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Housing Issues in the 109th Congress

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Summary

On February 7, 2005, the Administration submitted a $29.1 billion FY2006 budget request for the Department of Housing and Urban Development (HUD), which would be a decrease of $2.8 billion, or almost 9%, from FY2005. At about the same time, several appropriation subcommittees were reorganized, and responsibility for the HUD budget was transferred to a new *Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia* Subcommittee in the House, and to a new *Judiciary, Housing and Urban Development, and Related Agencies* Subcommittee in the Senate.

The most controversial part of the proposed HUD budget, which explains much of the proposed $2.8 billion cut, would eliminate the Community Development Block Grant (CDBG) program and transfer its purposes to the Department of Commerce, combining it with 17 other programs (which collectively had $5.6 billion of appropriations in FY2005) into a new $3.7 billion *Strengthening America's Communities* grant program. This proposal is intended to consolidate federal community and economic assistance programs and to target more funds to areas with the greatest needs. Both the House and Senate indicated objections to this proposal in their versions of the FY2006 budget resolution (H.Con.Res. 95), and the House-passed and Senate Appropriations Committee-passed versions of the FY2006 HUD funding bill (H.R. 3058) retained funding for CDBG at HUD.

The Administration has proposed a major reform of the voucher and public housing programs (introduced as S. 771 and H.R. 1999: the State and Local Housing Flexibility Act of 2005) that would change income eligibility and targeting rules and add greater flexibility for public housing authorities. The Administration has also reintroduced homeownership proposals for lower-income and minority households — the Zero Downpayment Mortgage and the Payment Incentives initiatives. However, the Administration and the Appropriations Committees differ by $268 million on their estimates of the cost of these two proposals. The Administration's Single Family Homeownership Tax Credit, a tax incentive for developers of affordable single-family housing, has been reintroduced (S. 859, H.R. 1549). It is estimated to cost $2.5 billion over five years.

Other housing related issues before the 109th Congress include bills to address predatory lending (H.R. 200, H.R. 1182, H.R. 1643) and continuing efforts to reform the Real Estate Settlement Procedures Act. Hearings have been held on legislation to create a more aggressive regulator for Fannie Mae and Freddie Mac (H.R. 1461, S. 190), and H.R. 1461 has been approved by the House Financial Services Committee. This report will be updated as issues develop and legislation proceeds in the 109th Congress.

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Introduction

Housing issues in the 109th Congress center around the Administration's proposed FY2006 budget for the Department of Housing and Urban Development (HUD) and the congressional response.[1] The budget includes a controversial proposal to replace Community Development Block Grant (CDBG) and related programs with a new initiative in the Department of Commerce, rescission of $2.6 billion in previously appropriated but unspent HUD funds, the recommendation to eliminate the HOPE VI program, and significant cuts to the housing for persons with disabilities and the lead hazard reduction programs. The Administration would increase the Section 8 rental voucher program by $1.1 billion and homeless assistance grants by $200 million. Legislation has been introduced on behalf of the Administration to replace the Section 8 voucher program with a new block grant and to make major changes to the public housing program, and the Administration continues to support several initiatives to increase the homeownership rate for lower-income and minority households. Other congressional interests include legislation to combat predatory lending, proposals to create a stronger regulator for Fannie Mae and Freddie Mac, and continuing efforts to reform the Real Estate Settlement Procedures Act.

Table 1. Department of Housing and Urban Development Appropriations, FY2002 to FY2006

(Net budget authority in billions)

FY2002	FY2003	FY2004	FY2005	FY2006
$30.15	$31.01	$31.20	$31.92	$29.15*

Source: House Appropriations Committee tables, as cited in CRS Appropriations reports. Totals remain uncertain until all program experience has been recorded, a process that may not be completed for several months after the end of the fiscal year.

*The FY2006 figure is the House Appropriations Committee's re-estimate of the Administration's budget request.

[1] For a more detailed discussion, see CRS Report RL32869, *The Department of Housing and Urban Development (HUD): FY2006 Budget*, by Bruce Foote, Maggie McCarty, and Eugene Boyd.

Overarching Policy Issues

The Role of HUD. Recurring proposals to reduce funding for many of HUD's programs have caused some to question the Department's current and future role. Among the agencies overseen by the new Transportation, Treasury, HUD, Judiciary, District of Columbia and Related Agencies Appropriations Subcommittee, HUD's budget is proposed for one of the most drastic decreases, with a number of programs slated for elimination. Some also see the Administration's decision to house the new Strengthening America's Communities Initiative (SACI), which is designed to replace the CDBG program, at the Commerce Department rather than at HUD as a vote of "no confidence" in the agency. Furthermore, the proposed elimination of CDBG, which constitutes the Department's primary community development program, raises questions about the urban development component of HUD's name and mission. Some of these concerns were voiced by the chairman of the House Appropriations Subcommittee, Representative Knollenberg, who stated in a March 17 oversight hearing that the Administration itself was contributing to HUD's image as lacking "competency" to manage and implement programs.

HUD notes in its FY2006 budget summary that it has undertaken a number of initiatives under the direction of the President's Management Agenda to address longstanding management problems, although it will take several years to achieve the President's goals. The Department also identifies reform of the Section 8 voucher program as its top priority, motivated at least in part by the fact that the program is repeatedly designated as a high-risk program by the Government Accountability Office (GAO) due to its high level of subsidy errors. Finally, HUD's budget summary acknowledges that the SACI proposal is a "fundamental change" but maintains that it would result in a more targeted and unified program, to replace the "maze" of "costly and duplicative" programs at multiple departments that communities currently have to navigate.

Housing Affordability. The U.S. Housing Act of 1949 established a national goal of "a decent home and a suitable living environment for every American family." Since the establishment of that goal, great progress towards it has been made, with record homeownership rates and the elimination of much of the slums and blight that plagued the first half of the last century. At the same time, problems remain. The bi-partisan, congressionally-mandated Millennial Housing Commission's 2002 final report identified "affordability"[2] as "the single greatest housing challenge facing the nation." The Harvard Joint Center for Housing Studies' 2005 *State of the Nation's Housing* report found that more than 37 million American families faced housing affordability problems or lived in inadequate or overcrowded housing. While affordability is the overarching concern, different factors threaten the affordability of owners and renters.

Rising Housing Prices. The unprecedented U.S. housing boom continues on, with house prices again setting records in 2004. Home equity stood at $9.6 trillion in 2004 and it is estimated that the wealth effect from rising housing prices

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[2] Housing is generally considered affordable if it costs no more than 30% of a family's income.

generated one third of the growth in consumer spending last year, helping to buoy the economy. Homeownership rates have reached all-time highs, up to 69% in 2004. And minorities, who have consistently lagged whites in homeownership rates, have made some gains. According to the Harvard Joint Center for Housing Studies' 2005 *State of the Nation's Housing* report[3], between 1991 and 2003, the minority share of first time homebuyers increased from 22% to 35%. Despite all of the good news, fears about the health of the housing market and the sustainability of recent homeownership gains are growing.

Speculation about a housing "bubble" has permeated local and national real estate news. Federal Reserve Chairman Alan Greenspan, in testimony before the Joint Economic Committee on June 9, 2005 noted that, while he does not believe that the U.S. is experiencing a national housing bubble, home prices in some markets seem to have risen to unsustainable levels. The pace of future interest rate increases, the health of the economy, and the rate of job growth will all play an important role in determining the pace of future housing price appreciation. More serious market corrections could occur if speculators begin to fear the end of the boom has arrived.

Soaring home prices have also resulted in a proliferation of exotic and potentially risky mortgage products that make the entry into homeownership in these hot markets more affordable. Loans for more than the value of the home, interest-only loans, and various forms of adjustable rate mortgages have all become options for households buying high-priced homes they could not otherwise afford. At the lower end of the market, relaxed credit standards and the proliferation of subprime loans have expanded the pool of first-time homebuyers to include families with little or no cash and with little or blemished credit histories. While all of these practices have helped to increase the national homeownership rate, they come with repayment risks. If interest rates soar, buyers with adjustable rate loans and interest-only loans would be in for payment shocks, and some would find themselves at risk of default. If the economy falters and there are job losses, some low- and moderate-income families could be at risk of default if they become unemployed. A small but growing number of low- and moderate-income homeowners are already considered severely cost burdened, meaning they are spending half or more of their incomes on housing.

Rent Burdens. In 2003, over 8 million renter households were severely cost burdened, an increase of over 1.3 million from 2000. While moderate-income renters are not immune from severe rent burdens, low-income renters face the greatest burdens; just over half of all renters in the bottom quarter of the income distribution were severely cost burdened in 2003. When low-income families pay such a large portion of their incomes on housing, they have little left to meet their other needs, let alone establish savings or build assets. The problem of severe rent burdens appears to be growing as the supply of low-cost rental units continues to dwindle. The Joint Center for Housing Studies' report attributes the growing "affordability problem" to a "structural mismatch between the large number of low-wage jobs that the economy is generating and the high costs of supplying housing." They note that solving the problem will be difficult and will require the cooperation

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[3] Available at [http://www.jchs.harvard.edu/publications/markets/son2005/index.html].

of government, business and non-profits. However, the federal government's role in addressing what HUD has termed "worst-case housing needs" is increasingly in question as deficits grow and pressure to restrain domestic spending mounts.

Community Development Block Grant Program

The Community Development Block Grant (CDBG) program, administered by the Department of Housing and Urban Development, is the largest source of federal grant assistance in support of state and local government housing and community development efforts. Created in 1974 as Title I of the Housing and Community Development Act, P.L. 94-393, the program is also the longest-running federal block grant program. In FY2005, the program allocated $4.15 billion in assistance to approximately 1,168 entitlement communities, states, and Puerto Rico using one of two formulas intended to measure community development needs. States and communities may use CDBG assistance to fund any of 25 categories of eligible activities, including economic development, housing, historic preservation, public facilities, public services, works, and energy conservation. Although states and local governments are given broad discretion concerning the mix of program activities that they can undertake, the statute governing the program requires that each activity must address one of three national objectives: (1) principally benefit low- and moderate-income persons; (2) aid in preventing or eliminating slums or blight; or (3) address an urgent community development need posing a threat to the health and safety of residents of a community. The program's authorizing language also requires that 70% of a community's CDBG allocation be used in support of activities principally benefitting low- and moderate-income persons.

Administration's Economic Development Consolidation Proposal. The 109th Congress may consider several CDBG-related issues, including a proposal by the Bush Administration that would eliminate the CDBG program and 17 other existing community development, economic development, and community service programs, and transfer their activities to a new program — Strengthening America's Communities — to be administered by the Department of Commerce. The proposal is being opposed by groups representing state and local officials, including the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, and the Council of Community Development Agencies. The Administration, which has not yet released a detailed legislative proposal, contends that the programs, including CDBG, whose activities would be consolidated have been judged to be ineffective, duplicative, and lack measurable long-term objectives. The new program, as proposed by the Administration, is intended to

- reduce duplication and fragmentation in the delivery of federal economic development assistance;
- target assistance to communities with the greatest need; and
- improve accountability by requiring communities to focus on measurable outcomes of grant assistance.

On June 30, 2005, the House, by a vote of 405 to 18, approved H.R. 3058, the Departments of Transportation, Treasury, Housing and Urban Development, the Judiciary, and the District of Columbia Appropriations Act for FY 2006 (TTHUD) and forwarded the bill to the Senate for its consideration. As reported by the House

Appropriations Committee, the bill included $4.15 billion for the CDBG formula-based program ($3.86 billion) and the Economic Development Initiative ($290 million). Before approving the bill, the House considered and approved several amendments, one of which would provide FY2006 funding for the Youthbuild program within HUD (rather than the Department of Labor, as requested by the Administration). The House approved by voice vote an amendment (H.Amdt. 396) offered by Representative Knollenberg that would provide an additional $67.5 million to fund the activities of the Community Development Fund (CDF), with at least $50 million of that amount available for the Youthbuild program. In approving H.R. 3058, the House bill rejects the Administration's "Strengthening America's Communities Initiative." The additional funds would increase total funding for the CDF account to $4.2 billion. During floor consideration of the bill, the chairman of the TTHUD Appropriations Subcommittee, Representative Knollenberg, stated that he would continue to seek a means of restoring the CDBG formula-based program to its FY2005 funding level ($4.1 billion). The Senate Appropriations Committee-reported version of H.R. 3058 also continues funding for CDBG and related programs at HUD.

For a more detailed discussion, see CRS Report RL32823, *An Overview of the Administration's Strengthening America's Communities Initiative*.

CDBG Formula Changes. Congress may also consider legislation that could change the program's allocation formula and targeting requirements. A HUD study released in February 2005, outlined four alternatives to the existing formula. The study, *CDBG Formula Targeting to Community Development Need,* notes that the variables used to allocate CDBG funds to local governments have not changed since 1978, and that although the formulas continue to allocate assistance based on need, the ability of the formulas to do so "has declined substantially over the last 26 years." A change in the program's formula may have regional implications.

De-Linking Brownfields and Section 108 Assistance. In addition, Congress may consider two other issues: de-linking the Brownfield Economic Development Initiative (BEDI) from the CDBG Section 108 loan guarantee program, and reducing the number and amount of funds allocated to CDBG-related earmark and set-aside programs. Currently, a community seeking to access BEDI funds may do so only if it makes use of the Section 108 loan guarantees. This is particularly cumbersome for smaller, nonentitlement communities, which must gain the support of the state in order to access either BEDI or Section 108 funding. De-linking the BEDI program from Section 108 loan guarantees would create a free-standing program that would reduce the expense associated with underwriting Section 108 bonds and notes. At least one bill has been introduced in the House, H.R. 280, that would de-link the two programs.

The Administration's Strengthening America's Communities Initiative (SACI) would eliminate both the Brownfields and Section 108 programs. During its consideration and passage of the Departments of Transportation, Treasury, Housing and Urban Development, the Judiciary, and the District of Columbia Appropriations Act for FY 2006 (TTHUD), the House approved an amendment that would provide $24 million for the Brownfield program, but includes no additional funding for the

Sec. 108 program. The Senate Appropriations Committee-reported version of H.R. 3058 includes funding for both the Brownfields and Section 108 loan guarantees programs.

CDBG-Related Earmarks and Set-Asides. The CDBG program is funded under an account called the Community Development Fund (CDF), which includes a number of CDBG-related earmarks and set-asides. As a cost-saving measure, Congress may act to reduce the number of CDBG-related earmarks and set-aside programs as a means of preserving funding for the formula component of the CDBG program. Critics of CDBG-related set-asides and earmarks believe that these programs siphon funds from the formula portion of the CDBG program. For FY2005, Congress appropriated approximately $600 million for CDBG-related earmarks and set-asides, with approximately 55% ($330 million) of that awarded on a noncompetitive basis to congressionally directed projects. Eliminating or reducing funding for CDBG-related set asides and earmarks could, but does not necessarily, translate into additional funds for the CDBG formula program.

The House-passed version of the HUD funding bill, H.R. 3058, would reduce the amount of funding for and number of CDBG-related set-asides and earmarks funded within the CDF account. The bill would provide funding for Youthbuild, a job training program ($50 million), and Economic Development Initiative (EDI) grants for congressionally earmarked projects ($290 million). Funding for university-related programs would be transferred to the Department's Office of Policy Research and Development, approximately $29 million. The bill would also transfer funding for the National Community Development Initiative and the Self-Help Housing Opportunity Program to a new account within HUD in support of homeownership. The Senate Appropriations Committee-reported version of H.R. 3058 funds most CDBG set-asides within the CDF account.

Assisted Housing

Housing Choice Vouchers. The Section 8 voucher program, also called the Housing Choice Voucher program, provides rental subsidies to low-income families that they can use to reduce their rent in the private market. The voucher pays roughly the difference between the rent for a unit and the family's contribution, which is approximately 30% of their income. The program currently provides around 2 million subsides, but demand for them is great and in many communities, waiting lists for vouchers are years long or even closed.

The program has come under criticism in recent years for cost increases without corresponding increases in the number of families served. In FY2005, Congress funded the program at $14.7 billion, a 4% increase over FY2004 and a 17% increase over FY2003. Over this same period, Congress did not fund any new vouchers. In FY2006, the President has requested $15.8 billion for the voucher program, an increase of over 7%, none of which would be available to serve additional families. The program accounted for more than 46% of the total HUD budget in FY2005 and is slated to account for more than half of the HUD budget in FY2006 (in part because of reductions to other programs). In addition to its cost, the program has been criticized for its administrative complexity, which results in high rates of error in calculating subsidies, and for not promoting self-sufficiency among its participants.

In response to these critiques, two major initiatives have emerged over the past several years. The first involves changes to the way the program is funded. Beginning with changes in the FY2003 appropriations act and continued in the FY2004 and FY2005 laws, Congress has begun to convert the voucher program from a unit-based, actual cost program to a budget-based, fixed cost program. Prior to FY2003, PHAs were issued a number of vouchers that they were authorized to distribute, and they were reimbursed by HUD for the actual cost of those vouchers (statutorily set at roughly rent minus 30% of family income.) In FY2005, PHAs were funded based on the number of vouchers they were using and the cost of those vouchers in a snapshot of time — May through July 2004 — with an adjustment for inflation. This new "budget-based" environment has left some PHAs with less funding than they require to continue serving the same number of families at the same level that they had in the past. Many PHAs have made program adjustments to reduce costs, but they are constrained by federal laws and regulations governing the size of benefit they must provide and the income levels of the families they must serve. The President's FY2006 budget request for the voucher program, and the House-passed version of the HUD FY2006 funding bill (H.R. 3058), would continue and expand the practice of budget-based funding for PHAs by distributing funds to agencies based on the amount they received in FY2005 rather than their projected cost and usage for FY2006. The Senate Appropriations Committee-reported version of H.R. 3058 would fund PHAs using a different formula than that proposed by the President and accepted by the House. The Senate bill would distribute funding to agencies based on their actual costs and the number of vouchers they used in the past 12 months.

The second major initiative is a HUD-led drive to eliminate the existing Section 8 voucher program and replace it with a new and restructured housing subsidy program. In the first session of the 108th Congress, the Administration's FY2004 budget proposed a voucher reform initiative titled Housing Assistance for Needy Families (HANF). HANF would have provided block grants to states to undertake a more broadly defined form of tenant-based rental assistance, as well as homeownership and other activities defined by the Secretary. Eligibility rules would have been looser than current voucher rules, as would subsidy determination rules. The initiative was resisted by low-income housing advocates who argued that it would fail to serve the neediest families. It was also opposed by PHA groups who argued that local PHAs were better suited to administer a voucher program than states because of their history and proximity to communities. Critics of the proposal also argued that the block grant structure of HANF would lead to future funding cuts. HANF legislation was introduced in the House and the Senate, but no further action was taken.

In the second session of the 108th Congress, the President included a Flexible Voucher Program (FVP) proposal in his FY2005 budget request. Also designed to replace the existing voucher program, FVP would have continued to use PHAs as administering bodies, but would have adopted looser eligibility and subsidy determination rules than both the existing program and the previously proposed HANF. FVP came under criticism by low-income housing advocates and PHA groups for many of the same reasons HANF was criticized. However, PHA advocacy groups noted that they did desire additional program flexibility, including some of the flexibility that FVP would have provided, particularly if budget-based funding is to continue in the future. No legislation was introduced to enact FVP; HUD stated in testimony that it did not intend to introduce FVP as authorizing legislation, but instead expected the Appropriations Committees to include authorizing language for FVP in the FY2005 appropriations bill. FVP was not enacted in the 108th Congress.

On April 13, 2005, Senator Allard introduced S. 771, and on April 28 Representative Gary Miller introduced H.R. 1999, the State and Local Housing Flexibility Act of 2005. Title I of S. 771 is titled the Flexible Voucher Act, and its provisions are similar to those in the Administration's FVP proposal from the 108th Congress. It would replace the Section 8 voucher program with the Flexible Voucher Program and would expand eligibility for the program to higher-income families and would give PHAs the option to set time limits or increase tenant contributions toward rent. The bills include two additional titles, one that would modify the eligibility and rent rules for public housing and another that would extend and expand the Moving to Work Demonstration program. S. 771 has been referred to the Senate Banking Committee, and H.R. 1999 has been referred to the House Financial Services Committee. For more information, see CRS Report RL31930, *Section 8 Housing Choice Voucher Program: Funding and Related Issues*.

Public Housing. Public housing is a program of publicly owned and federally subsidized housing units managed at the local level by quasi-governmental PHAs and available to low-income families, including seniors and the disabled. Congress provides funding for both the ongoing operating needs as well as the long-term capital modernization needs of public housing. The major issues in public housing surround both of those subsidies.

Operating Subsidies. Congress funds and HUD provides operating funds to PHAs to help make up the difference between what tenants pay in rent and what it costs to run public housing. Most agree that the current formula for calculating the distribution of subsides is outdated, however, coming up with a new formula has proved difficult. In 2000, Congress directed HUD to contract with the Harvard University Graduate School of Design to conduct a study on "the costs incurred in operating well-run public housing." The purpose of the study was to develop a new system for distributing operating subsidies to PHAs. The findings were reported in 2003; the major conclusions were that operating costs should be benchmarked to the operating costs of private housing providers and that public housing should be converted from agency-based funding and management to property-based funding and management. Congress directed HUD to undertake negotiated rulemaking with stakeholders to develop a new formula for distributing operating funds based on Harvard's recommendations. HUD released the proposed rule on April 14, 2005 (70 FR 19857-19875). It has been controversial, as it differs in significant ways from the final rule that was agreed upon in the negotiated rulemaking sessions. HUD has stated that it modified the rule "to better reflect Administration policies and budgetary priorities."[4] It will present major changes in the way PHAs manage their

[4] See Regulatory Impact Analysis of "Revisions to the Public Housing Operating Fund (continued...)

buildings and receive funding, with the potential that some PHAs will receive substantial increases in funding and others will receive substantial decreases.

The House-passed version of the FY2006 HUD funding bill (H.R. 3058) directs the Secretary to fund agencies using the negotiated rule rather than the proposed rule. While the Senate Appropriations Committee-reported version of H.R. 3058 does not require the Secretary to use the negotiated rule, the accompanying report (S.Rept. 109-109) states that the Committee expects the final rule to reflect the negotiated rule to the greatest extent possible.

Capital Subsidies. It is estimated that there is a backlog of unmet capital modernization needs in public housing, totaling between $18 billion and $20 billion and that new capital needs accrue at a rate of $2-$3 billion per year. Public housing advocacy groups argue that the Administration's funding requests ($2.3 billion in FY2006) and the amount provided by Congress ($2.6 billion in FY2005) are not sufficient to either keep up with new needs or address the backlog. If capital needs go unmet, public housing runs the risk of becoming dilapidated and uninhabitable.

One emerging trend in public housing is the leveraging of private resources by PHAs to fund modernization needs. According to HUD's budget justification:

> To date, HUD has approved 34 transactions in which, a total of 93 PHAs are participating (some of these transactions include pools of multiple PHAs). The total amount of loan and bond financing approved to date is approximately $1.7 billion. HUD currently has 15 requests pending to borrow another $765 million for 25 PHAs. HUD has been contacted by representatives for over 150 PHAs expressing interest in pursuing transactions in excess of $357 million.

HOPE VI. The HOPE VI program provides competitive grants to PHAs for the demolition and/or revitalization of distressed public housing. HOPE VI has been popular with many Members of Congress, but has come under criticism from the Administration for slow expenditure of funds by grantees and from tenant advocates for displacing more residents than are housed in new developments. Reflecting these criticisms, HUD has proposed no new funding for HOPE VI in its FY2004, FY2005, and FY2006 budget submissions. Congress continued funding the program in FY2004 ($149 million) and FY2005 ($143 million), although at a lower level than in previous years ($570 million in FY2003).

The President's most recent budget submission proposes to rescind the funding Congress provided to HOPE VI in FY2005. HUD has not yet awarded the FY2005 funds, although the Notice of Funding Availability (NOFA) inviting communities to apply for the FY2005 funds was issued on March 21, 2005. The NOFA warns applicants that Congress may rescind any HOPE VI funds awarded through the NOFA. The House-passed version of the HUD funding bill (H.R. 3058) would not rescind the FY2005 funding for HOPE VI and would provide $60 million for the

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[4] (...continued)
Program" (FR-4874-P-01), Department of Housing and Urban Development, available at [http://www.hud.gov/offices/pih/publications/4874_op_fund_prop_ea.pdf].

program in FY2006. The Senate Appropriations Committee-reported version of H.R. 3058 would also not rescind FY2005 funding and would fund the HOPE VI program at $150 million in FY2006.

Authorization for the program is set to expire at the end of FY2006. On July 27, 2005, Senator Mikulski introduced a bipartisan bill to reauthorize the HOPE VI program through FY2011. The *HOPE VI Improvement and Reauthorization Act of 2005* (S. 1513), includes provisions designed to promote collaboration with local school systems and give priority to grant applicants that minimize both temporary and permanent displacement of public housing residents. For more information, see CRS Report RL32236, *HOPE VI Public Housing Revitalization Program: Background, Funding, and Issues*.

Section 811 Housing for the Disabled Program. The Section 811 Housing for the Disabled program provides both capital grants and rental assistance subsidies for developers to use to build low-cost, accessible housing for persons with disabilities. The President's FY2006 budget request for Section 811 represents a 50% cut in funding from FY2005. Further, the funding provided would not be available for capital grants, rather, the full amount would be used to provide vouchers to persons with disabilities. HUD budget documents do not provide a rationale for the funding reduction or the restriction against use for capital grants. In testimony on March 17, 2005, before the House Appropriations Subcommittee on Transportation, Treasury, HUD, the Judiciary, and the District of Columbia, the Secretary of HUD referred to the need to make unpopular cuts in programs such as Section 811 in order to maintain adequate funding for Section 8 and programs for the homeless.

In the House-passed version of the FY2006 HUD appropriations bill (H.R. 3058), funding for Section 811 is just over the FY2005 level, at $238 million, and is almost double the President's request. The House bill also allows up to $157 million to be used for capital grants and project-based rental assistance. The Senate Appropriations Committee bill provides a funding level of $240 million, a slight increase over FY2005, and double the budget request. Like the House bill, the Senate version continues to allow funding for capital grants.

Homelessness

In 2002, the Bush Administration set a goal of ending chronic homelessness in 10 years. The chronically homeless are generally single adults with serious mental health and/or substance abuse problems. While they are estimated to constitute only about 10% of the homeless population, they are estimated to absorb more than half of the resources available for the homeless. The Administration's plan calls for increasing the number of permanent housing units with supportive services (referred to as permanent supportive housing) developed every year. As a part of that plan, the Administration has proposed a $200 million Samaritan Initiative, which would fund the development of permanent supportive housing for the chronically homeless. Legislation to enact the Samaritan Initiative was introduced in the 108th Congress, but was not enacted and funds were not provided. In his FY2006 budget request, the President requested that $200 million be set-aside within the Homeless Assistance

Grants account at HUD for a Samaritan Initiative, without a request for separate authorizing legislation. The Administration has also proposed for the second year to set-aside $75 million in the Homeless Assistance Grants account for transfer to the Department of Justice for a Prisoner Re-entry Initiative. This initiative would be targeted at preventing homelessness among individuals exiting prison and aiding their successful transition to community life and employment. The set-aside was not enacted in FY2005.

The Homeless Assistance Grants account funds the four major homeless assistance programs — Shelter Plus Care, Supportive Housing, Section 8 Moderate Rehabilitation Single Room Occupancy, and Emergency Shelter Grants — authorized by the McKinney-Vento Homeless Assistance Act and administered by HUD. The Act, which was signed into law in 1987, has remained unauthorized since 1994 and legislation to reauthorize the McKinney Act has not been introduced in the 109th Congress. The President's FY2006 budget request, as in his FY2004 and FY2005 budget requests, proposes to consolidate the three competitive components of the Homeless Assistance Grants account (Shelter Plus Care, Supportive Housing, and Section 8 Moderate Rehabilitation Single Room Occupancy) into one program. Consolidation legislation, either as a part of a larger McKinney Act reauthorization bill or as an independent piece of legislation, was not introduced in the 108th Congress and has not been introduced in the 109th.

The House version of the FY2006 appropriations bill, H.R. 3058, provides $1.34 billion for homelessness programs, $100 million less than the President's request, and approximately $100 more than funding for FY2005. The Senate Appropriations Committee version allocates $1.42 billion, which is $25 million below the President's budget request, and $75 million more than the House recommendation. Neither the Senate nor the House version of the bill provides funding for the Samaritan Initiative and the Prisoner Re-Entry Initiative. For more information, see CRS Report RL30442, *Homelessness: Recent Statistics, Targeted Federal Programs, and Recent Legislation.*

Homeownership

The national homeownership rate stood at 69.1% at the end of the first quarter of 2005, just below the record of 69.2% reached in the second and fourth quarters of 2004. Despite major gains in recent years, **Table 2** below shows that homeownership rates for lower-income and minority households remain significantly lower than the rate for whites. There are a number of reasons for these lower rates. Minorities have lower incomes than whites and a larger percentage live in central cities, both of which make it more difficult to find a desirable home to purchase. (Many larger cities have thousands of dilapidated boarded-up homes in distressed neighborhoods, but the purchase and rehabilitation of individual units is rarely an option for lower-income buyers without the help of a Community Development Corporation or some similar organization.) For a variety of reasons, many lower-income households have poor credit records, which makes obtaining a mortgage more difficult, more expensive, or impossible.

Table 2. Homeownership Rates, by Household Category

(numbers in percentages)

	1994	2003	2004	1st Quarter 2005
Total	64.0	68.3	69.0	69.1
White, non-Hispanic	70.0	75.4	76.0	76.0
Black	42.5	48.8	49.7	49.3
Hispanic	41.2	46.7	48.1	49.7
Households with family incomes greater than or equal to the median family income	78.5	83.3	83.8	84.5
Households with family incomes less than the median family income	48.1	51.3	51.3	53.0

Source: Table prepared by the Congressional Research Service (CRS) based on data from the U.S. Census Bureau.

The Administration has made increasing homeownership for lower-income groups the centerpiece of its housing policy. They argue that homeownership offers minorities the best opportunity to accumulate wealth that can later be used for education, to start a business, or to take advantage of other opportunities that may not be available to those without financial assets. They make the case that increased homeownership can help to stabilize and revitalize economically distressed neighborhoods.

While most housing advocates find it difficult to oppose additional homeownership opportunities for lower-income families, there is increasing concern being expressed that the Administration's focus on homeownership is unbalanced. Critics say that HUD's policy should have more emphasis on maintaining or increasing the choice of housing available, including rental housing.

HUD Homeownership Initiatives. The Administration is proposing two homeownership initiatives in the FHA program for FY2006. One initiative would permit 100% FHA financing for first-time buyers with strong credit records. Under the other initiative, HUD would amend its underwriting guidelines in order to permit borrowers with blemished credit records to obtain FHA-insured loans. The FHA insurance premiums for these borrowers would be increased to cover the higher risks and costs involved in these initiatives. The President's budget assumed that these initiatives would create $268 million in additional negative appropriations in FY2006. The House Appropriations Committee, however, did not accept the Administration's assumptions. The Committee's re-estimate assumes zero savings from the proposed initiatives. In the 109th Congress, H.R. 3043, the Zero Downpayment Pilot Program Act of 2005, has been introduced, but, as previously noted, the budget impact is still likely to be an issue. On June 30, 2005, the House Financial Services Subcommittee held a hearing on the bill.

Homeownership Tax Credit. The Administration's FY2006 budget request to Congress included a proposal to create a single-family housing tax credit (SFHTC). The SFHTC, which has been proposed in previous years, would be made available to developers of new or rehabilitated affordable single-family housing in distressed neighborhoods, for the production of homes for low- and moderate-income homebuyers. Structured similarly to the Low-Income Housing Tax Credit (LIHTC), which subsidizes the construction of affordable rental housing, the SFHTC would authorize state or local housing agencies to award credits to new or rehabilitated housing projects that develop single-family housing for low-income families in census tracts with median incomes of 80% or less of the greater of area or state-wide median income, or in areas defined as chronically distressed. The Administration intends for the tax credit to create or increase homeownership opportunities in distressed neighborhoods, and to revitalize these neighborhoods by increasing the rate of homeownership. As proposed, the tax credit would be available beginning in FY2006 and would lose $2.7 billion in tax revenue through FY2010. Bipartisan authorization bills H.R. 1549 and S. 859 have been introduced.

Fannie Mae and Freddie Mac

Currently, the Office of Federal Housing Enterprise Oversight (OFHEO) is the office within HUD that is responsible for regulating the safety and soundness of the operations of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). Other HUD staff are responsible for regulating the mission of Fannie Mae and Freddie Mac. The Federal Housing Finance Board (FHFB) regulates the safety and soundness of the Federal Home Loan Banks. Fannie Mae, Freddie Mac, the FHLB are referred to as the housing government-sponsored enterprises (GSEs).

Stronger regulation of the housing GSEs has been an issue for many years. The issue has gotten a push from the emergence of an accounting scandal at Freddie Mac in June 2003, and from allegations in 2004 of accounting and management problems at Fannie Mae.

Two GSE reform bills have been introduced in the 109th Congress — S. 190 and H.R. 1461. The bills are similar and would replace OFHEO and FHFB with a new regulatory agency. The new agency would be responsible for the safety, soundness, and mission regulation of Fannie Mae, Freddie Mac, and the Federal Home Loan Banks (FHLBs). Both would enable the regulator to require Fannie Mae and Freddie Mac to adhere to their statutory secondary market role, and would oversee the affordable housing goals for Fannie Mae and Freddie Mac, as well as their new program applications. The agency would be funded by the GSEs and would not be subject to congressional appropriations. In case of financial distress, the bills would authorize the new regulator to appoint a receiver for either Fannie Mae or Freddie Mac. On May 25, 2005, H.R. 1461 was marked up and reported by the Financial Services Committee. As reported the bill includes a controversial provision which would use funds from the GSEs to create an affordable housing fund. For more information, see CRS Report RL32795, *Government-Sponsored Enterprises (GSEs): Regulatory Reform Legislation*.

Predatory Lending

Since the early 1990s, lenders have developed better methods of estimating the risks of certain mortgage loans, with the result that lenders are now making home loans to persons who ordinarily would not qualify for loans, given their income, savings, and credit profiles. The loans are often referred to as subprime loans. There are many subprime loans that are the result of lenders making legitimate pricing decisions based on the higher risks of loans because of some characteristics of the borrowers. Problems occur when lenders deliberately market the loans to populations such as low-income elderly and minority homeowners who may have little understanding of complex financial products and who may have the tendency to put too much trust in the assumption that the lender is trying to help them. These lenders are often predators who take advantage of the ignorance of borrowers and commit them to loans that are not in the borrowers' financial interests.

The Home Owner Equity Protection Act (HOEPA)[5] provides federal prohibitions on certain predatory lending practices, and twenty-five states and several municipalities have enacted similar statutes that sometimes offer much broader protections than those afforded under HOEPA. (See CRS Report RL32784 *Predatory Lending: A Comparison of State Laws to the Federal Home Ownership and Equity Protection Act*.) Varying requirements among state and local statutes which seek to limit predatory lending have led many in the lending community to the call for a uniform federal statute. The difficulty, from a public policy standpoint, is how to limit predatory lending without at the same time restricting the ability of lenders to make loans that are legitimately priced according to the risk of the borrowers.

Predatory lending issues are addressed in H.R. 200, H.R. 1822, and H.R. 1643, which include provisions related to counseling and education and financial literacy programs to prevent predatory lending, amendments to the Truth in Lending Act to add restrictions on high-cost mortgages and prohibit certain practices, and amendments to additional banking laws to combat predatory lending practices that affect low- and moderate-income individuals.

Real Estate Settlement Procedures Act

The Real Estate Settlement Procedures Act (RESPA) was enacted in 1974 to effect certain changes in the settlement process for residential real estate. These changes were expected to result in (1) more advance disclosure of settlement costs to home buyers and sellers, (2) the elimination of kickbacks or referral fees that tended to cause unnecessary increases in the costs of certain settlement services, (3) a reduction in the amounts that buyers are required to place in escrow accounts for the payment of property taxes and hazard insurance, and (4) reform and modernization of local record keeping of land title information. The HUD regulation administering RESPA was issued on June 4, 1976. The regulation is referred to as

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[5] Subtitle B of Title I of the Riegle Community Development and Regulatory Improvement Act, P.L. 103-325; 15 U.S.C. § 1601 et seq.

Regulation X and is found in the Code of Federal Regulations at 24 C.F.R. Part 3500. The only major revision to Regulation X occurred on November 2, 1992.

RESPA requires lenders to provide consumers with estimates of settlement costs, but no federal or state law requires the lenders to deliver settlement costs in the amounts stated in the estimates. As a result, consumers often get hit with unexpected fees at closing, and these unexpected fees can sometimes be hundreds and even thousands of dollars more than expected. In addition, consumers generally find the real estate settlement process confusing, and lenders find it cumbersome.

To date, reform of RESPA has not been a priority of Congress, but in recent years HUD has sought to reform the rules under the existing law. Several changes in Regulation X have been proposed since 1995, but none of them have resulted in a final rule. The most recent proposal was made on July 29, 2002, in a proposed rule entitled "Simplifying and Improving the Process of Obtaining Mortgages to Reduce Settlement Costs to Consumers" (67 FR 49134). After strong opposition by some Members of Congress and various industry groups, the proposal was withdrawn in March 2004 for further review and analysis. At the Mortgage Bankers Association annual policy conference in Washington, D.C. on April 19, 2005, HUD Secretary Alphonso Jackson pledged to work with Congress, consumer groups, and the housing industry to reach a consensus on RESPA reform.[6] The Secretary expects to submit a proposal for public comment in late fall or early winter.

Rural Housing

In prior years, the Administration has proposed zero funding for the Rural Housing and Economic Development program (RHED) in HUD, but Congress has responded by funding the program at about $25 million. For FY2006, the Administration is proposing to consolidate RHED into a new program within the Department of Commerce. (See discussion of Community Development Block Grant Program above.)

The FY2006 budget proposes several cuts in the rural housing programs of the Department of Agriculture (USDA). The most drastic cut would have been in the Section 515 Rural Rental Housing program, which would have a 73% reduction from the FY2005 appropriation level. As passed by the House, H.R. 2744 would fund the Section 515 program at $100 million instead of the $27 million proposed by the President's budget. The budget expresses a preference for loan guarantees over direct lending programs, so the budget would have doubled funding for the Section 538 Rental Housing Guarantee program. The House bill funds it at the FY2005 level. Similarly, the bill would fund the Section 502 Single Family Direct program at near the FY2005 level instead of the reduction proposed by the budget. The bill increases funding for the Section 502 Single Family Guarantee program as proposed by the budget. An issue for rural housing advocates is how to prevent or reduce the prepayment of such loans, or at least ensure that the housing continues to be available as affordable housing for rural residents.

[6] "Jackson Says He's Listening on RESPA," *Housing Affairs Letter,* April 22, 2005.

CRS Products on Housing

In General

CRS Report RL32869, *The Department of Housing and Urban Development (HUD): FY2006 Budget*
CRS Report RL32443, *The Department of Housing and Urban Development (HUD): FY2005 Budget*
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Section 8 Rental Assistance

CRS Report RL32284, *An Overview of the Section 8 Housing Program*
CRS Report RL31930, *Section 8 Housing Choice Voucher Program: Funding and Related Issues*

Public Housing

CRS Report RS21591, *Community Service Requirement for Residents of Public Housing*
CRS Report RL32236, *HOPE VI Public Housing Revitalization Program: Background, Funding and Issues*
CRS Report RS21199, *No-Fault Eviction of Public Housing Tenants for Illegal Drug Use: A Legal Analysis of* Department of Housing and Urban Development v. Rucker

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CRS Report RL30442, *Homelessness: Recent Statistics, Targeted Federal Programs, and Recent Legislation*
CRS Report RL32104, *Housing Assistance and Welfare: Background and Issues*
CRS Report RS20704, *Housing Opportunities for Persons with AIDS (HOPWA)*
CRS Report RL31753, *Immigration: Noncitizen Eligibility for Needs-Based Housing Programs*

Community Development

CRS Report RL32823, *An Overview of the Administration's Strengthening America's Communities Initiative*

Housing Finance

CRS Report RS20530, *FHA Loan Insurance Program: An Overview*
CRS Report RL32784, *Predatory Lending: A Comparison of State Laws to the Federal Home Ownership and Equity Protection Act*
CRS Report RS20533, *VA Home Loan Guaranty Program: An Overview*

Housing Government-Sponsored Enterprises (GSEs)

CRS Report RS21567, *Accounting and Management Problems at Freddie Mac*
CRS Report RS21949, *Accounting Problems at Fannie Mae*
CRS Report RL32815, *Federal Home Loan Bank System: Policy Issues*
CRS Report RL32795, *Government-Sponsored Enterprises: Regulatory Reform Legislation*
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Housing Discrimination

CRS Report 95-710, *The Fair Housing Act: A Legal Overview*
CRS Report RS20418, *Funding for Major Civil Rights Enforcement Agencies*