.

Already Losing Valuable Affordable Housing

The existing rural multifamily programs were never intended as a one-time capitalization for low-income housing. The original intent was to allow properties to refinance out of the program and provide a market centric nucleus of decent housing in rural areas. In fact, USDA originally required owners to refinance out of the program at the first opportunity. However, the federal government changed the laws, rules, and basic operations when it changed the federal tax code, withdrew prepayment rights, and reduced Section 515 funding without any replacement mechanism.

In order to save the $11.5 billion Section 515 program and its sister Section 514 farm labor housing program, RD's current demonstration efforts have shown preservation can be successful but the number of properties able to be preserved with current resources will nowhere achieve portfolio-wide preservation in any reasonable time period.

The Section 514 and 515 programs under Section 514 and 515 of the Housing Act of 1949, operates through a successful public-private partnership. The 514 and 515 portfolios reportedly consist of 13,766 apartment complexes containing 421,816 rental homes, a staggering decrease of 14,234 properties and over 111,000 apartment homes since the program inception in 1963 - an approximate 51% reduction in the housing stock. According to RHS, they have not financed any new affordable rental units since 2011. Section 515 properties are geographically dispersed across all rural America

The Section 514 and 515 portfolios are by and large more than 30 years old and at risk of becoming obsolete. In 2002, RD estimated that 4,250 Section 515 properties with 85,000 units "will physically deteriorate to the point of being unsafe or unsanitary within the next 5 years." At that time, RD estimated it would need $850 million to maintain just this portion of the portfolio, and that as much as $3.2 billion will be required for portfolio-wide rehabilitation. Overall, little progress has been made since 2002. Adjusted for inflation and continued obsolescence, the 2002 $3.2 billion estimate is now approximately $5.6 billion, and growing each year that aging assets are not rehabilitated. In 2016, RD contracted for its own updated capital needs study, which confirmed the existence of significant and continued deferred maintenance. At this current rate of affordable housing properties exiting the program, we encourage the prioritization on the preservation of existing properties ahead of new construction, as it is much more cost effective to complete a substantial rehabilitation compared to the cost of building new.

Maturing mortgages have overtaken prepayments as the most pressing issue. According to Rural Development, approximately 77 properties with 1,759 units are maturing out of the mortgage programs over the next 18-24 months, and that number will only significantly increase past 2027. When a 514/515 mortgage ends, whether through prepayment or foreclosure or maturity, the Section 521 RA also ends, exposing below-market residents to market rents and turning assisted properties into market-rate properties. In 300 counties, Section 515 properties are the majority of project-based federally subsidized units and 90 percent of all Section 515 properties are in counties with persistent poverty.

Recommended Innovative Approaches to Help with Recapitalization and Preservation

CARH has several legislative recommendations that, working with RD and Congress, will help expand tools available to RD in preserving this much needed and at-risk housing.

<u>The Traditional Programs Work—We Need a Preservation RA Designation</u>

The traditional rural rental housing and rent subsidy programs work and work as a program that can attract other forms of public and private assistance. But Congress needs to be clearer and instruct RD to use financing on hand, specifically Section 521 RA for preservation. In past years when Congress specifically provided funding for preservation, RD processed that specific amount. Without that clarity, the last two Administrations have allowed other priorities, including holding on to reserves of RA, to take priority over preservation transactions. While we welcome a greater appropriation of RA, more important than even that is a specific direction to RD to spend all funds on hand each fiscal year.

<u>Continue Efforts to Modernize the Housing Credit</u>

Rural housing construction and preservation projects have access to only a few funding sources. The Housing Credit program is a vital source for this important housing. The Housing Credit is narrowly targeted and represents the best of the public-private partnership between government, local communities, and the private sector. The program is the most successful affordable rental housing production program and its place in the tax credit code is an essential part of its long-term success. Indeed, the Housing Credit has been so successful that it has become the model for subsequent programs.

Since its inception in 1986, the Housing Credit program has created homes for approximately 2.4 million families. For each 100 apartment units, 116 jobs are created, generating more than $3.3 million in federal, state and local revenue. This important housing resource creates a positive, broad-based economic benefit that includes jobs (particularly construction jobs), income and taxes in industries such as manufacturing, trade, and services, in addition to construction. Income includes business profits as well as wages and salaries paid to workers. Affordable housing not only creates jobs directly, but also facilitates job growth.

Affordable housing shortages prevent workers from meeting job demand in rural areas with limited housing options.

CARH believes it is critical that both the Housing Credit and Housing Bond programs continue. Reforming, simplifying, and flattening the Internal Revenue Code (Tax Code) is a centerpiece to many efforts to spur economic growth. However, the Tax Code has proven to be an efficient way to incentivize private sector to meet affordable housing needs that the private sector alone is not able to meet. We support legislative changes that would both strengthen and expand these two important programs so rural housing preservation and new construction can continue. During the last Congress H.R. 1661 was introduced and many of its provisions remain important to preserve rural housing.

In addition, the Federal Internal Revenue Code restricts potential Housing Credit investors through passive loss limitations, limiting the ability of associations that are not real estate professionals from investing. Housing Credits should be available to S Corporations, Limited Liability Companies, and closely-held C Corporations to the same degree Housing Credits are currently available to widely held C Corporations, to offset revenue with Housing Credits that would otherwise be taxable when passed through to the owners of these businesses. To ensure high standards of oversight, such entities should have at least $10 million in annual gross receipts, be formed for reasons other than just avoidance of Federal income tax and have an expectation of reasonable asset management. This proposal is aimed at accessing substantial investment capital available from sophisticated financial institutions and businesses that happen not to be widely-held Schedule C corporations. Indeed, this change would allow the 1,954 commercial banks and 55 savings institutions to invest in low-income housing tax credits in the communities in which they operate.

Allow Tax Relief for Older Owners Caught in Tax Code Changes

Another barrier to affordable housing preservation and tenant protection is an unintended one - resulting from a conflict between the current tax code and market forces. Almost all Section 515 properties were originally constructed through limited partnership arrangements whose structure makes it exceedingly difficult to introduce new capital into these properties, either through additional capital contributions from current owners or through the transfer of such properties to new owners. Most were also created before the 1986 Tax Reform Act. Because programmatic rent restrictions limit cash flow, new capital contributions would only generate additional passive losses that cannot be utilized by current investors. Yet, if the current owners sell a property, it is almost impossible to generate sufficient cash to pay off the steep recapture taxes that would be owed. The best alternative for current limited partners is to hold the investment until death, enabling their heirs to acquire the property with a stepped-up basis that eliminates any recapture taxes. While that is a perfectly rational decision at the partner level, it is not consistent with sound housing policy and risks imposing far higher costs on the federal government as these already capital-starved affordable housing properties either continue to deteriorate or are sold off as market rate housing as a means of generating sufficient cash on the sale to pay taxes for the exiting investors.

A modest change in the tax rules must be adopted to preserve the aging stock of Section 515 affordable housing. This could be accomplished by waiving the depreciation recapture tax liability where investors sell their property to new owners who agree to invest new capital in the property as well as agree to preserve the property as affordable housing for a minimum of another 30 years. Since very few investors today will subject themselves to recapture taxes (opting instead to pass on the property to their heirs at a stepped-up basis), the cost of this proposal should be modest while the benefit to the federal government of extending the affordability restrictions will be far-reaching. During the 111th Congress, legislation was introduced, H.R. 2887, the Affordable Housing Tax Relief Act of 2009, which if enacted, would have embodied this concept.

Revolving Loan Fund

Specifically, we believe that existing escrows previously required by RD can serve a dual purpose of capitalizing a new revolving loan fund: using deposits in the Rural Housing Insurance Fund, not needed in the current fiscal year, to loan to eligible properties at the applicable federal rate of interest; and, to pay for asset management costs and offset loan risk. The proposed loans also would be backed by a voluntary guaranty or pledge of Section 515 reserve funds from owners of those participating properties. This would add another tool with no new cost to the federal government. Another long-neglected tool is Section 515(t), which USDA has not implemented (but should), as it could guarantee equity loans to provide a fair return and further recapitalization resources for properties that are 20 years old or older, attracting new owners and new private capital.

Loan Risk Sharing Program

Congress should consider creating a Loan Risk Sharing Program for lenders to increase credit to rural areas. This program would provide additional funding authority for rural areas that would support and encourage the production and preservation of affordable housing. In addition, the program would provide insurance and reinsurance for multifamily housing projects whose loans are originated, underwritten, serviced, and disposed of by a local housing agency (LHA) or a qualified lender.

A LHA and/or its approved lender would originate and underwrite affordable housing loans. If there is a default, the LHA would pay all costs associated with loan disposition and would seek reimbursement from USDA. The USDA risk share would be 50 percent pro-rata. The program would enable USDA to provide alternative forms of Federal credit enhancement to increase affordable multifamily housing lending. USDA would selectively invite LHA to participate in a variety of mortgage options to assess the effectiveness of the various credit enhancements. The LHAs and USDA would enter into Risk-Sharing agreements to implement the program. A LHA or its lender, in turn, would make loans to investors, builders, developers, public entities, and private nonprofit corporations or associations. Eligible mortgagors include investors, builders, developers, public entities, and private non-profit corporations or associations.

Continue and Expand the RD Section 538 Loan Guaranty Program

We greatly appreciate the support shown both in Congress and the current Administration for a fee-based, revenue neutral Section 538 Guaranteed Rural Rental Housing program. We believe that the Section 538 is proving to be an important housing tool, at no cost to the government or taxpayers. CARH has recommended to RD, and we understand RD is reviewing a variety of administrative adjustments to the 538 program that would allow even more units to be preserved or produced, with increased cost efficiency. We would encourage a statutory chance to make it easier to refinance existing rural housing not already in the 538 program.

Keep and Expand the HOME Program

Furthermore, key to rural housing recapitalization is maintenance of the HOME Partnerships program administered by the Department of Housing and Urban Development (HUD). HOME uniquely empowers state and localities to respond to housing needs they judge most pressing, allowing them to serve the whole spectrum of need from homelessness to rental to disaster recovery assistance. HOME is flexible and can be used in rural or non-rural areas. The program is a vital piece in financing numerous affordable housing developments, many of which would not be able to go forward, which in turn, would mean not providing housing for low-income families. HOME does not replace resources committed to rural areas but is an important gap financing program. States and localities leverage HOME by generating almost four dollars of other public and private funding.

Draft Legislation Currently Under Consideration

Proposed Rural Housing Preservation Act

CARH supports the concept in the proposed Rural Housing Preservation Act of 2019, but only with major revision. CARH has long advocated for many of the changes contained in the aforementioned legislation. In fact, CARH was the first or one of the first to advocate for "decoupling" of the Section 521 Rental Assistance from the Section 514 and 515 mortgages where such mortgages mature or are otherwise eligible or approved for prepayment. This is key to protecting residents and for maintaining the housing affordability. Indeed, restrictions and protections of Section 521 RA provide direct rent subsidy and target much lower income residents. However, we are deeply concerned that many of the details, conditions and restrictions in the proposal will actually work against preservation.

The proposal has four substantive sections - Section 2: Addresses rural housing vouchers for tenants in multifamily rural rental housing with maturing mortgages; Section 3: Addresses decoupling RA from maturing mortgage properties; Section 4: Provides uniform standards for transfers of Section 515 properties using Housing Credits; and Section 5 contains a rural multifamily housing revitalization program that appears to make permanent the Multifamily Preservation and Revitalization ("MPR") demonstration program. As broad matters, CARH supports all of these purposes.

As to *Section 2*, we recommend that it be clearly stated that such vouchers are available to all properties with prepaying *or maturing mortgages*. The Section 542 voucher program, when created in the mid-1990s was created to expand housing choice in rural America. The program was not funded until a decade later and then only for the limited purpose of providing monies for residents of prepaid properties. We believe that rural vouchers should be used not just to protect current residents but to expand the supply of rural affordable housing as originally intended.

RD administratively determined that these vouchers could not be used by tenants where mortgages matured, and we will soon be facing a crisis of mortgage maturity and displacement. The text of Section 2 addresses prepayment, foreclosure and mortgage maturity but the title is limited only to maturity. More substantively, the bill extends vouchers generally, but only to residents of non-profit owned property. We believe that benefit should be for all residents regardless of the ownership structure.

In what seems like another punitive step against residents of certain properties, this Section would deny such residents vouchers if they remain in properties where the owner has prepaid its Section 514/515 loan(s) with a remaining restrictive use agreement. First, the goal or mission of providing housing for low income persons is separate from the financial reality of the need to generate revenue to properly provide that housing. Second, a provision advising owners, for-profit or nonprofit, that if they sign a further use restriction then their current residents lose assistance only motivates that owner to not sign that use restriction. That seems very counterproductive to housing preservation. Third, to the extent this section allows partial voucher assistance equal to the amount "not related to the cost of prepaying" makes no sense as mobile vouchers do not underwrite new loan debt. Other than punishing certain residents through no fault of their own, or certain owners who have fulfilled all their contractual obligations, we can see no useful purpose.

The last part of Section 2 requires an owner of a property "previously financed" with a 515 o4 514 loan to always accept a rural voucher applicant. CARH cannot support any bill that would require the obligations of a borrower in a mortgage program to follow that owner or that property ad infinitum. That is nothing more than passing a federal law taking property rights and forcing an unfunded mandate on that owner and property. We would have hoped that this lesson was learned through the pain, turmoil and litigation that resulted in the *Franconia* litigation and hundreds of millions of dollars in damages the federal government has had to pay for its last unilateral violation of basic contract rights through the Emergency Low Income Housing Preservation Act of 1988 ("ELIHPA"). And to add insult to injury, because Congress has failed to appropriately fund ELIHPA, there has been virtually no preservation assistance or project preservation under ELIHPA for many years.

Please note that ELIHPA removed owners' contractual prepayment rights. Despite the laborious process ELIHPA imposed on owners, the RD portfolio has shrunk from nearly 28,000 apartment complexes to just under 14,000 for several reasons, from cost cutting, to converting properties that RD concluded were no longer "suitable", to there being no nonprofit purchasers available to make offers to purchase. Clearly, punishing owners into preserving is not working.

Section 3 covers decoupling RA from the Section 515 mortgages, which CARH strongly supports. As indicated earlier in our testimony, it was CARH that first used the term "de-coupling" in this context and it was CARH that suggested this preservation mechanism to RD and other stakeholders approximately four years ago. The term "de-coupling" has been used in affordable housing preservation for many years in HUD programs. Preservation can and should be greatly enhanced by allowing RA contracts to stand on their own whenever a multifamily loan is prepaid or matures, not just when it matures as presently provided in the bills.

Unfortunately, Section 3 then also contains the phrase "rental rates commensurate to income as specified in subparagraph (A)" which would seem to reduce the amount of RA from existing rates, jeopardizing project operations and tenant housing. One incongruity in this provision is that decoupled RA must be offered 24 months before maturity, but in many cases, we are well within that 24 months. We suggest that contracts should be offered within 24 months or as soon as practical where less than 24 months remain at current rates as adjusted by budgeted project needs. Further, such contracts make perfectly good sense to bind the owner long term (20 years) and be recorded documents. CARH has long sought 20-year RA contract terms.

The requirement that owners continue to operate "as if" a section 514/515 loan exists or 516 grant and, extend "all rights" as if such programs continue, must be removed. Section 514/516 farm labor housing and 515 multifamily housing contains all sort of requirements, restrictions, reports, audits and costs - all of which make at least some sense in turn for the benefit of a reduced rate mortgage loan(s) and the 516 grant. But without such favorable financing in place, such continued program restrictions are certainly problematic and are viewed as a disincentive for owners to maintain the housing as affordable. Even then, the costs versus benefits are debatable. As you know, with the 515 loans, all remaining value of the favorable mortgage terms is passed on to the residents. Without that benefit, the burden would be unsustainable. Moreover, the Section 521 RA program is a substantial program in its own right. For example, Section 521 RA limits occupancy to persons at 50% of area median income, far lower than the Section 515 program, which occupancy targets low- and moderate-income persons. But 515 carries heavy administrative and audit requirements aimed at tracking finances to assure that RD mortgage loans are repaid. This would not only be burdensome but pointless where there is no federal mortgage debt risk.

The requirements that the initial rents be capped at actual market rents will leave out many properties. These programs were built based on budget and need for housing in areas that cannot support decent housing. The budget is based on federal requirements and operating obligations, not just on market. Indeed, current regulations at 7 CFR Part 3560 provide that market rents, coined as Comparable Rents for Conventional units ("CRCU") is only used for cost containment at ELIHPA preservation processing or transfer and then with a cap at 150% of CRCU where that is needed due to local market conditions.

The subparagraph (v) "Renewal" adjustment language is unclear. It speaks of the owner renewing the assistance and adjusting the amount if tenant household income decreases by $100, but that meaning is unclear and if that is intended to track current practices, we note the RA program already pegs subsidy to the difference between the tenants 30% of income (what the tenant is deemed to be able to pay) and the RD approved rent. Rents are adjusted annually up or down at $50 to $100 increments. based on tenant circumstances and preferences.

Section 4 provides a uniform process for transfer involving Housing Credits. While we applaud such a provision, we believe that Section 2833 of the Housing and Economic Recovery Act ("HERA") of 2008, amending Section 515(h) of the Housing Act of 1949 addresses that issue. We also note that there is a uniform transfer process. The issue is it is entirely too long and contains multiple points of duplication of information. RD has created and consistently implemented its Preliminary Assessment Tool ("PAT"), the first electronic spreadsheet that can be shared between RD and owner/developer applicants. That process should be encouraged and should continue to be improved. We believe providing sufficient funding for computer upgrades and additional experienced/skilled regional or national staff to review and modernize the transfer process would be the most effective way to address this concern at this point.

Section 5 of the proposed legislation appears to make permanent the MPR program, something CARH has supported for quite some time. But we also have requested stakeholder meetings and oversight hearings. The MPR process has been successful in one sense with a number of approvals and completed preservation transactions; however, the current funding backlog of approved transactions waiting to close stretches to approximately the next four years (or longer). Also, it usually takes multiple years to process an MPR application, a process that in all respects should be shortened and modernized like the Housing Credit process noted above.

This same Section 5 appears to incorporate language from recent appropriations legislation about rural vouchers used in prepayment and makes funding between MPR and preservation vouchers fungible. We suggest that should not be continued in a permanent program and that MPR should be separate from rural housing vouchers. We have had members report shortages in both MPR and rural voucher funding attributable to the federal government moving money between the two uses.

Companion Draft

We similarly support the basic premise in a companion draft. We have similar concerns about the unnecessary complexity and, with it, unintended consequences. Voucher funding should be expanded to protect residents without RA from a project where the 514 or 515 mortgage ends for any reason—prepayment, termination, or maturity. Furthermore, RA contracts should continue past prepayment, termination, or maturity. Indeed, if RA is expanded to units to include those units currently without RA, there is no need for the voucher expansion, other than to expand affordable housing to mobile residents. With limited affordable housing options across rural America, we do not believe this would be a major need or benefit.

We also reject the dichotomy that some are making between projects where owners sign extended use agreements and where they do not. On the one hand this seems to try to say that owners should privately subsidize residents and step into the role of the federal government. That we reject as untenable as a financial or practical solution. On the other hand, this distinction makes no sense because by requiring and accepting and expanding the RA contract the use restrictions flow through the contract anyway and bind the tenant, owner and property.

Proposed Strategy for Rural Housing Preservation Act

The proposed Strategy for Rural Housing Preservation Act of 2019 certainly has merit but is largely mooted by preservation efforts underway. Starting with a new long-term study group will actually delay and reduce what preservation efforts exist. RD used to have nearly 28,000 apartment complexes in its portfolio, and we are already down to under 14,000, with dozens more maturing and many more prepaying every year. There is no time to lose.

Proposed Farmworker Improvement Act

The proposed Farmworker Improvement Act of 2019 is a very solid step forward with opening the use of the Housing Credit with Farmworker housing. USDA program restrictions are often incongruous with the Housing Credit program, prime among them the inability to use the companion Section 516 Farmworker Grant program with Housing Credits.

Proposed VAWA Changes

We understand the House Judiciary Committee has moved forward on H.R. 1585, which also contained provisions from H.R. 1310. H.R. 1585 is the bill for VAWA amendments and reauthorization well beyond the extension to rural vouchers. Furthermore, we applaud the renewal and recognize the extension merely brings application in line with Section 8 voucher practices, and the two voucher programs are supposed to work in sync. While the bill had sequential referral to the House Financial Services Committee, it is our understanding that the Committee declined the referral. We are disappointed that the Committee did not formally consider the bill because there are several housing provisions that if not changed will make implementation difficult for both the victims and housing providers as well as take resources from other affordable housing applicants and residents. Therefore, we think the VAWA expansion should be carefully examined with the following issues considered:

- H.R. 1585 establishes inconsistent resident screening procedures and conflicts with existing HUD standards and guidance.
- The bill places obligations on housing providers that they cannot fulfill, including the obligation to "ensure" that if there is a family breakup as a result of domestic violence, that the victim retains the housing assistance. That decision can only be made by the federal government agencies.
- Expands the provisions regarding emergency transfers, without taking into consideration current law and differing public and private housing rules, regulations and abilities.
- Provides for access to Emergency Transfer Vouchers using a $20 million set-aside, which is laudable, but would mean taking resources from others. An additional appropriation should be provided in a designation such as with veterans housing under the Veterans Affairs Supportive Housing Voucher (VASH) program. that could be specifically tailored to victims' needs.
- The bill also mandates annual training for housing providers, without consideration as to the necessary funding and resources needed for program implementation.
- Establishes a nationwide database of rental units and requires constant reporting from housing providers on available dwelling units within 3 days. The scope and complexity of such a database is unworkable and unduly burdensome for housing providers and ignores the regulations and processes already required and the fact that most if not all subsidy program require 30-day reports, which should be more than sufficient.

- New staff will need to be hired, and new software updates funded, at HUD and RD to implement these requirements.

On behalf of CARH, we again thank the Committee for this opportunity to highlight the important issue of rural housing preservation. With a few relatively minor changes, Congress can provide the tools needed to continue the successful public/private partnership for affordable rural housing. We welcome the opportunity to work with you, RD and our fellow stakeholders to formulate such changes and improvements.

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Statement of Stan Keasling, President, National Rural Housing Coalition
Subcommittee on Housing and Insurance
Committee on Financial Services
US House of Representatives
Washington, DC
April 2, 2019

Introduction

Mr. Chairman my name is Stan Keasling and I am president of the National Rural Housing Coalition (NRHC). NRHC is a national membership organization that advocates for better policies, programs and resources aimed at improving housing conditions in rural America. NRHC has testified before the Committee before and we appreciate this opportunity to testify today on rural housing issues. I am also the CEO of the Rural Community Assistance Corporation (RCAC) a 40 year old private, non-profit corporation that provides technical assistance, training, financial resources to rural communities across the West.

Need for Rural Housing Assistance

By any measure, much of rural America has still not recovered from the great recession. According to the Economic Research Service, since 2007 rural median income has averaged 20 percent below the urban median. Over 15 percent of all rural counties, more than 300 across the country, are persistently poor with at least 20 percent of the population living in poverty for over the last 30 years.[1]

Years of declining investment in the renovation of existing and construction of new housing in our small towns and farming communities has resulted in a housing deficit. A recent *Wall Street Journal* article noted, "Fewer homes are being built per household than almost any other time in US history, and it is even worse in rural areas." As a result, in some rural communities, economic growth is impeded not by the lack of jobs, but by the lack of housing for workers.[2] According to US Census data, between 1999 and 2008, the average annual production in non-metro areas totaled 221,000. In the period 2009 to 2017, average production fell to 68,000 per year.[3]

Where housing is available, it is apt to be in poor condition. Of the 25 million units located in

[1] United States Department of Agriculture, Economic Research Service, "Rural America at a Glance, 2017 Edition." Accessed Feb. 11, 2019. https://www.ers.usda.gov/webdocs/publications/85740/eib-182.pdf?v=0
[2] Raice, Shayndi. "Rural America Has Jobs. Now It Just Needs Housing." *Wall Street Journal* May 30, 2018. https://www.wsj.com/articles/scarcity-of-housing-in-rural-america-drives-worker-shortage-1527672602
[3] United States Census Bureau. (2018). *Metropolitan Statistical Area Status for New Single-Family Houses Completed.* Retrieved from https://www.census.gov/construction/chars/pdf/metro.pdf

rural and small communities, over 5 percent, or 1.5 million, of these homes are considered either moderately or severely substandard. For example, more than 30 percent of the nation's housing units lacking hot and cold piped water are in rural and small town communities, and on some Native American lands the incidence of homes lacking basic plumbing is more than 10 times the national level.[4]

According to a 2016 US Census Bureau study, compared with urban areas, where the homeownership rate was 59.8 percent, rural areas had a homeownership rate of 81.1 percent.[5] However, the equity rural Americans accumulate in their homes is generally less than the equity generated from homes in urban locales because rural houses are typically less expensive.[6] As evidence, a 2016 report by Zillow found that between 2010 and 2015, the average home value in urban areas grew 28.4 percent, compared to just about 6.25 percent in rural areas[7],

Rental housing where it is available, often costs too much. According to a recent report by the Harvard Joint Center for Housing Studies, 41 percent (5 million households) of rural renters are cost-burdened, meaning they pay more than 30 percent of their income for housing costs, and 21 percent (2.1 million households) of rural households that rent pay more than 50 percent of their income for housing.[8]

For many rural communities, the housing programs administered by the Rural Housing Service (RHS) of the US Department of Agriculture (USDA) are essential to providing affordable and safe housing and improving housing conditions. Authorized under Title V of the Housing Act of 1949, as amended, rural housing subsidized loans, grants, and related assistance provide low-income families the opportunity to own and in many cases build their own homes; provide affordable rental housing to families, the elderly and migrant and season farmworker; and, support low-cost home repairs.

Rural Housing and the Trump Administration

Despite the obvious and growing need for more affordable rural housing, and the success of federal

[4] Housing Assistance Council, "Taking Stock: Rural People, Poverty, and Housing in the 21st Century." December 2012. http://www.ruralhome.org/storage/documents/ts2010/ts_full_report.pdf
[5] Mazur, Christopher. "Homes on the Range: Homeownership Rates Are Higher in Rural America." *United States Census Bureau* Dec 8, 2016. https://www.census.gov/newsroom/blogs/random-samplings/2016/12/homes_on_the_range.html
[6] Housing Assistance Council, "Housing in Rural America." http://www.ruralhome.org/storage/documents/ts2010/ts-report/ts10_rural_housing.pdf
[7] Fuller, Cody. "Rockin' the Suburbs: Home Values and Rents in Urban, Suburban, and Rural Areas." *Zillow* Jan. 28, 2016. https://www.zillow.com/research/urban-suburban-rural-values-rents-11714/
[8] Harvard Joint Center for Housing Studies, "America's Rental Housing." 2017. http://www.jchs.harvard.edu/sites/default/files/harvard_jchs_americas_rental_housing_2017_0.pdf

rural housing programs, this Administration has a different view. The President's Fiscal Year 2020 budget contains a laundry list of rural housing program terminations including - direct home ownership, home repair loans and grants, farm labor housing loans and grants, rural rental housing loans and financing for preservation of rural rental housing, as well as a $100 million rescission of rental assistance funds.[9] The FY 2020 budget is consistent with previous administration's budgets as well as with USDA's proposal to transfer responsibility for rural rental housing to the Department of Housing and Urban Development.[10]

The budget also includes a proposal to charge a minimum rent to all households residing in rural rental housing. This proposal has been rejected in past Congresses and should be rejected again this year. The previous Administration proposed similar budgets, so one could argue that rural housing suffers from bipartisan neglect.

This Administration has sought to downgrade the Rural Development function at USDA in general and rural housing in particular in other ways. Congress has repeatedly rejected their proposals to eliminate rural housing programs. Undaunted, the Department's leadership has persisted in proposing budget cuts and policies that result in less field staff, fewer local offices, and diminished organizational capacity, thereby undermining rural housing programs.

Both the Fiscal Year 2019 and 2020 budgets proposed deep reductions in USDA staff devoted to rural development and rural housing The Fiscal Year 2019 (FY 19) budget request for Rural Development Salary and Expense totaled $612 million, a $67.9 million reduction from the Fiscal Year 2018 (FY18) rate and a reduction of almost 880 staff years. Of that total, 436 staff years were proposed to come from RHS, a 25 percent reduction. The FY 2020 budget proposes more of the same, proposing a $40 million reduction and a reduction of up to 800 staff years.

USDA has set out to reduce the capacity of RHS to administer rural housing programs. The Trump administration implemented a hiring freeze when it took office in 2017. When the freeze was lifted for Rural Development, new hires were limited to filling vacant positions, hiring was limited to USDA employees, vacancies were only posted for 10 days, and often positions filled were at lower grades. It is not unusual for states to be without a State Director for Rural Development, or a Rural Housing Chief. Many state and local offices are inadequately staffed to meet the needs of rural

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[9] United States Department of Agriculture, "USDA Fiscal Year 2019 Budget Summary." Accessed March 1, 2019. https://www.usda.gov/sites/default/files/documents/usda-fy19-budget-summary.pdf

[10] Executive Office of the President of the United States, "Delivering Government Solutions in the 21st Century." June 2018. http://ruralhome.nonprofitsoapbox.com/storage/documents/announcements/govtreformproposaljune2018.pdf

families, businesses, and communities.

On November 30, 2018 USDA released a letter to the Appropriations Committee, outlining their plan to reorganize federal rural development agencies – RHS, Rural Utilities Service (RUS), and Rural Business-Cooperative Service (RBCS). RHS field staff was hit the hardest, going from 1,731 FTEs to 1,338, losing almost 400 FTEs from the state offices to national office supervision and other offices.[11] The USDA field structure has always been the strength of the rural housing and development programs. The reorganization plan clearly diminishes the ability of the Rural Housing Service to deliver housing assistance to rural communities and families.

While USDA is cutting field staff and services to rural communities, the Department has devoted some 60 staff to an Office of Rural Innovation. It has had three directors in less than two years and does not make or service a loan or provide a grant to a rural community, household, or business.

In the FY 19 Consolidated Appropriations Act, Congress provided $686 million for Rural Development Salaries and Expenses, an increase of $74 million above the budget request, and $6 million above the FY 18 rate. We urge Congress to press USDA and Rural Development to come up with Fiscal Year 2019 staffing plan that fully utilizes the amount appropriated by Congress for staffing necessary to achieve the adequate delivery of rural housing programs and the rebuilding of the RHS field staff and to reject the proposed Salary and Expense cuts for FY 2020.

Rural Housing programs have always benefitted from bipartisan support in Congress. We believe that Congress should provide more direction to USDA on rural development and rural housing staffing. USDA has a responsibility to fulfill their mission of providing affordable and safe housing to rural America. Properly staffed state and local offices are a necessary element that should not be diminished.

Success of Rural Housing Programs

USDA's rural housing programs have a long track record of expanding access to affordable housing. For example, the Section 502 Direct Loan program helps rural low-income families secure affordable homeownership opportunities. The program exclusively targets rural families earning less than 80 percent of the Area Median Income (AMI), and the statute requires 40 percent of all

[11] United States Department of Agriculture Secretary Perdue, Sonny. Letter to U.S. House of Representatives Committee on Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies. Nov 30, 2018. http://ruralhome.org/storage/documents/rd_obligations/rd_docs/rdreorgletter2018nov30.pdf

program funds to target families earning less than 50 percent of AMI. Despite serving rural families with limited economic means, Section 502 is one of the most cost-effective federal housing programs. In FY 19, USDA will make approximately 7,200 section 502 loans.

Nonprofit organizations play an important role in the delivery of Section 502 loans to low-income families. Networks of local and regional organizations assist families with applications for section 502 loans.

Under the Section 523 Mutual Self-Help Housing program, small groups of 6 to 12 families come together on nights and weekends to build their own homes, under the supervision and with technical assistance from nonprofit self-help grantee organizations. In doing so, Self-Help Housing families reduce construction costs, gain equity in their homes, and build lasting communities. This is exactly the type of program that Congress and the administration should champion: Self-Help Housing encourages self-reliance and hard work, helps families build wealth, stimulates local economies, and is in high demand with over 30,000 families currently on wait lists for the program. In fact, in 2015, the program celebrated its 50th Anniversary, and the 50,000th family completed construction of their Self-Help home.[12]

Rural America needs more housing. In a time of tight budgets, the funding for these programs has not kept pace with need or demand. We urge the Committee to support an expansion of Section 502 direct loans to $1.25 billion and Mutual Self Help housing to $35 million. These increases will ensure that more than 3,000 additional low-income rural families have access to affordable housing and hundreds more low-income families will have the opportunity to build own home through mutual self-help housing.

USDA's Rural Housing programs provide much-needed access to affordable rental housing. Today, approximately 422,000 units house rural seniors, people with disabilities, farmworkers and low-income families. The vast majority (92.3 percent as of 2015) of Section 515 tenants have very low-incomes. The average Section 515 tenant earns just $13,112 annually. In addition, 64 percent all Section 515 households are elderly or disabled tenants, 35.7 percent are headed by persons of color, and 71 percent are headed by women.[13]

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[12] United States Department of Agriculture, "USDA Celebrates Self-Help Housing's 50 Years & 50,000 Homes." June 29, 2015. https://www.rd.usda.gov/newsroom/news-release/usda-celebrates-self-help-housing%E2%80%99s-50-years-50000-homes
[13] United States Department of Agriculture Rural Development, "Results of the 2018 Multi-Family Housing Annual Fair Housing Occupancy Report." February 7, 2019. https://www.rd.usda.gov/files/RDUL-MFH18.pdf

Almost 270,000 families receive rental assistance authorized under section 521(a) of the Housing Act of 1949. In 2018, the average income of Section 515 tenants receiving Section 521 Rental Assistance was only $10,911.[14]

There are other small programs that provide rural housing assistance to households in need. Section 504 grants and loans are important tools, limited to low-income households that assist the elderly repair their homes to eliminate health and safety violations and low-income households to rehabilitate existing housing. Section 504 grants are capped $7,500 for seniors over the age of 62, a limitation that has been in the law for more than 20 years. We urge the Committee to raise the limit on section 504 grants to $15,000.

Section 514 and 516 are the only federal programs that provide affordable loans and grants, respectively, to purchase, construct, or repair rental housing for America's farmworkers. Under these programs, farmers, nonprofit organizations, and local governments are eligible to receive low-interest loans. Public bodies – typically housing authorities – and nonprofit organizations may receive grants to cover up to 90 percent of development costs. Both Section 514 and 516 have been chronically underfunded and cannot keep pace with the increasing need. On average, these two programs finance only 600 units per year despite their high demand.

This lack of funding for new on- and off-farm worker housing and increasing demand comes during a time when the farm laborer population is becoming more settled. Additionally, what farmworker housing is available may be in poor condition and contain mold, mildew, and other allergens; pesticides; and structural deficiencies.[15] The impact can be felt in Idaho, where the farmworker housing shortage links directly with the general farm labor shortage, which continues to impact the local agriculture industry.[16] In California, an additional 45,560 units of farmworker housing are needed to alleviate critical overcrowding in farmworker households in just two agricultural counties.[17] In Texas, there is a documented shortage of over 28,000 rental units.[18]

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[14] *Ibid*

[15] New Solutions, "Farmworker Housing in the United States and Its Impact on Health." Aug 28, 2015. https://www.ncbi.nlm.nih.gov/pubmed/26320122

[16] Foy, Nicole. "Farmworker Housing Shortage has Growers Looking to Build." *Idaho Press* Nov 12, 2018. Date accessed Feb 12, 2019. https://www.idahopress.com/news/local/farmworker-housing-shortage-has-growers-looking-to-build/article_a14812a9-8a3a-569b-86c6-a84da3ed4f6f.html

[17] California Institute for Rural Studies, "Farmworker Housing Study and Action Plan For Salinas Valley and Pajaro Valley." June 2018. https://www.cityofsalinas.org/sites/default/files/departments_files/community_development_files/farmworker_housing_study.saslinas-pajaro.june_15-2018.complete.pdf

[18] Texas Department of Housing and Community Affairs, "Texas Rural Farmworker Housing Analysis." Sept 2012. https://www.tdhca.state.tx.us/housing-center/docs/12-Rural-Farm-Analysis-Farmworker.pdf

All of these programs successfully serve low-income rural households in search of affordable housing. The administration has targeted all for elimination.

USDA Rental Housing in Need of Rehabilitation

USDA faces two major problems it must address on its rural rental housing portfolio. The first is the deteriorating conditions of its developments.

In 2016, USDA published a second Comprehensive Property Assessment and Portfolio Analysis.[19] This report looked at USDA's Section 515 properties, as well as their farm labor housing properties, Section 538 financed developments, and projects refinanced under the Multifamily Preservation and Revitalization (MPR) program. The report analyzed the Per Unit Per Annum (PUPA) net reserves or the annual amount of reserves that must be set aside for properties to maintain functionality. The report found that the average PUPA reserves deficit for the Section 515 portfolio had increased. A previous study, released by USDA in 2004, indicated that the PUPA reserves deficit was $647 (average per property), but by 2015, the PUPA deficit had increased to $964 (average per property).[20]

As the cost of maintaining the portfolio increased, the average age of rental housing in the Section 515 portfolio reached 34 years. The 2016 report found that the need had more than doubled in the past 12 years, and raised the estimate to $5.596 billion just to preserve USDA's rental housing stock (including farm labor, rural rental, Multi-family Preservation, and guaranteed developments) over the next 20 years. Of that amount, $4.7 billion relates to Section 515 developments.[21]

Maturing Mortgages

Although section 515 was established in 1968, the highpoint of Section 515 production was 1977-1985. As a result, today and in the near future, there is a rising tide of maturing mortgages that could reduce the availability of affordable rural rental housing. A recent report by the Housing Assistance Council found more than 700 developments with mortgages maturing between 2016 and 2027, which accounts for close to 1800 units per year. Over the following four to five years, maturities will accelerate, averaging up to 3,000 developments and up to 92,000 units, with that

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[19] "USDA 2016 Rural Development Multi-Family Housing Comprehensive Property Assessment," U.S. Department of Agriculture Rural Development (March 1, 2016). https://www.rd.usda.gov/files/reports/USDA-RD-CPAMFH.pdf.
[20] *Ibid*
[21] *Ibid*

trend continuing through 2050.[22]

Under current law, the availability of rental assistance is limited to developments with active loans under Sections 514 or 515 of the Housing Act. Therefore, as loans mature, rental assistance for elderly, disabled, and low-income families living in these properties will come to an end.

USDA Response

USDA has the tools to solve both problems: Section 515 loans, now targeted for rehabilitation and preservation of existing developments, section 538 multi-family loan guarantees, and the MPR demonstration. However, none of these programs is adequately funded.

In 2006, Congress established the MPR demonstration program, which successfully uses a variety of financing options not currently available under the Section 515 program to preserve its portfolio. The goal of the MPR program is to recapitalize properties by restructuring USDA multifamily housing loans. This includes both Section 515 and Section 514 mortgages, and is often done in conjunction with grants, zero percent loans, deferral of loans, private debt guaranteed under Section 538, and other sources in order to revitalize the properties and extend their affordable use. The MPR effectively attracts three times its funds in investments from Low-income Housing Tax Credit (LIHTC) and other sources.

In FY 19, Congress appropriated $40 million for Section 515 loans $51.5 million for MPR, of which $27.5 million was set aside for vouchers and $8.3 million for Section 516 farm labor housing grants and $27.5 million in Section 514 loans for farm labor housing. USDA information indicates that in FY 18 multi-family programs were employed to finance the construction, rehabilitation, and preservation of 5,876 units, costing $282.7 million including section 515 loans, grants and loans deferrals (MPR) and leveraging funds such as LIHTC.

NRHC Recommendations

We support Congressman Panetta's bill to modernize and make USDA decision-making more transparent on the farmworker housing program authorized under sections 514 and 516. We also support the legislation sponsored by Representative Gonzalez (HR 1310) to include rural housing vouchers as a covered program under the Violence Against Women Act.

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[22] Housing Assistance Council, "Rental Housing for a 21st Century Rural America." September 2018. http://www.ruralhome.org/storage/documents/publications/rrreports/HAC_A_PLATFORM_FOR_PRESERVATION.pdf

In addition, we support the Chairman's draft bill "Strategy for Rural Housing Preservation Act of 2019." The bill's reporting requirements and establishment of an advisory committee on rural housing preservation are useful and important initiatives. Better information is needed on the size and scope of the problems to preserve and maintain affordable rental housing in rural communities. We believe that USDA will benefit from the advice and input of experts, practitioners, and tenants in developing and implementing policy and procedures to enhance preservation efforts. We suggest that reporting include information on loans that are expected to mature 36 months from the release of the report to provide nonprofit organizations with adequate time to identify and acquire such properties.

We reviewed with great interest a number of other draft bills, including from Congresswoman Kuster that addresses the need to protect tenants in the light of maturing mortgages. It is essential that federal policy insure that tenants are not displaced or find themselves in housing that is suddenly unaffordable. We support provisions in both bills that preserve rental assistance for tenants. However, because USDA faces a dual problem: maturing mortgages as well as a deteriorating rental housing stock, we urge Congress to provide additional resources to preserve and maintain the existing rental housing portfolio.

Our recommendations include a several elements that will maintain affordable housing for tenants as well as the quality of their USDA financed rental housing. These include:

- Authorizing 20 year rental assistance contracts, subject to appropriations, to provide both tenants and owners more certainty;
  Adjusting rental assistance payments by an average of $964 per unit per year with further adjustments to build project reserves, in line with the 2016 USDA Portfolio Assessment; '
- Scaling up the effort and resources to preserve USDA's rental housing portfolio by authorizing at least $200 million annually in section 515 loans and at least $75 million per year in MPR. Taken together these programs can provide a shot in the arm to the preservation effort giving USDA to resources to finance a transfer to another owner, repair and rehabilitate projects, re-amortize existing debt and leverage other resources. USDA should require that any owner that accepts a new or subsequent section 515 financing or MPR financing accept a continuation of rental assistance for term of the loan. This will not only secure housing assistance for current tenants, but also encourage the preservation of rental housing for future tenants.

We often tell USDA officials that they have a success story on their hands: providing mortgages for low income families can own their own homes; helping families gain equity in their homes through mutual self-help housing; housing some of the poorest families in America in decent affordable rental housing; providing grants to low-income seniors to repair a roof or furnace - this is the picture of success.

There is much work to be done increase housing opportunities for low-income families and to ensure that the resources currently available are not lost.

Thank you for this opportunity to testify today. I will be happy to answer questions you may have.

HAC

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Statement for the Record of David Lipsetz,
Chief Executive Officer, Housing Assistance Council
House Financial Services Committee
Subcommittee on Housing, Community Development, and Insurance
February 14, 2019

Introduction

Chairman Clay, Ranking Member Duffy and members of the Subcommittee, good morning and thank you for this opportunity to testify on the housing challenges faced by rural Americans. It gives me great hope that this Subcommittee's first hearing of the 116th Congress is shining light on this issue. My name is David Lipsetz and I am the CEO of the Housing Assistance Council, known as "HAC."

HAC helps build homes and communities across rural America. Founded in 1971, headquartered in Washington, D.C. and working in all 50 states, HAC is a national nonprofit and a certified community development financial institution (CDFI). We are dedicated to helping local rural organizations build affordable homes and vibrant communities. We provide below-market financing, technical assistance, training and information services. To learn more, please visit www.ruralhome.org.

HAC also serves as rural America's "Information Backbone" with leading public and private sector institutions relying on HAC's research and analysis to shape policy. We are independent, non-partisan and regularly respond to Congressional committees and Member offices with the research and information needed to make informed policy decisions. If you need to know how a new program or policy could impact America's smallest towns, please don't hesitate to call on us. It is an honor to be here in this capacity today, on a panel with so many distinguished rural housing advocates.

If I were to summarize my testimony, it would be to say the one thing everyone in this room agrees on — public policy plays a powerful role on life outcomes. Whether you believe there is too much regulation or not enough public and government intervention, you recognize that our nation's housing and economic policy has played a significant role creating the present rural housing crisis.

This crisis has been decades in the making. It will take us decades to undo. We will need a wide variety of answers and tools to unwind what has been done. Chief among them must be building high capacity organizations embedded in the communities we serve. HAC has been working in rural communities for nearly half a century. We have learned that federal policy programs cannot have their intended impact without local organizations doing the work on the ground. The existence of such organizations is at the heart of why some regions prosper and others fail. We must commit to building local capacity if we want all the federal finance and housing programs to work. To a large extent, we have failed to do that in and for rural America.

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HAC is an equal opportunity lender.

Rural Landscape and Capacity Building

Rural America is approximately 20 percent of the U.S. population, living in rural or small-town communities located across more than 90 percent of the U.S. landmass. In rural and small-town areas, the population grew by 3.5 million, or 5.6 percent, between 2000 and 2010 – a rate below the national level. While rural areas as a whole gained population over the past decade, many communities, especially in the rural Midwest, Central Appalachia, the South and the Midwestern and Northeastern "rust belt," continued losing population.[1] Population loss has significant effects on these communities' housing stock as well as their overall economic viability.

While each place is unique, trends show a rapid growth of the Hispanic population in rural areas, as well as a larger share of older residents and an outmigration of young adults.[2] Persistent poverty counties – those where poverty rates have exceeded 20 percent since 1990 – are predominantly rural. With respect to housing specifically, 40 percent of renters in places with populations under 10,000 pay more than 30 percent of their income for housing.[3]

It's no secret that in recent decades, opportunity and wealth have clustered into a limited number of metropolitan regions, mainly along our coasts. Much of rural America has been left behind. Many rural regions have been stripped of their economic engines, financial establishments and anchor institutions.

Small towns, frontier communities and rural regions stretch across every state and most congressional districts. And it is in these places where you can find the nation's deepest and most persistent poverty. The most challenged regions include Appalachia, Native American communities, the Mississippi Delta and southern Black Belt, farmworker communities and the Southwest border colonias. This is where HAC does some of its most important work.

In response, the importance of capacity building and access to capital cannot be overstated when it comes to rural housing. Sustained federal support for rural capacity building is what makes investments work in rural America. Strong local institutions do not happen by accident. Federal investment toward rural capacity building launched nearly all the most successful local and regional rural housing organizations that we know today. Congress has long recognized the importance of capacity building. Yet the Department of Housing and Urban Development (HUD) and programs such as Section 4, the Continuum of Care Program, and HOME's Community Housing Development Organization (CHDO) set-aside were developed to solve problems in urban housing markets. Rural housing markets are not just smaller versions of urban ones, and these programs do not necessarily translate to the benefit of rural places. Rural-specific programs and capacity building have been more piecemeal and too often not national.

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[1] Housing Assistance Council, "Taking Stock: Rural People, Poverty and Housing in the 21st Century." December 2012. http://www.ruralhome.org/sct-information/mn-taking-stock

[2] Ibid.

[3] Housing Assistance Council, "HAC: Building Rural Communities, Annual Report 2017." December 2017. http://www.ruralhome.org/about-hac-sect/menuabout-hac/cat-about-hac-reports

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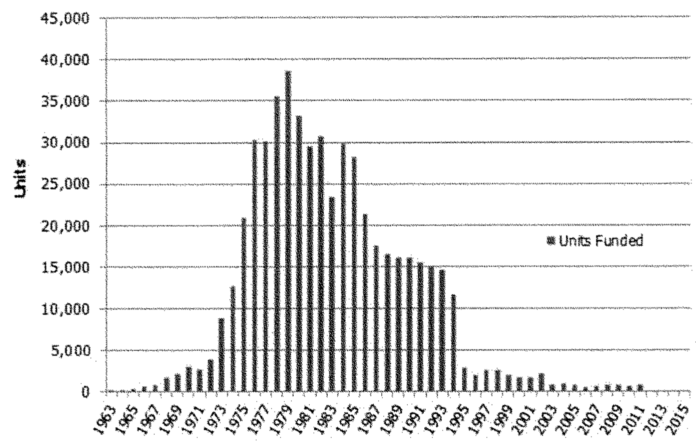
Rural Rental Preservation

Affordable rental options in rural America are not only sparse, they are also declining. An important source of housing in many rural communities are rental homes financed by the U.S. Department of Agriculture (USDA). Today there are over 13,000 USDA Section 515 rental properties providing more than 415,000 affordable homes to families and individuals across rural America. However, funding for the Section 515 program has been cut dramatically and no new USDA direct-financed rental housing has been funded since 2011. Additionally, because Section 521 Rental Assistance is tied to the property's mortgage in the Section 515 or 514 program, the existing properties are in danger of losing their affordability as their mortgages mature.[4]

USDA Section 515 Rural Rental Housing Loans, FY 1963 - FY 2016



Source: HAC Tabulations of RD Data

Eighty-seven percent of all counties have at least one USDA multifamily rental property.[5] For example, Ranking Member Duffy, Wisconsin's 7th district is home to 109 Section 515 properties with 2,234 occupied units. Five of these properties with 82 occupied units have program exit dates before 2025. Expanding the date out to 2030, there 29 properties with 471 occupied units exiting the program in your district.[6]

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[4] Housing Assistance Council, "Rental Housing for a 21st Century Rural America, A Platform for Preservation." September 2018. http://www.ruralhome.org/sct-information/mn-hac-research/mn-rrr/1602-rpt-platform-for-preservation

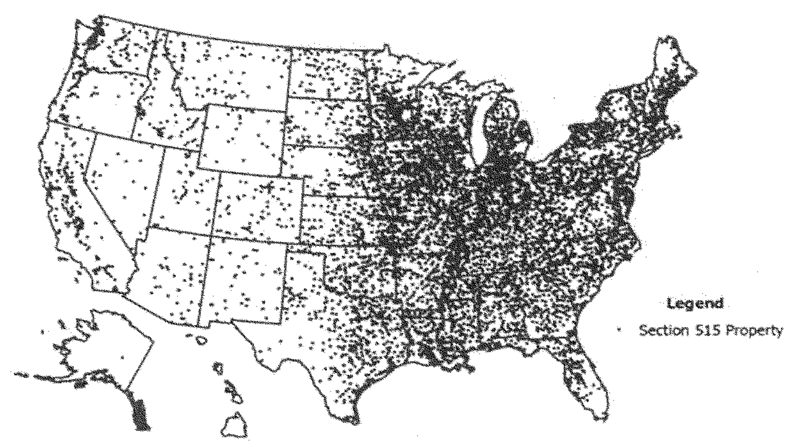
[5] Ibid.

[6] List of active USDA Section 515 properties from: https://www.sc.egov.usda.gov/data/MFH_section_515.html
Program exit dates from: https://www.sc.egov.usda.gov/data/MFH.html

And Congressman Cleaver, Missouri's 5th district is home to 18 Section 515 properties, 11 of which will have maturing loans in the 2030s. That means without action, over 60 percent of your district's Section 515 properties could leave the program in the coming years.[7]

USDA Section 515 Rural Rental Housing Properties

Properties as of June 30, 2017



Source: Housing Assistance Council (HAC) Tabulations of USDA Data

Maturing mortgages are the most pressing preservation issue for Section 515 properties. Mortgage maturity projections indicate that an average of 74 properties (or 1,788 units) per year will leave the program from 2016 to 2027. Maturities will then continue over three phases lasting four to five years each, with each involving about 2,800 to 3,000 properties containing about 82,000 to 92,500 units. Over 20 percent of the properties are expected to exit the program during each of these three phases.[8]

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[7] Ibid.

[8] Housing Assistance Council, "Rental Housing for a 21st Century Rural America, A Platform for Preservation." September 2018. http://www.ruralhome.org/sct-information/mn-hac-research/mn-rrr/1602-rpt-platform-for-preservation

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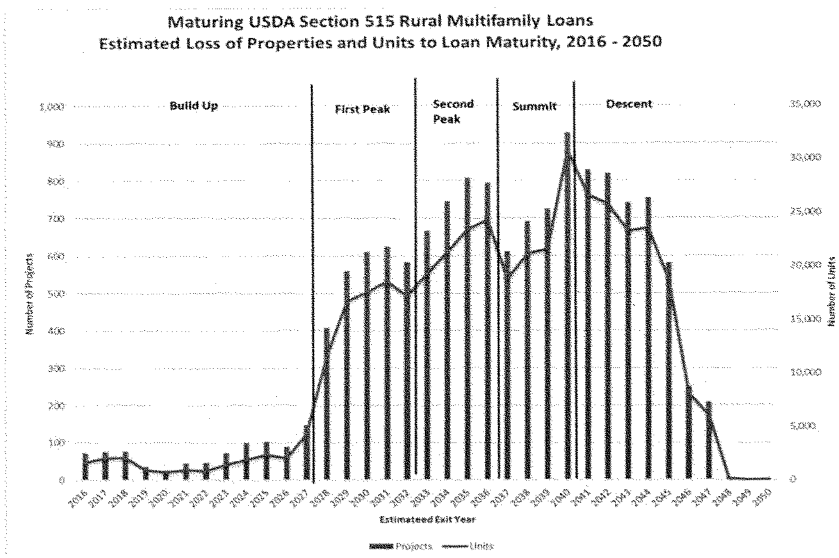

In considering solutions to this crisis, HAC looks at four key interests in the Section 515 landscape: tenants, property owners, USDA and the broader public interest. Our recent report, which includes the most up-to-date data available on rural housing preservation, lays out strategies for each of these four stakeholder groups, and HAC would be happy to share that report and those recommendations with the Subcommittee. Of note in these findings is the importance of local nonprofits and other mission-focused entities in preservation, and the need for increasing their capacity. A Section 515 property is significantly more likely to be preserved in the system if in (or moving to) nonprofit ownership.

We would also like to thank Chairman Clay for his leadership on the Strategy for Rural Housing Preservation Act, which is a commonsense step toward better transparency, reporting and dialogue on the growing rural housing preservation crisis.

Rural Homeownership

Homeownership also has its fair share of unique challenges in rural areas. Contending with often inadequate access to mortgage credit, an aging rural housing stock, high construction and rehabilitation costs, small balance mortgages, complex appraisal issues and barriers to the secondary mortgage market, rural homebuyers and the small financial institutions who serve them often struggle to make deals work.

Programs like HUD's Self-Help Homeownership Opportunity Program (SHOP) and USDA's Section 523, which award competitive grants to nonprofits who use the funds to purchase home sites and develop or improve the infrastructure needed to allow for sweat equity and volunteer-based homeownership programs for low-income persons and families, help to foster both homeownership and the nonprofits that a community needs to build capacity. And HAC would like to thank Congressman Gonzalez of Texas for his strong leadership in supporting the SHOP program and rural capacity building more broadly.

USDA's flagship homeownership program, the Section 502 direct loan program, enables low- and very low-income rural residents to purchase homes with affordable, fixed-rate mortgages. The interest rate on a Section 502 loan can be as low as 1 percent, and no down payment is required. Inability to qualify for market-rate credit elsewhere is a precondition for obtaining a Section 502 direct loan – thus the program's borrowers are homebuyers who might have resorted to unsustainable predatory loans if Section 502 loans were not available.

Over two million families have become homeowners since 1950 through the Section 502 direct program. In 2018, the average income of Section 502 direct loan borrowers was about $33,800. Over 37.5 percent of the loans went to borrowers with very low incomes (50 percent of area median or less). Yet this is a loan program, not a giveaway; the funds are repaid to USDA, with interest. In 2018, the Rural Housing Service (RHS) made about 7,200 Section 502 loans. The total cost per loan to the government for a Section 502 loan is an impressively low $5,900 (this figure does not include salaries and expenses for USDA employees).

The 502 direct program's ability to lend at an effective rate as low as 1 percent gives homebuyers a significant amount of additional buying power for each dollar borrowed, when compared with a conventional loan. Furthermore, enabling low-income buyers to access the homeownership market helps maintain heathy local real estate markets, and it also costs less than rent support for that same household.

Housing in Indian Country

We also encourage the Subcommittee to be cognizant of how federal programs work in Indian Country. Traditional mortgage lending in tribal areas – especially on trust land – is difficult to finance. While 9.5 percent of Native Americans live on reservation lands, they receive only a 2 percent share of Native American mortgage loan activity.[9] In addition to tribal and lender oversight, home loans on reservation lands are under federal oversight, specifically by the Department of the Interior's Bureau of Indian Affairs (BIA). The mortgage process can be prolonged because multiple entities are involved, each adding their own requirements, and government agencies can be understaffed.

Congress and the Administration should pay special attention to how programs like HUD's Section 184, USDA's Section 502, and the Department of Veterans Affairs' Native American

[9] Housing Assistance Council, "Exploring the Challenges and Opportunities for Mortgage Finance in Indian Country." April 2018. http://www.ruralhome.org/sct-information/mn-hac-research/mn-rrr/1565-rrr-native-mortgage-finance

Veteran Direct Loan (NAVDL) are performing on reservation lands. More than 90 percent of Section 184 loans occur off reservation lands, for example. An average of fewer than 200 Section 184 guaranteed loans were made annually on reservation lands during the 2005 to 2016 period.[10] The USDA guaranteed only 752 loans to Native American borrowers annually during the 2013 to 2015 period. This constitutes less than 1 percent of all USDA 502 guaranteed activity. And an average of just 12 USDA Section 502 direct loans were made to Native American borrowers on reservation lands each year between 2013 and 2015.

Housing Finance Reform and Duty to Serve

No discussion of homeownership in rural areas would be complete without also discussing housing finance reform. With the potential for housing finance reform on the horizon, I ask that the Subcommittee carefully consider how affordable rural housing goals fit into that puzzle. Any reform effort should make "Duty to Serve" permanent, support the Government Sponsored Enterprises' (GSEs') ability to make equity or equity equivalent investments in CDFIs that serve persistent poverty counties, and increase both rural credit availability and secondary market access for small financial institutions. This will ensure long-term secondary market focus on low-, very low- and moderate-income families in rural and tribal communities.

Multifamily deals in rural areas also struggle to cobble together a patchwork of funding, making the GSEs' recent Duty to Serve-mandated return to the Low Income Housing Tax Credit (LIHTC) market all the more important. Especially given the impact of tax reform on the value of LIHTCs across the country, we need to boost its value in the rural communities where LIHTC pricing is weakest.

Rural Homelessness

Although homelessness is widely viewed as an urban problem, rural individuals and families also experience both literal homelessness and extremely precarious housing situations. Rural Continuums of Care had the highest rates of unsheltered homeless persons in 2018 (40 percent). Homeless individuals in largely rural areas were more likely to be women than those in other areas. Predominantly rural areas also had the highest rates of unsheltered homelessness among families with children.[11] Literal homelessness, the condition of living on the street or in a shelter, is often episodic and less common in rural areas than in cities due to kinship networks and the lack of service providers and resources. HAC's local partners have often reported and research has shown that homeless people in rural areas typically experience unstable housing conditions – moving from one extremely substandard, overcrowded, and/or cost-burdened housing situation to another, often doubling or tripling up with friends or relatives, staying sporadically in motels or couch surfing.

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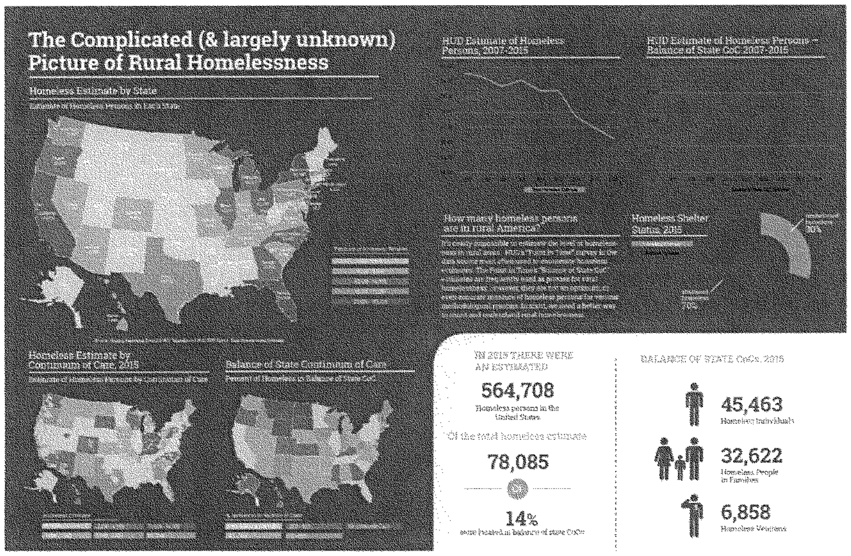
[10] Ibid.

[11] United States Department of Housing and Urban Development, "The 2018 Annual Homeless Assessment Report (AHAR) to Congress." December 2018. https://www.hudexchange.info/resources/documents/2018-AHAR-Part-1.pdf



However, as a result of the lack of rural capacity and poor rural data collection from HUD's "point-in-time" count and the American Community Survey (ACS), the rural homeless fall through the cracks – uncounted, unserved and invisible.

Information Availability

Accurate data and information, especially in rural and underserved areas like the colonias on the U.S.-Mexico border and remote tribal communities, is integral to HAC's ability to conduct rural housing research and to addressing these issues in a substantive, effective and informed manner. Thank you for your leadership, Chairman Clay, on the importance of a fair and accurate Census – it impacts our testimony today and our continued ability to analyze and communicate these issues.

There is still much work to be done in this area. We need more sampling in the ACS, as current estimates are not statistically accurate in rural areas. This includes additional outreach to the lowest reporting areas.

Similarly, easy-to-use, accurate public data from USDA would increase transparency and help us make informed decisions. Rural places and people need to see a strong commitment from USDA to address the needs of RHS – updating systems and reporting, and more actively working to preserve and improve their programs. Recent moves by the current Administration to diminish the role of Rural Development and RHS are not in the best interest of our country's rural communities.

Conclusion

We are a stronger and more cohesive nation when all of us are productive – when all of us have the basic necessities to contribute to the success of the whole. Core investments and available capital that outlast appropriations cycles and philanthropic whims will allow rural communities to do their part for the broader economy. Housing and finance reforms that hold competition over consolidation will give our heartland the stability to reconnect with the nation that has in many ways – both real and perceived – left them behind. High capacity local organizations know firsthand what works for rural institutions and in rural communities. A vibrant, prosperous rural America is an essential part of our nation's continued success.

Thank you again for the opportunity to testify today, and I look forward to working with the Subcommittee to tackle our nation's rural housing challenges.

LISC
Helping neighbors build communities

TESTIMONY BEFORE THE HOUSE FINANCIAL SERVICES COMMITTEE's SUBCOMITTEE ON HOUSING, COMMUNITY DEVELOPMENT, AND INSURANCE OF THE UNITED STATES CONGRESS

ANDRES (ANDY) SAAVEDRA
SENIOR PROGRAM OFFICER
LOCAL INITIATIVES SUPPORT CORPORATION (LISC)

February 14, 2019

Introduction
Chair Clay, Ranking Member Duffy, and members of the Subcommittee:

My name is Andy Saavedra and I'm a Senior Program Officer with the Local Initiatives Support Corporation's (LISC) Rural LISC program. Established in 1979, LISC is a national nonprofit housing and community development organization that is dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations with loans, grants and equity investments; as well as technical and management assistance. Our organization has a nationwide footprint, with local offices in 33 cities. LISC invests approximately $1.4 billion each year in these communities and our work covers a wide range of activities, including housing, economic development, building family wealth and incomes, education, and creating healthy communities.

In 1995, LISC launched Rural LISC, a national program created to expand LISC's reach beyond urban areas to include rural communities. Today, Rural LISC partners with 87 rural community-based organizations, including five financial intermediaries, helping each organization identify challenges and opportunities, and delivering the most appropriate support to meet those local needs. Together, Rural LISC is transforming communities in more than 2,000 counties across 44 states.

Thank you for the opportunity to testify today on affordable rural housing. I have spent my entire career supporting nonprofit affordable housing organizations working to improve rural housing conditions for the poor, including serving as Housing and Community Development Director at a community development corporation in rural Louisiana. I have seen firsthand the housing challenges and opportunities that exist in rural America and how nonprofit organizations can improve the lives of low-income residents and rural communities.

Rural America's Housing and Economic Landscape

We know from our work, and the data confirms, that rural America experiences distinct economic and housing characteristics from the rest of the United States. On the economic front, rural America has not experienced population or economic growth at the rate of the national average and many persistently poor rural areas have experienced outmigration and population decline for decades[1]. In fact, 85 percent of persistently poor communities (those with 20 percent of the population being at or below the poverty level for three decades) are in rural areas, with geographic concentrations in Central Appalachia, Mississippi Delta, border Colonias, Native American lands, and southeastern communities[2]. Rural America is often challenged by undiversified local economies that are disproportionately impacted when one larger employer leaves a community or when commodity and extractive resource prices decline. In addition, rural America tends to have older populations than the country as a whole. While rural areas make up around 15 percent of the total population, they are home to more than 25 percent of the nation's seniors[3]. Communities with a disproportionate number of older adults often have challenges providing necessary services since these populations are more likely to be on fixed incomes and have special needs.

These economic realities create distinct housing needs in rural areas, especially low-income rural communities. In 2016, nearly half (48 percent) of the more than 5 million renters living in rural areas also had incomes under $25,000[4]. And while rural communities may generally be more affordable than metro areas, with median housing costs of $650 per month, the low median incomes result in more than a quarter of all rural residents being housing-cost burdened[5]. Rural renters experience higher housing-cost burden rates than rural homeowners, with more than 43 percent of rural renters living in single-family homes. Housing in rural America is distinguished in other ways, including by higher rates of homeownership (72 percent vs national average of 64 percent); higher proportion of manufactured housing; an older rental housing stock which is more likely to have housing problems than urban areas (35 percent of rural rental housing was built before 1960); and specific local needs such as high overcrowding rates in many Native American communities[6].

Importance of Federal Housing Assistance Programs and the Role of Nonprofit Organizations

The federal government has operated housing assistance programs that benefit low-income rural people and communities for more than 80 years. These programs have helped produced high quality single family and rental housing, although they have received limited resources in recent years. For instance, the U.S. Department of Agriculture (USDA) Rural Housing Service has funded the creation of 533,000 affordable rural rental housing units since the inception of the Section 515 Rural Rental Housing Direct Loan program and there are around 417,000 units of this housing remaining, which are located in over 87 percent of all U.S. counties. More than 80 percent of these tenants receive federal rental assistance to make the rent affordable, with almost two-thirds funded through USDA's Section 521 Rental Assistance program.

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[1] *Taking Stock,* Housing Assistance Council, 2012.

[2] *Rental Housing for a 21st Century Rural America: A Platform for Production*, Urban Institute, 2018.

[3] *The Future of Rural Housing*, Urban Institute, 2016.

[4] *The State of the Nation's Housing 2018*, Joint Center for Housing Studies of Harvard University.

[5] Ibid.

[6] *Rental Housing for a 21st Century Rural America: A Platform for Production*, Urban Institute, 2018.

USDA also administers other important affordable housing programs, including single-family direct loan and guarantee programs, rental housing vouchers, self-help housing assistance, home repair loan and grant programs, and capacity building resources for nonprofit organizations working on some of the most challenging affordable housing issues in the country. I'll go over how LISC utilizes each of these with our partners in a moment although want to first highlight the important work of rural community-based organizations.

LISC has worked with community-based organizations since our inception, it's what we were founded to support, and we have seen firsthand how these organizations can rebuild communities when they have sufficient capacity and resources. Two of the most important federal capacity building tools are the USDA Rural Community Development Initiative (RCDI) and the U.S. Department of Housing and Urban Development's (HUD) Section 4 Capacity Building for Community Development and Affordable Housing (Section 4) program. RCDI and Section 4 awards help nonprofit housing and community development organizations further their affordable housing and community development projects. For example, Lakes Region Community Developers of Laconia, New Hampshire used HUD Section 4 to build their capacity to develop Gilford Village Knolls III, an affordable senior rental housing development, which is the first multifamily building in New Hampshire to be Passive House certified for energy efficiency. Tunica County Community Development Coalition used RCDI funds to help develop the Cypress Manor subdivision in Tunica, Mississippi, providing affordable homeownership for families in the Delta region. Groups like these are often the only groups in rural communities working to improve housing conditions and modest capacity building investments from the federal government can achieve transformational results.

HUD and U.S. Department of the Treasury also administer other important affordable housing and community development programs benefitting low-income rural communities. For instance, HUD provides flexible housing and community development support through the Community Development Block Grant and HOME programs. In addition, there are many public housing and HUD financed and assisted properties in rural communities. Treasury administers the low-income housing tax credit (LIHTC), which is the largest rental housing finance subsidy source. Around 22 percent of all existing LIHTC financed projects are in rural communities[7]. Lastly, Treasury's Community Development Financial Institutions (CDFI) Fund administers important programs for nonprofit housing developers and mission based lenders, including the Capital Magnet Fund, which provides resources for the production and preservation of affordable single family and rental housing.

It's important to note that federal housing and community development programs are greatly under resourced and do not receive sufficient support to meet demand. Only one in four eligible households receives federal housing assistance and there has been a general decline in federal resources for this work for decades. The lack of sufficient assistance results in many low-income residents being housing cost burdened, forced to live in substandard or overcrowded housing, or required to make difficult choices on how to pay for other necessities such as food, health care, and transportation.

Rural Rental Housing Preservation

[7] *Rental Housing for a 21st Century Rural America: A Platform for Production*, Urban Institute, 2018.

As I mentioned earlier, there are around 417,000 units of Section 515 funded rental housing left in the country. These 13,000 properties house some of the most vulnerable residents in the country, with the majority of tenants being older adults or persons with disabilities. The average annual income of a tenant is only $13,600 and many live on fixed incomes[8]. As you've heard from the other panelists, there has been a continued loss of these units as the stock has aged and loans have been prepaid or matured. LISC has helped preserve Section 515 housing and understands the complexity of closing these transactions. An example of this is in Garrett County, Maryland where Garrett County Community Action Committee developed the Meadows. The Meadows project included renovating two aging Section 515 elderly rental housing properties along with new construction, to provide 90 units of affordable housing for seniors. Rural LISC first assisted Garrett County Community Action Committee with capacity building support from HUD Section 4, then predevelopment dollars to determine project feasibility, and finally leveraged construction and permanent financing with a local bank (First United Bank & Trust). The project also included equity from low-income housing tax credits by our subsidiary, the National Equity Fund, support from the state of Maryland and of course, USDA Rural Housing Service.

There is a great need to develop legislative solutions to improve rural affordable housing conditions and help USDA address Section 515 preservation challenges. LISC supports Representative Clay's legislation, which would direct USDA to submit a plan for preserving their rural rental housing stock, create an advisory committee to inform the Department on rural preservation, and provide the public needed data on the characteristics of the portfolio. This data will help LISC and other stakeholders better identify preservation opportunities and inform future legislative and policy recommendations around this important issue. We also support Congressman Panetta's legislation to align USDA's farmworker housing programs with the low-income housing tax credit, amongst other important reforms.

LISC supports Representative Gonzalez's proposal to include the Section 542 voucher program as a covered program under the Violence Against Women Act and proposals to broaden voucher assistance to tenants in properties with maturing USDA mortgages. These bills provide sorely needed tenant protections. We also support proposals to test out new models for preserving USDA rental housing and believe USDA should receive additional resources for existing programs that help preserve USDA financed rental housing, including the Section 515 and Multifamily Preservation and Revitalization programs.

Rural Single Family Housing and Mutual Self-Help

LISC's involvement with USDA's single-family housing loan and grant programs has focused mostly on the Section 502 Single-Family Housing Direct Home Loan program, Section 523 Self-Help Technical Assistance program, and USDA's single-family home rehabilitation and repair programs. Rural LISC works with Section 523 self-help housing organizations throughout rural America and the Section 502 Single-Family Housing Direct Home Loan program is a valuable source of permanent mortgage financing for organized mutual self-help housing participants. In fact, most self-help housing beneficiaries utilize USDA's Single-Family Direct Home Loan program for this purpose. The program also supports mortgages for low- and moderate-income families not using the organized self-help housing model and is an essential resource for

[8] *Rental Housing for a 21st Century Rural America: A Platform for Preservation*, Housing Assistance Council, 2018.

supporting affordable homeownership options for low-income individuals in rural communities. It also helps increase asset building opportunities for low-income persons who are unable to qualify for conventional home mortgage financing. These programs have delivered results, with more than 50,000 families receiving homes through the self-help housing program and more than 7,000 loans being financed annually through the Section 502 Single-Family Direct Home Loan program.

I'd like to provide an example of how LISC and our community-based partners have used these resources. Self-Help Homes is a Rural LISC partner based in Provo, Utah. It used the Section 502 Single Family Housing Direct and Mutual Self-Help Programs to develop 81 units of single-family housing in 2018 across the state, helping families build their own homes in Heber, Salem, Payson and Toquerville, Utah.

Our Work in Native American Communities

Affordable housing needs on Native American lands are some of the most severe in the country and the toughest to solve. There are more than 500 federally recognized Native American tribes and Alaska Native Villages throughout the country and many, although not all, have defined reservation land. Many of these communities are located in rural areas and experience housing challenges, including higher rates of overcrowding than the country as a whole[9]. Financing housing is challenging in Native American communities due to land trust and title issues which inhibit private financing. This leads to a greater reliance on federal housing programs, including HUD's Native American Housing Assistance and Self Determination Act programs and Section 184 loan guarantee program along with USDA's Section 502 Single Family Housing Direct Loan program.

In 2018, USDA announced a Section 502 relending pilot program to help families living on tribal lands in South Dakota and North Dakota receive a home mortgage. The pilot is designed to overcome some of the current barriers with using the Section 502 Single Family Housing Direct Loan program on tribal lands. The program is administered through Mazaska Owecaso Otipi Financial and Four Bands Community Funds, two CDFIs in South Dakota. Each are eligible lenders under Section 502 and received $800,000 in USDA funding, with another $200,000 coming from outside resources. LISC is working to provide that funding. These CDFIs have close relationships with their community members and this pilot will allow these organizations to test out the efficacy of a relending model in Native communities.

Conclusion

LISC's 40-year history of supporting affordable housing work in rural communities has shown us that progress can be made when the federal government provides necessary resources. We urge Congress to adequately fund and support USDA, HUD, and Treasury programs, which improve housing conditions in rural areas, and to support programs that build the capacity of nonprofit housing organizations serving these communities. Thank you for the opportunity to testify before the Committee, and I look forward to working with you and your staff on ways to improve housing conditions in rural America.

[9] *Taking Stock,* Housing Assistance Council, 2012.

Responses to Questions for the Record for Rep. Denny Heck.

Thank you for Rep. Heck's questions and the opportunity to respond. The following responses are submitted on behalf of the Council for Affordable and Rural Housing (CARH), and Tanya Eastwood, who testified as Chairman of the Board of CARH at the April 2, 2019, Hearing before the Subcommittee on Housing, Community Development and Insurance, Committee on Financial Services.

QUESTIONS FOR THE RECORD

REP. DENNY HECK

FINANCIAL SERVICES COMMITTEE HEARING

"The Affordable Housing Crisis in Rural America: Assessing the Federal Response"
April 2, 2019

I have several questions about tribal housing in rural areas.

1. **How much 502 lending is done on tribal lands?**

   RESPONSE: CARH members primarily focus on rural multifamily housing. However, in conferring with members who have some focus on tribal housing, we do understand that there is limited Section 502 lending. There is more lending activity to Natives off reservation or on "fee simple" land, not trust land. The 502 guaranteed program has expanded in the last three years but, again, this lending is mostly off reservation. Many times the Native population will buy homes in rural communities near reservations but not on the reservation. An issue has always been the slow process in getting a leasehold approved for a home purchase on trust land. It is a lengthy and complex process that most homeowners do not want to go through.

   In the last 3-5 years, several efforts have focused on tribal single family housing. Perhaps the biggest effort has been the Center for Indian Country Development established at the Federal Reserve Bank in Minneapolis. Their efforts with multiple partners helped create a Tribal Leaders Handbook on Homeownership. The handbook is available on-line. In addition, the Duty to Serve efforts of Fannie and Freddie have focused on Native housing issues. Both have put considerable effort and dollars behind Native housing issues.

2. **How much 538 lending is done on tribal lands?**

   RESPONSE: We understand that Section 514, 515 lending has occurred, and we understand our members have worked with those programs in tribal areas. We are not aware of any Section 538 lending on tribal lands. However, we do not have statistics and we would refer you to Rural Development for a complete analysis of their lending for tribal housing in rural areas.

3. **Tribal access to HUD programs was replaced with the Indian Housing Block Grant under NAHASDA. However, many rural tribes rely more heavily on USDA Rural Housing programs to**

provide affordable housing for their members. Should tribal rural housing funds be rolled into IHBG? If so, how should the allocation formula and other aspects of IHBG adjusted?

RESPONSE: Tribal rural housing funds should not be rolled into an Indian Housing Block Grant formula, but, rather, have a Native Housing Coordinator for states with significant tribal populations. That can also be a model to have greater coordination on a national level, more interagency coordination between the agencies overseeing resources to Native Americans.

4. **If tribal rural housing funds should not be rolled into IHBG, is there another block grant structure that should be considered?**

   RESPONSE: Block granting the funds does not solve the issues of building capacity and acquiring the expertise and partnerships to build homes or establish a lending program on the reservation. Increased awareness of and education on available options would perhaps improve public/private participation.

5. **Tribal reservations are small units of governments compared to states and counties. Is there a way to reduce tribes' administrative costs in facilitating USDA rural housing loans?**

   RESPONSE: Administrative costs increase with smaller and more remote housing agencies. Joint jurisdiction housing authorities or housing production agencies can share administrative costs and burdens and collectively pool resources.

I have some additional questions about CRA.

6. **CRA has not traditionally worked as well in rural communities as some urban markets. This is largely because of the headquarter location of banks and their assessment areas. How can we improve assessment areas to ensure that CRA meets its full potential in rural America?**

   RESPONSE: CARH concurs with your comments that the definition of assessment areas in CRA has at times been too rigid and at times excluded lending in communities that did not fall within neatly defined, geography- based CRA assessment areas. The CRA was enacted in 1977 and has been modified from time to time both legislatively and administratively through Interagency guidance. Currently, there is a growing recognition that CRA (in its current form) does not entirely reflect how banks and customers interact in the electronic economy. Thus, your questions on CRA are timely because the federal bank regulatory agencies and the Treasury Department have recently begun to focus on CRA in a broader context and in particular, the need for reexamination of the current approach to CRA assessment areas. In that connection, the Treasury Department on April 18, 2018 issued a "CRA Reform Memorandum" that focused among other things on revisiting assessment areas. In addition, an Advance Notice of Proposed Rulemaking ("ANPR") on CRA issued by the OCC recently concluded its comment period on November 19, 2018. In that ANPR, OCC requested comment on how banking in a technology- based era might meet CRA requirements by expanding the definition of "community" as defined in the CRA. For example, OCC asked for comment on whether Banks could expand the definition of community by including LMI geographies where a bank has a loan production office or other non-bank affiliate offices. This, the ANPR specifically notes, might permit more lending and investment in targeted locations outside of traditional assessment areas such as "remote rural areas or Indian country".

The Treasury initiative and the ANPR are in the early stages and proposed regulations will still need to be issued. At that time, we intend to support CRA initiatives that we believe expand the availability of credit in rural areas. The redesign of assessment area rules giving CRA credit for rural lending and investment would be an important step. We strongly believe that redefining an assessment area to include areas where banks have non –bank offices or where they have made significant loans would make CRA (using your term) "work better" in rural communities.

Our comments to the ANPR centered around expanding CRA and making it more flexible to fit today's business patterns in rural areas. Overall, CARH supports a flexible approach to designating rural areas. The approach should allow banks to include rural assessment areas even if the bank branch is remote. In many cases, banks determine that it is not feasible to operate or maintain branches or facilities within rural communities, however, they may still provide many of their services within these communities. By allowing banks and investors to count their activities within these communities for CRA purposes, the regulatory framework would further serve low and moderate income ("LMI") populations in rural areas that depend on remote banking services. To further advance the goals of the CRA, CARH supports expanding areas to include any Housing Credit property within the same state or states as the financial institution's current assessment area or areas. This would provide greater incentives to banks to invest in communities utilizing their services without the presence of a branch while also guaranteeing that investment benefits LMI populations, a primary beneficiary of Housing Credit properties

7. **What other ways can we make CRA work better for rural communities?**

   RESPONSE: Another help would be expanding the definition of "community and economic development" to include investments in Opportunity Zones within the same state or states as the financial institution's current assessment area or areas. Finally, expanding the Housing Credit so as to allow banks that are not C corps (but LLCs or S Corps) should aid in the pool of Housing Credit buyers.

I have some additional questions about construction. I have been very focused on the shortage of homes around the country and the rising cost of housing that results. The fundamental cause of too few homes is too little construction, but it's not clear to me that too little construction has one fundamental cause. Shortages of housing in fast-growing cities with high-tech companies are well known, but home costs are also rising in rural areas, which means there's too little construction there. I generally group the causes of too little construction into four Ls: lack of 1) Land; 2) Labor; 3) Lending; or 4) Lumber.

8. **Where in rural areas do you see costs rising the most over the last decade? Do rural areas with rising costs have common circumstances?**

   RESPONSE: Costs have risen in both labor and material over the last decade, but they have sharply increased over the last 2-3 years, where some members are seeing as much as a 20%-30% increase. Tariffs on foreign goods are also be having an impact. This seems to be part of a wider trend also affecting rural housing rehabilitation and production.

9. **Have land-use policies in rural areas changes over the last decade or two in ways that make it more difficult to build new housing?**

RESPONSE: Rural areas tend to have fewer land use restriction than urban areas, still, there are costs to using zoning to limit density and limit architectural façade selections. Lack of clarity in environmental reviews and multi-step reviews add unnecessary costs to important processes and simplifying review processes and review times can result in more housing at a lower cost in a manner consistent with national and local priorities.

To further compound the issue, most State Housing Finance Agencies have not established a separate minimum design threshold for new construction in rural markets versus urban markets. The smaller designed properties often cannot support the mandated requirements; thus, limiting the amount of new housing being developed in rural areas.

10. **Have impact fees risen in rural areas to a point that developable land is not cost-effective for development?**

    RESPONSE: Impact fees, we find, rise more with density, outside of rural areas, though this can vary from place to place.

11. **Has access to construction labor or building materials (aka Lumber) changed in the last decade in rural areas?**

    RESPONSE: CARH members are finding a general shortage of skilled labor, especially in rural markets. Increases in labor costs, combined with increases in manufactured materials, particularly those produced abroad, has created cost increases that impact already limited affordable housing production budgets.

    We have also seen a mismatch between Davis-Bacon requirements in certain federal programs and what the market requires. Specifically, local building codes have made advances in using wood frame construction for multi-floored buildings, and in other cases, using different level of skilled workers. However, Davis-Bacon application often treats all work at the highest skill level, paying for work not needed and unnecessarily straining construction budgets.

12. **What is the primary source of construction lending in rural areas? Has access to construction lending changed over the last decade?**

    RESPONSE: It is difficult to assess as there is generally a need to have multi-sourced capital stacks in affordable rural property. That said, the USDA 538 Guaranteed Loan Program has been a frequent piece in apartment finance and instrumental in providing both interim and permanent financing for affordable housing in rural communities.

13. **What do you believe is the biggest impediment to construction in rural areas?**
    RESPONSE: Competition from more densely populated areas in a competitive environment. Qualified contractors and subcontractors find it more convenient and cost effective to say closer to their urban and suburban locations. Moving workers to rural areas can be logistically difficult due to housing and supply limits in those areas. And, overall, rural properties tend to be smaller, making per unit cost higher and profitability not as great as in larger properties in an urbanized area.

14. **To what extend are loss of affordable-housing properties at the end of their commitment exacerbated by higher prices for market-rate housing? Would construction of more market-rate housing in rural areas relieve pressure on affordable housing programs?**

RESPONSE: The answer changes based on the local environment. The end of the affordable housing program restrictions can cause the loss of the housing altogether as there is too great a gap between the current tenant population and the market rate rent. In other instances, housing becomes workforce housing for the same or for other residents, who are lower income, but still able to generate some income and pay some rent. Some properties are beginning to convert their use to true market rate. However, constructing more market rate doesn't really improve the situation in most places. Most housing costs are third party dictated costs or fixed costs. The costs of utilities will not be addressed by more housing. The cost of repairing housing is not addressed by another, nearby housing property. And the concern is oversupply of some housing can result in housing failure and blight. The idea is to preserve the housing that works and add to the housing based on documented market-driven demand (whether that market is low income that needs housing subsidy or middle-class or workforce housing).

15. What policies would accelerate construction of market-rate and affordable housing in rural areas?
RESPONSE: a) Tax and tariff abatement or waiver programs on materials for rural affordable housing could make a significant impact; b) An objective standard on construction design for handicapped accessibility so that land on a mild grade can still be used without major regrading or leveling of the land; c) A simplified and consistent environmental review that can be completed quickly; and d) In federal programs subject to Davis-Bacon, work categories more in line with generally recognized building codes.

Thank you for the opportunity to respond to your questions.

Responses below from the Housing Assistance Council

QUESTIONS FOR THE RECORD
REP. DENNY HECK
FINANCIAL SERVICES COMMITTEE HEARING
"The Affordable Housing Crisis in Rural America: Assessing the Federal Response"
April 2, 2019

I have several questions about tribal housing in rural areas.

1. **How much 502 lending is done on tribal lands?**

   Over the last 5 years, USDA has obligated an average of 13 loans totaling $1.6 million per year under the section 502 Direct loan program. In FY 2018, USDA entered into partnerships with two Native Community Development Financial Institutions. Under the pilot, USDA provided $800,000 in Section 502 Direct Loan funding and the Native CDFIs provided $200,000. The organizations will relend the funds to eligible homebuyers on tribal trust loans in North Dakota and South Dakota. Loans are expected to be made in FY 2019 under this pilot.

Section 502 Direct Loans on Tribal Lands		
Fiscal Year	Number	Dollars
2014	7	$666,599
2015	19	$2,070,472
2016	9	$1,119,004
2017	22	$2,775,769
2018	10	$1,412,285

2. **How much 538 lending is done on tribal lands?**

   HAC does not have data on Section 538 lending on tribal lands.

3. **Tribal access to HUD programs was replaced with the Indian Housing Block Grant under NAHASDA. However, many rural tribes rely more heavily on USDA Rural Housing programs to provide affordable housing for their members. Should tribal**

rural housing funds be rolled into IHBG? If so, how should the allocation formula and other aspects of IHBG adjusted?

We would recommend contacting the National American Indian Housing Council (NAIHC) for their thoughts on this question.

4. **If tribal rural housing funds should not be rolled into IHBG, is there another block grant structure that should be considered?**

   We would recommend contacting the National American Indian Housing Council (NAIHC) for their thoughts on this question.

5. **Tribal reservations are small units of governments compared to states and counties. Is there a way to reduce tribes' administrative costs in facilitating USDA rural housing loans?**

   We would recommend contacting the National American Indian Housing Council (NAIHC) for their thoughts on this question, as well. However, one point to note is that the Farm Bill that was signed into law at the end of 2018 included a provision that would create a Tribal Technical Assistance Office within Rural Development. This could be a step in the right direction with respect to helping reduce administrative burden on tribes.

I have some additional questions about CRA.

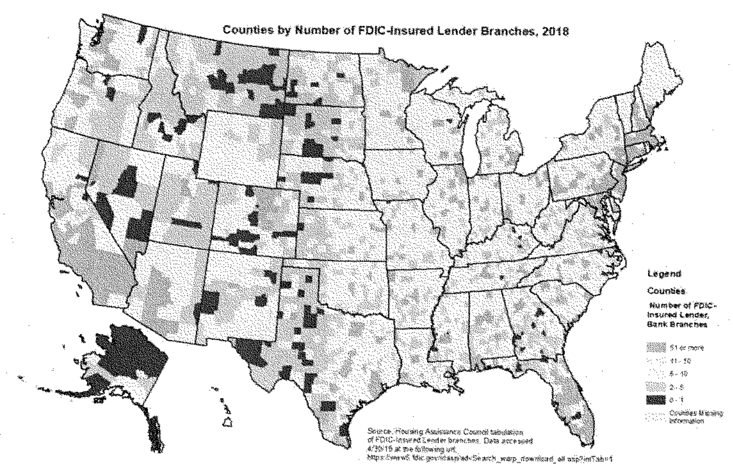
6. **CRA has not traditionally worked well as well in rural communities as some urban markets. This is largely because of the headquarter location of banks and their assessment areas. How can we improve assessment areas to ensure that CRA meets its full potential in rural America?**

   The structure of the CRA limits how well it can work in rural areas, particularly with regards to incentivizing community development investments. The CRA evaluates banks on activities occurring in areas where a lender has a deposit taking office or ATM so areas that do not have these facilities (called "CRA deserts")-which can occur in isolated, economically depressed rural areas, are not covered.

   The CRA is also structured so that the most rigorous examinations are done for large-asset banks. While most large-asset banks, the ones whose CRA examinations specifically explore community development investments and activities, operate branches in rural areas, these rural communities almost always make up a very small share of their service area and banking activity. Most large bank efforts and focus, in general and regarding the CRA, are then in suburban/urban areas and that is where most of their community development investments occur. Most rural headquartered banks (85 percent) on the other hand, are small-asset lenders which only experience a retail lending evaluation.

As to ways of improving assessment areas, one of the more promising ideas out there has been provided by Federal Reserve Board Governor Lael Brainard. Currently, the lenders' have one assessment area (where deposit taking offices and ATMs are located) for which CRA evaluations are performed. Governor Brainard put forth the possibility of allowing larger assessment areas for the community development/investment test. She mentions Pine Ridge Reservation in South Dakota where "there is only one bank currently whose assessment area may extend to Pine Ridge." The hope is to expand assessment areas for the community development/investment test to encourage activity in these areas that otherwise would not be served.

Below is a map HAC has compiled that shows how many bank branches are located in each county in the U.S. As you can see, the dark red areas are counties that have one or fewer bank branches.



7. **What other ways can we make CRA work better for rural communities?**

   The use of limited scope reviews needs to be more closely scrutinized to ensure that this process is not systematically overlooking rural areas. When evaluating large-asset lenders that operate in multiple states, CRA examiners focus on a few areas where a bank has most of its activity, providing a full-scope review for them, and then performing less focused, limited-scope reviews on the remaining areas. The problem is that rural areas simply get lumped into the less rigorous limited-scope review and can essentially get overlooked. In some ways it could be thought of as like the Census Bureau's American Community Survey (ACS) efforts that over sample sparsely populated areas to ensure they generate sound estimates.

   As a stronger incentive, the CRA might include some type of regulatory relief for lenders that go above and beyond what the CRA requires them to do and engage in community development activities, in low- and/or moderate income or distressed and underserved rural areas. This could be a designation in addition to a CRA rating that a bank can earn with the catch being they would have to at least be rated satisfactory on meeting their assessment area needs. Other have noted regulatory relief as a possible incentive.

   In addition, there probably needs to be improvements in capacity in rural areas, particularly those in chronically depressed areas, so that communities are better able to develop projects that are banks feel are solid investments. The CRA can and does provide an incentive to banks, but the underlying project itself needs to be sound.

I have some additional questions about construction. I have been very focused on the shortage of homes around the country and the rising cost of housing that results. The fundamental cause of too few homes is too little construction, but it's not clear to me that too little construction has one fundamental cause. Shortages of housing in fast-growing cities with high-tech companies are well known, but home costs are also rising in rural areas, which means there's too little construction there. I generally group the causes of too little construction into four Ls: lack of 1) Land; 2) Labor; 3) Lending; or 4) Lumber.

8. **Where in rural areas do you see costs rising the most over the last decade? Do rural areas with rising costs have common circumstances?**

   HAC unfortunately doesn't have the data to provide a robust answer to this question.

9. **Have land-use policies in rural areas changes over the last decade or two in ways that make it more difficult to build new housing?**

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12. **What is the primary source of construction lending in rural areas? Has access to construction lending changed over the last decade?**

    HAC unfortunately doesn't have the data to provide a robust answer to this question.

13. **What do you believe is the biggest impediment to construction in rural areas?**

    Lack of demand is likely a large issue in many rural communities. Rural America is "hollowing out." This is not hyperbole. In fact, it is an understatement. For decades, rural areas have experienced an exodus of young and working-age adults, especially those with higher educational attainment and skills. These migration patterns have resulted in an imbalance where the rural population is now older, poorer, and many rural places lack a vibrant economic core of workers. HAC has studied and tracked the progression of this problem for decades in numerous reports and analyses of rural America.

    We also hear about a variety of other impediments including lack of local capacity, lack of access to high-quality financial services tailored to rural needs, high construction costs and inaccurate rural appraisals.

14. **To what extent are loss of affordable-housing properties at the end of their commitment exacerbated by higher prices for market-rate housing? Would construction of more market-rate housing in rural areas relieve pressure on affordable housing programs?**

    For the most vulnerable and high-poverty areas, affordable housing will always be needed, despite the presence of market-rate housing. However, the construction of more market-rate or workforce housing is a critical piece in the puzzle of rebuilding and maintaining our rural places. Our rural housing stock is aging and limited. Even when jobs are available in small towns, employers often struggle to attract young people because of a lack of quality housing.

15. What policies would accelerate construction of market-rate and affordable housing in rural areas?

First and foremost, we need to adequately fund USDA housing resources and programs. Some USDA housing programs, including the Section 515 program that was widely discussed at the hearing, have been cut by more than 90 percent from their peak in recent decades. We need to incentivize or provide development for much needed new multifamily construction through LIHTC, CRA credit and robust USDA programs. As housing finance reform continues to be debated, we also need to ensure that Duty to Serve remains in place and that Fannie and Freddie are adequately meeting their Duty to Serve "duty."

QUESTIONS FOR THE RECORD

REP. DENNY HECK

FINANCIAL SERVICES COMMITTEE HEARING

"The Affordable Housing Crisis in Rural America: Assessing the Federal Response"

April 2, 2019

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4. If tribal rural housing funds should not be rolled into IHBG, is there another block grant structure that should be considered?
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I have some additional questions about CRA

6. CRA has not traditionally worked well as well in rural communities as some urban markets. This is largely because of the headquarter location of banks and their assessment areas. How can we improve assessment areas to ensure that CRA meets its full potential in rural America?

LISC: It is well documented that the price that banks are willing to pay for low-income housing tax credits (Housing Credits) are primarily driven by CRA assessment area considerations. According to the accounting firm CohnReznick, "the largest single determinant of Housing Credit pricing is based on the CRA investment test value of a given property's location," with pricing differentials currently between 10 – 15 percent between Housing Credit developments in "CRA-hot" markets and "CRA deserts," and at points in the program's history, the pricing differential was as high as 35 percent.[1] Lower pricing results in less equity available for a given property, leaving additional gaps in financing that need to be filled; thus, making it that much harder to finance affordable housing in underserved markets, particularly in underserved rural communities.

Too strict an adherence to a branch/ATM based approach to defining assessment areas creates other problems as well. For instance, national or regional banks with a large network of branches and ATMs can be assigned hundreds of separate assessment areas, significantly complicating their reporting requirements as well as the auditing responsibilities of CRA bank examiners. And banks that do not have a significant networks of branches or ATMs (including internet banks, investment banks, credit card banks, wholesale banks, and US outposts of some foreign banks) are assigned assessment areas based

[1] CohnReznick, "The Community Reinvestment Act and Its Effect on Housing Tax Credit Pricing," (2013). Retrieved from: http://ahic.org/images/downloads/Research_and_Education/the_community_reinvestment_act_and_its_effect_on_housing_tax.pdf

upon where they are physically located – which often has no correlation whatsoever to where their customers are located. This has led to extremely localized CRA pricing discrepancies in the states where many of these specialized banks are formed or headquartered (e.g., Utah, South Dakota, and Delaware).

LISC has recommend that assessment area coverage be consolidated for certain branch-based banks.[2] In keeping with the statutory intent of CRA, it is important to maintain a nexus between the location of a bank's branches and service to those communities. However, bank assessment areas shouldn't be drawn so narrowly as to create in some cases dozens of separate assessment areas within a single state. Banks with multiple assessment areas outside of MSAs should be allowed to consolidate these non-metropolitan assessment areas into a single assessment area – thereby creating more investment opportunities and incentives for banks to work in rural and micropolitan communities where they may not have branches.

7. What other ways can we make CRA work better for rural communities?

LISC: LISC also recommends that federal banking regulators provide certainty for banks interested in making investments outside of their assessment areas, including in national funds. In recent years, regulators have made better efforts to try and encourage banks to make investments outside of their traditional service areas. In particular, the updated FFIEC CRA Q&A document from 2013 included preamble language noting that nationwide funds "are important sources of investments for low- and moderate-income and underserved communities throughout the country and can be an efficient vehicle for institutions in making qualified investments that help meet community development needs." And that "nationwide funds may be suitable investment opportunities, particularly for large financial institutions with a nationwide business focus, including wholesale or limited purpose institutions." However, this same document indicated that a bank would get CRA consideration for loans and investments made outside of its assessment areas only to the extent it can demonstrate "that it has been responsive to the community development needs of its assessment areas" (emphasis added). Under this approach, a bank cannot be sure that the activity will qualify for CRA consideration until it undergoes its CRA evaluation, which may be several years after the investment is made.

Banks need to be provided with a "bright line" test so that an institution can be certain that it is satisfying these requirements at the time the investment is being made. Without such clarity, institutions will default to making investments that can be traced to projects in their defined assessment areas, which adds significant burdens to the banks and to the national funds in which they invest and continues to provide less dollars to underserved markets outside the defined assessment areas. To this end, and consistent with the intent of the regulators as expressed in the preamble to the Q&A Document, we recommended that the banking regulators provide certainty for any institution serving a statewide, regional or national service area as follows:

(i) provide a minimum benchmark requirement that banks must meet in order to be deemed to have been responsive to their assessment areas (e.g., at least 75% of a bank's reported CRA activities must be within their chosen assessment areas); and

(ii) once this threshold has been met, allow banks to receive CRA credit for additional CRA investments outside of their assessment areas, but only to the extent that such investments:

a. are made within the bank's service area (i.e., statewide, regional or national); and

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[2] http://www.lisc.org/media/filer_public/f9/42/f94220e4-0a69-4bfc-ae27-855c07ce8084/112118_policy_comments_reforming_community_reinvestement_act_regulatory_framework.pdf

b. are made in areas that have been deemed by OCC to constitute an underserved CRA market area (e.g., rural areas, persistent poverty communities, communities without access to bank branches; etc.), or

c. are otherwise made in funds or in entities (e.g., CDFIs) that will predominantly serve low-income communities or low-income persons throughout the bank's service area.

We believe this recommendation has the potential to expand CRA activity in underserved CRA market areas, including low-income rural communities.

I have some additional questions about construction. I have been very focused on the shortage of homes around the country and the rising cost of housing that results. The fundamental cause of too few homes is too little construction, but it's not clear to me that too little construction has one fundamental cause. Shortages of housing in fast-growing cities with high-tech companies are well known, but home costs are also rising in rural areas, which means there's too little construction there. I generally group the causes of too little construction into four Ls: lack of 1) Land; 2) Labor; 3) Lending; or 4) Lumber.

8. Where in rural areas do you see costs rising the most over the last decade? Do rural areas with rising costs have common circumstances?
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12. What is the primary source of construction lending in rural areas? Has access to construction lending changed over the last decade?
13. What do you believe is the biggest impediment to construction in rural areas?
14. To what extend are loss of affordable-housing properties at the end of their commitment exacerbated by higher prices for market-rate housing? Would construction of more market-rate housing in rural areas relieve pressure on affordable housing programs?

LISC: As mentioned during the subcommittee hearing, the low-income housing tax credit (LIHTC) is the most important affordable housing preservation and new construction subsidy source. The LIHTC is a flexible tool, which can be used to preserve existing federally assisted housing properties, including those originally financed by HUD or USDA. Affordable rental housing properties in rural communities with strong local economies and for profit ownership are more at risk of losing their affordability restrictions than those in declining markets.[3] This is since those owners have an incentive to sell the property and maximize their gains.

The construction of market rate housing to address affordable housing, known as housing filtering, will not solve affordability challenges faced by rural housing. Housing filtering is the process by which older market-rate housing becomes more affordable as new units are added to the market. Research has found that creating new market rate housing will not address affordability problems, in and of itself, and has its own challenges. These include that older housing typically has higher instances of poor physical

[3] Balancing Priorities – Preservation and Neighborhood Opportunity in the Low Income Housing Tax Credit Program Beyond Year 30. https://nlihc.org/sites/default/files/Balancing-Priorities.pdf

conditions; there are timing issues with waiting decades for newer housing to become more affordable; and there's uneven treatment between markets, with older housing receiving higher valuations in some older and high cost markets. Research has shown that there's a strong need for *both* market rate and affordable housing and that subsidized housing better protects residents against displacement.[4]

15. What policies would accelerate construction of market-rate and affordable housing in rural areas?

LISC: Multiple policies are needed to increase construction of market rate and affordable housing in rural communities, including additional affordable housing subsidy and the removal of unnecessary local barriers to development. LISC, along with our partners, support increased federal subsidy for affordable housing, including through higher appropriated resources for HUD, USDA RHS, and the Community Development Financial Institutions (CDFI) Fund at the U.S. Department of the Treasury, and through improvements to the LIHTC program. LISC is a partner in the Coalition for Housing and Community Development Funding, which advocates for additional appropriations for federal affordable housing programs.

For appropriated programs, LISC supports increased affordable housing production subsidies at HUD, USDA, and Treasury. At USDA, we believe there should be additional rural rental housing resources through the Section 515 Rural Rental Housing Program and Multifamily Preservation Revitalization and Demonstration Program and single family assistance through the Section 502 Direct Lending Program. These programs provide targeted affordable housing resources for rural residents and are under resourced. At HUD, we advocate with our partners for additional funding for the HOME, CDBG, Choice Neighborhoods, and Section 202 and 811 Capital Advances programs, since these can be used to build and preserve affordable housing. We also support HUD's National Housing Trust Fund and the Capital Magnet Fund (CMF) at the CDFI Fund. These programs are funded through assessments on new business at Fannie Mae and Freddie Mac and provide important resources for affordable single family and multifamily housing, including in rural communities. In fact, CMF awardees have historically committed 20 percent of all funding to affordable housing in rural areas.

LISC is also a member of the ACTION Coalition, which advocates for improvements to the LIHTC program. There will be a new LIHTC bill introduced in Congress soon, which will have similar provisions to last session's legislation. We are hopeful that this legislation will include at least a 50 percent increase the in the credit allocation formula for the 9 percent credit, which is used for new construction and substantial rehabilitation transactions. In addition, we are hopeful that, like last session's legislation, it will propose a minimum 4 percent rate for bond deals, which are used for preservation deals. If enacted, these provisions would increase equity sources for new affordable rental housing and preservation of existing affordable housing in rural communities.

Last session's Affordable Housing Credit Improvement Act included several provisions to increase LIHTC's effectives in financing affordable rental housing in rural areas. For instance, it proposed standardizing rural income limits for LIHTC properties, making more rural developments feasible. In addition, it proposed a basis boost for properties serving extremely low-income tenants, which would benefit rural properties serving this population. It also encouraged the development of housing in Native

[4] https://www.urbandisplacement.org/sites/default/files/images/udp_research_brief_052316.pdf UC Berkley, Turner Center. 2016.
http://furmancenter.org/files/Supply_Skepticism_-_Final.pdf Kathy O'Regan, NYU Furman Center. 2018

American communities by requiring states to consider the affordable housing needs of members of tribes and provide for additional equity for properties in Indian areas, if needed for financial feasibility.

LISC is also active in efforts to strengthen nonprofit right of first refusal provisions, which provides nonprofit organizations the right to purchase a LIHTC project at a price equal to all outstanding indebtedness secured by the development, plus associated exit taxes. LISC and our partners are working to ensure this language is tightened in the forthcoming LIHTC bill and to close loopholes, which have allowed some properties to lose their affordability restrictions earlier than expected.

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