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Housing Issues in the 109th Congress

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Maggie McCarty, Libby Perl, and Bruce E. Foote
Domestic Social Policy Division

Eugene Boyd, Pamela J. Jackson, and N. Eric Weiss
Government and Finance Division

Meredith Peterson
Knowledge Services Group

Housing Issues in the 109th Congress

Summary

Major housing-related activities of the first session of the 109th Congress included passage of the FY2006 budget for the Department of Housing and Urban Development (HUD), enactment of legislation responding to Hurricane Katrina, and consideration of legislation to strengthen oversight of the Government Sponsored Enterprises and Federal Home Loan Banks (GSEs and FHLBs).

The FY2006 HUD budget, enacted on November 30, 2005 (P.L. 109-115), provided more than $33 billion for the Department, significantly more than the President's requested level. It rejected the President's *Strengthening America's Communities* proposal, which would have eliminated the Community Development Block Grant (CDBG) program and transferred its purposes to the Department of Commerce, combining it with 17 other programs. It also rejected cuts to several smaller HUD programs and maintained FY2005 funding levels for many programs. The President's FY2006 budget also proposed a major reform of the Section 8 voucher and public housing programs that would change income eligibility and targeting rules and add greater flexibility for public housing authorities. Reform bills were introduced (S. 771 and H.R. 1999: the State and Local Housing Flexibility Act of 2005), but no further action was taken.

Hearings were held and legislation was introduced in the first session to create a more aggressive regulator for Fannie Mae and Freddie Mac (H.R. 1461, S. 190), and H.R. 1461 was passed by the House on October 26, 2005, with a provision to use certain profits for affordable housing. Bills were also introduced to address predatory lending (H.R. 200, H.R. 1182, H.R. 1643) and to enact the President's Single Family Homeownership Tax Credit proposal (S. 859, H.R. 1549).

After Hurricane Katrina, several Members of Congress introduced bills containing housing provisions (H.R. 4514, S. 1637, S. 1765, S. 1766, S. 2020, S. 2088), and H.R. 3894, H.R. 3895 and H.R. 3896 were passed in the House. Several Katrina-related bills with housing provisions were enacted, including the Gulf Opportunity Zone Act (P.L. 109-135) and a Katrina supplemental appropriations bill attached to the Department of Defense Appropriations Act (P.L. 109-148). The supplemental appropriations included a reallocation of $11.9 billion of FEMA funds to HUD for disaster recovery; it also included a 1% across-the-board rescission affecting all domestic discretionary programs, including those administered by HUD.

Still pending before the second session of the 109th Congress are additional responses to Hurricane Katrina, the Senate version of GSE and FHLB reform, predatory lending bills, the single-family homeownership tax credit proposal, and Section 8 reform legislation. The President's FY2007 budget is expected in early February, and it may again contain the controversial CDBG initiative and proposals to reform Section 8. Congress may also be called on to respond to overarching housing issues, including questions about the role and future of HUD and the state of the nation's housing markets. This report will be updated as issues develop and legislation proceeds.

Key Policy Staff

Name	Area of Expertise	CRS Division	Telephone and E-Mail
Eugene Boyd	Community and economic development, including Community Development Block Grants, Brownfields, empowerment zones	G&F	7-8689 eboyd@crs.loc.gov
Bruce E. Foote	Homeownership, including FHA, predatory lending, rural housing, RESPA	DSP	7-7805 bfoote@crs.loc.gov
Jody Feder	Fair Housing and housing-related legal questions	ALD	7-8088 jfeder@crs.loc.gov
Pamela J. Jackson	Housing tax policy, including the Low-Income Housing Tax Credit and other incentives for rental housing and owner-occupied housing	G&F	7-3967 pjackson@crs.loc.gov
Maggie McCarty	Assisted rental housing, including Section 8, public and assisted housing, HOME	DSP	7-2163 mmccarty@crs.loc.gov
Libby Perl	Housing for special populations, including the elderly, disabled, homeless, HOPWA	DSP	7-7806 eperl@crs.loc.gov
N. Eric Weiss	Fannie Mae, Freddie Mac, and Federal Home Loan Banks	G&F	7-6209 eweiss@crs.loc.gov

Division abbreviations: ALD — American Law; DSP — Domestic Social Policy; G&F — Government and Finance

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Housing Issues in the 109th Congress

Introduction

Prior to Hurricane Katrina (discussed later in this report), housing issues in the 109th Congress centered around the Administration's proposed FY2006 budget for the Department of Housing and Urban Development (HUD) and the congressional response.[1] The budget included a controversial proposal to replace Community Development Block Grant (CDBG) and related programs with a new initiative in the Department of Commerce. The Administration also continued to support several initiatives to increase the homeownership rate for lower-income and minority households. Other congressional interests have included 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. Legislation was also 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.

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	$33.97

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.

[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 FY2006 budget was proposed for one of the most drastic decreases, with a number of programs slated for elimination. Some also saw the Administration's decision to house its proposed new Strengthening America's Communities Initiative (SACI), which was 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, raised 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. The limited role the Department has been invited to take thus far in response to Hurricane Katrina further bolsters observers' claim that the Department's role is in question.

HUD noted 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 identified 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. HUD's budget summary acknowledged that the SACI proposal is a "fundamental change," but maintained 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 toward 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.

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

Rising Housing Prices. The unprecedented U.S. housing boom has continued, 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 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 behind 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.[4] 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 each 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, more than 8 million renter households were severely cost burdened, an increase of more than 1.3 million from 2000.[5] 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

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

[4] For a more detailed analysis of the question of a housing bubble, see CRS Report RL31918, *U.S. Housing Prices: Is There a Bubble?*

[5] Joint Center for Housing Studies, Harvard University, *State of the Nation's Housing Report, 2005*.

distribution were severely cost burdened in 2003. When low-income families pay such a large portion of their incomes for 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 of government, business and nonprofits. 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.

Hurricane Katrina

The catastrophic devastation wrought by Hurricane Katrina in late August, and to a lesser degree, Hurricanes Rita and Wilma in late September, captured the immediate attention of Congress. In the aftermath, the Federal Emergency Management Agency (FEMA) has taken the lead role in finding emergency temporary shelter for displaced families. The role that HUD and other housing and community development programs will play in meeting both the short- and long-term housing needs of the families displaced by the hurricanes, as well as in rebuilding the affected regions, is still being decided by both Congress and the Administration.[6] Hurricane Katrina's effect on the region's housing stock eclipses that of any other natural or manmade disaster in the history of this country. Also unprecedented are the spillover effects, with tens, if not hundreds, of thousands of residents relocating to other states.

Administration Actions. HUD took a number of first steps designed to make housing programs and assistance available to victims of Katrina. It established a toll-free number for HUD-assisted families who have been displaced — such as public housing residents and Section 8 voucher holders — to call in order to reestablish their benefits. In conjunction with that number, the Department identified a number of vacant units across the country in which to house displaced tenants, both formerly assisted and unassisted. As in past disasters, the Secretary encouraged local communities to apply for waivers in order to redirect their existing HOME and CDBG funds. The Secretary has also stated that the Department will tap its public housing emergency capital reserve to fund the repair of damaged public housing units.

The President's declaration of a disaster, as in the case of Hurricane Katrina, automatically triggers certain procedures with regard to FHA-insured mortgages in the affected areas. The procedures remain in effect for one year from the date of the declaration. The following procedures become effective: (1) a moratorium on

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[6] For more information, see CRS Report RS22358, *HUD's Response to Hurricane Katrina*, by Maggie McCarty, Libby Perl, and Bruce Foote; CRS Report RL33078, *The Role of HUD Housing Programs in Response to Past Disasters*, by Maggie McCarty, Libby Perl, and Bruce Foote; and CRS Report RS22303, *Community Development Block Grant Funds in Disaster Relief and Recovery*, by Eugene Boyd.

foreclosures is in effect for 90 days from the date of declaration; (2) lenders are encouraged to offer special forbearance, mortgage modification, refinancing, and waiver of late charges to affected borrowers; (3) families whose residences were destroyed or severely damaged are eligible for 100% financing under Section 203(h) of the National Housing Act for reconstruction or replacement of the residences; (4) damaged properties become eligible for Section 203(k) financing under which the costs to purchase and to rehabilitate the property are included in one loan, and HUD waives the requirement that the property has been completed for more than one year prior to application for a Section 203(k) mortgage; (5) the underwriting guidelines are relaxed to permit disaster victims to qualify for loans even if their total monthly debt, including the proposed mortgage, would equal 45% of gross income; (6) lenders are directed to ensure that hazard claims are expeditiously filed and settled, and lenders may not retain hazard insurance proceeds to make up an existing arrearage without the written consent of the borrower.

Rental assistance through HUD and FEMA. On September 23, 2005, the Secretaries of HUD and the Department of Homeland Security announced a joint transitional housing assistance initiative for Hurricane Katrina evacuees. The initiative provides two types of assistance, both funded by emergency supplemental funds provided to the Federal Emergency Management Agency (FEMA). The first is a type of individual and household grant administered by FEMA. Displaced homeowners and renters (except for HUD-assisted renters) will receive from FEMA a cash grant of $2,358 to be used for housing-related expenses. The amount is meant to represent three months of housing costs and is calculated using the national average fair-market rent for a two-bedroom apartment. Families that receive the assistance must show receipts to prove that it was used for eligible expenses, and the grant counts against the $26,200 limit for individual and household assistance that families may receive. FEMA has indicated that the assistance may be extended for up to 18 months and that the amount may be adjusted to reflect regional rent variations in the future. Families' eligibility for this assistance is determined when they register with FEMA.

For families that were homeless or received HUD assistance before the storm, FEMA is providing funding to HUD to administer the HUD Katrina Disaster Housing Assistance Program (KDHAP). The program provides ongoing rental assistance, for up to 18 months, to displaced HUD assisted renters (including Section 8 voucher holders, families that had lived in public housing, and families that had lived in other forms of HUD-assisted rental housing) and displaced homeless families. The rental assistance is administered by local public housing authorities and is calculated at 100% of the local area fair market rent. Families are required to pay any difference between the rental assistance amount and the actual rent for the unit they have selected. This program does not have any income eligibility or targeting requirements and families' eligibility is determined after they register for FEMA assistance and contact the KDHAP intake number (1-866-373-9509).[7]

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[7] For more information, see CRS Report RL33173, *Hurricane Katrina: Questions Regarding the Section 8 Housing Voucher Program,* by Maggie McCarty.

In addition to transitional housing assistance payments, FEMA provides several other forms of housing assistance. FEMA provides trailer homes to families for up to 18 months after a disaster. As of November 30, 2005, FEMA had provided more than 39,000 trailers, of which more than 35,000 were occupied.[8] FEMA has also been paying the cost of hotel rooms for hurricane evacuees; by mid-November, FEMA was still making payments for 53,000 rooms.[9] FEMA announced that hotel payments are only a temporary solution, and initially stated that it would cease such payments by December 1, 2005, with the exception of short-term extensions for the 12,000 hotel rooms occupied by evacuees in Louisiana and Mississippi.[10] That deadline was later extended to December 15, 2005, with 10 states eligible for extensions to January 7, 2006.[11] Following a court finding against the agency, FEMA is continuing the program, pending further litigation.[12] FEMA reported that it "has an aggressive plan to help place these families in longer-term housing," which appears to include a contract to provide case management assistance, continuation of transitional housing payments, and referrals to social service agencies.[13] Some cities have established their own voucher programs, for which FEMA has been providing reimbursements. Newspapers report that Houston has issued 35,000 vouchers to families to cover one year of rent.[14] However, FEMA stated that it is phasing out reimbursements to cities for voucher programs, and that it will cease making payments by March 1, 2006.

Mortgage assistance through HUD. On December 5, 2005, HUD announced the Mortgage Assistance Initiative (MAI), under which HUD will make mortgage payments for up to 12 months on behalf of borrowers who have FHA-insured mortgages on their homes and who have been displaced or are unemployed because of the recent disasters. Eligible borrowers must meet the following requirements: (1) have homes that are repairable and are located within parts of Alabama, Florida, Louisiana, Mississippi, or Texas declared eligible for individual assistance as a result of Hurricanes Katrina, Rita, or Wilma; (2) have

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[8] This figure includes trailers provided for victims of Hurricanes Katrina and Rita, and is taken from *Federal Emergency Management Agency, Report of December1, 2005*, available at [http://appropriations.house.gov/_files/HurricaneKatrinaLink.htm].

[9] FEMA Press Release, FEMA Helping Families into Long-Term Housing: Effort to reach everyone evacuated continues in long-term housing plan, Release Date: Nov. 15, 2005, Release Number: HQ-05-373.

[10] Ibid.

[11] FEMA Press Release, "FEMA Extends Deadline for Evacuees: Two-Week Extension of Hotel Program for All States, 10 States Receive Extension Through Jan. 7," Release Date: Nov. 22, 2005, Release Number: HQ-05-378.

[12] "FEMA to Keep Paying Katrina Evacuees' Hotel Bills," *Chicago Tribune*, January 3, 2006, online edition.

[13] FEMA Press Release, "FEMA Helping Families into Long-Term Housing: Effort to Reach Everyone Evacuated Continues in Long-term Housing Plan," Release Date: Nov. 15, 2005, Release Number: HQ-05-373.

[14] Eric Berger, "Sweetest deal for evacuees found here: In addition to a FEMA stipend, city is giving them a year of free rent," Houston Chronicle, Nov. 6, 2005.

missed between four and 12 payments on an FHA-insured home loan; (3) be temporarily unable to make mortgage payments but have the expectation to resume full mortgage payments; and (4) the homes must be the primary residences of the borrowers and the borrowers must be committed to continued occupancy of the properties as primary residences. No interest is charged on the MAI loans, and repayment is not required until the original FHA-insured loans are repaid. The program expires in 18 months. It is expected to assist about 20,000 families. FHA notes that more than 52,000 FHA-insured loans are delinquent due to the storms.

Rental assistance through USDA. The U.S. Department of Agriculture (USDA) has several programs that provide housing loans and assistance to residents of rural areas. Unlike HUD, several of the USDA programs provide direct loans.[15] Borrowers who are receiving direct home loans from USDA are provided a "no-questions-asked" six-month moratorium on mortgage payments if such borrowers live in the Presidentially declared disaster areas. Families residing in USDA-assisted rental complexes that are made homeless by a disaster may apply for occupancy at any other USDA-assisted apartment complex as a "displaced tenant." Applicants are placed on a special list to be offered any vacant unit, or the next one available if no vacancies currently exist. Residents receiving rental assistance from USDA in units made uninhabitable by Hurricane Katrina may be permitted to transfer the assistance to another eligible apartment complex.

Tax credit waivers. To make Low Income Housing Tax Credit (LIHTC) units available to displaced families, the IRS and Department of Treasury have waived the program's income-eligibility and non-transient rules for property owners to be able to house families impacted by Katrina.

Legislative Action. A number of Katrina recovery and relief bills have been introduced in Congress. On September 8, 2005, Senator Reid introduced the Katrina Emergency Relief Act of 2005 (S. 1637). Title III includes the "Helping to House Victims of Hurricane Katrina Act of 2005." The bill would provide $3.5 billion in emergency supplemental appropriations to HUD to fund temporary vouchers for families displaced by Hurricane Katrina. The vouchers would be authorized for six months, but would be extended for an additional six months unless the Secretary determined that they were no longer needed. Funding would also be available to provide related assistance to families, such as security deposits and relocation assistance. Many of the rules regarding eligibility and tenant payments would be waived and the upper limit on the amount of assistance that could be provided would be raised from the current standard of 110% of the local Fair Market Rent to 150% of the local Fair Market Rent. Also on September 8, Senator Sarbanes offered the same "Helping to House Victims of Hurricane Katrina Act of 2005" as a floor amendment, to the Commerce-Justice-Science FY2006 appropriations bill (H.R. 2862). The amendment was adopted, but dropped in the final conference agreement.

On September 22, 2005, the Senators from Louisiana introduced identical bi-partisan relief and recovery bills. The Hurricane Katrina Disaster Relief and

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[15] See CRS Report RS22301, *Rural Housing: USDA Disaster Relief Provisions*, by Bruce Foote.

Economic Recovery Act (S. 1765 and S. 1766) calls for new programs and additional funding in areas ranging from defense, to energy, to health care, to the environment. The housing section would provide $3.5 billion for emergency Section 8 vouchers; $50 billion for CDBG, up to $5 billion of which could be transferred to each of the HOME program and HOPE VI program; and $3 billion for mortgage relief. The bills have been referred to the Senate Finance Committee.

On September 26, 2005, the members of the Louisiana House delegation introduced the Hurricane Katrina Emergency Housing Act of 2005 (H.R. 3894). The bill would permit the temporary waiver of a number of the rules in the Section 8 voucher program for families with vouchers that were displaced by Hurricanes Katrina and Rita, including those regarding eligibility, tenant contributions toward rent, income verification, lease terms, and inspections. The bill would also permit the waiver of certain requirements in the project-based Section 8 program, including those governing tenant contributions toward rent, income verification, lease terms and inspections, and it would prohibit the expiration of Section 8 project-based contracts while the units were uninhabitable. Unlike the voucher provision, the project-based Section 8 provisions would not permit the waiver of income eligibility requirements, and the waivers would not be restricted to families that were receiving assistance prior to the hurricanes. Finally, the bill would mandate that two reports be made to Congress: one identifying the inventory of government or government-held properties that could be made available for emergency, temporary, or permanent housing following a disaster; and one assessing state emergency housing plans. The bill does not include any additional appropriations for the Section 8 programs.

On the same date, all but one member of the same delegation introduced two additional housing bills: the Hurricane Katrina Emergency Relief CDBG Flexibility Act of 2005 (H.R. 3896) and the Rural Housing Hurricane Relief Act of 2005 (H.R. 3895). The CDBG bill would waive the cap on the amount of CDBG funds that can be used for community services and would waive the public hearing requirements for communities impacted by Hurricanes Katrina and Rita. The rural housing bill would allow the temporary conversion of certain rental assistance tied to uninhabitable housing units to vouchers and would expand the uses of certain loans. All three bills were approved by the House on October 6, 2005.

The Louisiana Recovery Corporation Act (H.R. 4100) was introduced by Representative Baker on October 20, 2005. The bill would establish the Louisiana Recovery Corporation as an independent executive branch agency whose primary mission would be the economic stabilization and redevelopment of the parts of Louisiana that were affected by Hurricanes Katrina and Rita. In consultation with state and local officials, commercial and residential properties would be identified that would be unlikely to be developed without Corporation assistance. The Corporation would purchase such properties and relieve the borrowers of their debt obligation on the properties. The Corporation would assist in the implementation of an urban homesteading program by providing land to the federal government, by providing down-payment assistance and other funds to enable homestead construction, and by coordinating with nonprofit and faith-based organizations in the construction and development of urban homesteads. The House Financial Services Committee approved an amended version of the bill on December 15, 2005.

In a national address on September 15, 2005, the President stated that he would pursue new urban homesteading and Gulf Opportunity Zones (GOZones) initiatives to help rebuild the damaged regions. On December 13, 2005, homesteading legislation was introduced by Representative Jindal (H.R. 4514) and Senator Allard (S. 2088). Under this bill, certain government-owned homes would be transferred to HUD, and HUD would be permitted to accept homes donated by nongovernmental entities. The homes would be transferred to eligible families displaced by Hurricanes Katrina and Rita. Accepted families must occupy the property as principal residences for five years, remove health and safety hazards within one year, and repair the homes to meet local codes within three years. If no homes are on the property, homes that meet local code must be built within three years.

Congress approved the Gulf Opportunity Zone (GO Zone) Act of 2005 (H.R. 4440), which became public law, P.L. 109-135, on December 22, 2005. The new law includes a $7.8 billion package of tax incentives to help in rebuilding the hurricane-affected Gulf Coast. Specifically, the bill establishes and defines Gulf Opportunity Zones and then provides enhanced low-income housing tax credit (LIHTC) allocation for the region. A discussion of the LIHTC and the legislation appears later in this report.

On December 30, 2005, the FY2006 Defense appropriations law was enacted (P.L. 109-148). Attached to it was a Katrina supplemental funding bill, loosely based on a proposal submitted by President Bush in October. It provided $11.89 billion to HUD for Katrina disaster assistance. Of that amount, $11.5 billion was provided to CDBG to be distributed to states and areas most acutely affected by Katrina, and $390 million was provided to Section 8 for serving the same families currently assisted under KDHAP, presumably giving HUD full control of KDHAP. These increases in funding were offset by rescissions from FEMA's disaster relief fund, as well as specific rescissions from selected other programs across the government (none from HUD), and an across-the-board rescission of 1% (which will affect HUD programs).

Community Development Block Grant Program

The Community Development Block Grant (CDBG) program, administered by HUD, 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, public 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 has considered 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 was 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 did not release a detailed legislative proposal during the first session of the 109th Congress, contended that the programs, including CDBG, whose activities would have been consolidated, have been judged to be ineffective, duplicative, and lacking in measurable long-term objectives. As proposed by the Administration, it was 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.

The new program was rejected by Congress during its consideration of HUD's FY2006 appropriations. The final version of the HUD appropriations bill, which was signed by the President on November 30, 2005 (P.L. 109-115), included $4.220 billion in funding for CDBG ($3.7 billion) and related activities. For a more detailed discussion of the SACI proposal, see CRS Report RL32823, *An Overview of the Administration's Strengthening America's Communities Initiative*; for a more detailed discussion of CDBG funding, see CRS Report RL32869, *The Department of Housing and Urban Development (HUD): FY2006 Budget*.

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. Currently, a community seeking to access Brownfield Economic Development Initiative (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 have eliminated both the Brownfields and Section 108 programs. During its consideration and passage of the HUD funding bill for 2006 (H.R. 3058), the House approved an amendment that would provide $24 million for the Brownfield program, but included no additional funding for the Sec. 108 program. The Senate Appropriations Committee-reported version of H.R. 3058 included funding for both the Brownfields and Section 108 loan guarantees programs. The final version, P.L. 109-115, included $10 million for Brownfields, but also rescinds $10 million in unobligated balances from Brownfields, and provides $3 million for Section 108 loan guarantees.

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 could 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 FY2006 HUD funding bill, P.L. 109-115, appropriates $4.220 billion for Community Development Fund activities, including $3.748 billion for the CDBG formula grant program. This is 9% less than appropriated for formula grants in FY2005. The act includes $471 million for various CDF set-asides and earmarks with the majority of such funds — $310 million — allocated among 1,126 EDI earmarked projects. Of the remaining funds, $50 million is earmarked for 50 Neighborhood Initiative projects identified in the conference report; another $50 million is to be awarded to local YouthBuild organizations. The $310 million in EDI earmarks represents a 7% increase in funding for such projects over the amount appropriated in FY2005 ($290 million).

In addition, P.L. 109-115, consistent with the recommendations of the House, shifts funding for a number of programs previously funded under this account to other HUD accounts. Funding for the SHOP program, National Community Development Initiative, the Housing Assistance Council, the National American Indian Housing Council, and the La Raza HOPE Fund are now funded under a new Self-Help Assisted Homeownership account. Assistance for minority-serving universities and colleges previously funded under Section 107 (Special Projects) is now funded under the Policy Development and Research 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 subsidies, but demand for them is great and in many communities, waiting lists for vouchers are years long or even closed.

Cost and Funding. The Section 8 voucher 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 requested $15.8 billion for the voucher program, an increase of more than 7%, none of which would have been available to serve additional families. The program accounted for more than 46% of the total HUD budget in FY2005, and accounts for just less than 46% 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, FY2005, and FY2006 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 FY2006 appropriations law continues the trend and allocates funds to agencies based on what they received in FY2005, plus inflation, pro-rated to fit within the amount appropriated.

Voucher Reform. 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. 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*, by Maggie McCarty.

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 was controversial, as it differed in significant ways from the final rule that was agreed upon in the negotiated rulemaking sessions. HUD stated that it had modified the rule "to better reflect Administration policies and budgetary priorities."[16] Nonetheless, on September 19, 2005, HUD published a final rule that reinstated most of the provisions of the negotiated rule that had been eliminated in the proposed rule and delayed implementation until 2007 (79 FR 54983). The final rule will present major changes in the way PHAs manage their buildings and receive funding, with the potential that some PHAs will receive substantial increases in funding and others will receive substantial decreases.

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

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[16] See Regulatory Impact Analysis of "Revisions to the Public Housing Operating Fund 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].

FY2006) and the amount provided by Congress ($2.5 billion in FY2006) 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 FY2006 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 proposed no new funding for HOPE VI in its FY2004, FY2005, and FY2006 budget submissions. Congress continued funding the program in FY2004 ($149 million), FY2005 ($143 million), and FY2006 ($100 million), although at a lower level than in previous years ($570 million in FY2003).

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*, by Maggie McCarty.

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 build low-cost, accessible housing for persons with disabilities. The President's FY2006 budget request of $119.9 million for Section 811 represented a 50% cut in funding from FY2005. Further, the funding provided would not have been available for capital grants; instead, the full amount would have been used to provide vouchers to persons with disabilities. HUD budget documents did 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 FY2006 HUD Appropriations Act, Congress did not follow the President's proposal. It funded Section 811 at $239 million, an amount between the House bill's proposal of $238 million and the Senate bill's recommendation of $240 million. The Appropriations Act also allows up to $156 million to be used for capital grants and project-based rental assistance, unlike the Administration's budget. The House Appropriations Committee Report (H.Rept. 109-153) stated that it "completely rejects" the Administration's argument that funds for capital grants are not needed for FY2006.

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 the chronically homeless 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 first proposed a $200 million Samaritan Initiative for FY2005, 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 again requested that $200 million be set aside within the Homeless Assistance Grants at HUD for a Samaritan Initiative, without a request for separate authorizing legislation. Additionally, the Administration proposed to set aside $75 million in the Homeless Assistance Grants account for transfer to the Department of Justice for a Prisoner Re-entry Initiative. The initiative, which the President also proposed in FY2005, would prevent homelessness among individuals leaving prison. Congress did not appropriate funds for either the Samaritan or Prison Re-entry initiative in FY2006.

The Homeless Assistance Grants fund 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. The President's FY2006 budget request, as in his FY2004 and FY2005 budget requests, proposed 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. On September 29, 2005, Senator Jack Reed introduced a bill (S. 1801) to reauthorize the McKinney-Vento Act. In addition to reauthorizing the act, S. 1801, like the President's request, would consolidate the three competitive Homeless Assistance Grants into one Homeless Assistance Program. The bill was referred to the Committee on Banking, Housing and Urban Affairs.

The FY2006 HUD Appropriations Act provides $1.34 billion for Homeless Assistance Grants, the same amount proposed in the House version of H.R. 3058, approximately $75 million less than the Senate recommendation, and $100 million

less than the President's request. Funding for FY2006 is approximately $100 million more than funding for FY2005. For more information, see CRS Report RL30442, *Homelessness: Recent Statistics, Targeted Federal Programs, and Recent Legislation*, coordinated by Libby Perl.

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. The Administration makes 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 proposed 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.

Tax Credits for Housing Production

The Low Income Housing Tax Credit (LIHTC) was created by the Tax Reform Act of 1986 (P.L. 99-514) to provide an incentive for the acquisition and development or rehabilitation of commercial property for affordable housing for renters. These federal housing tax credits are awarded to developers of qualified projects. Sponsors, or developers, of real estate projects apply to the corresponding state housing finance authority for LIHTC allocations for their projects. Developers either use the credits or sell them to investors to raise capital (or equity) for real estate projects. The tax benefit reduces the debt and/or equity that the developer would otherwise have to incur. With lower financing costs, tax credit properties can potentially offer lower, more affordable rents.

Proposals have been made to enact a single-family housing tax credit modeled after the LIHTC to provide incentive for the production of affordable housing for homeowners.

Low-Income Housing Tax Credit. LIHTCs are allocated to each state according to its population and are typically administered by the state's Housing Finance Agency (HFA). HFAs receive annual tax credits equal to $1.85 per person in 2005, which will rise to $1.90 in 2006.[17] The minimum tax credit ceiling for states

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[17] From 1986 through 2000, the initial credit allocation amount was $1.25 per capita. The allocation was increased to $1.50 in 2001, to $1.75 in 2002 and 2003, and indexed for inflation annually thereafter. The 2004 allocation was $1.80.

with small populations rises from $2,125,000 in 2005 to $2,190,000 in 2006.[18] HFAs award tax credits to developers according to a Qualified Allocation Plan (QAP) that outlines the states' affordable housing priorities and how to apply for tax credits. In order to be eligible for the LIHTC, proposed housing developments are required to meet certain tests that restrict both the amount of rent that is assessed to tenants and the income of eligible tenants.

The Tax Relief Act of 2005 (S. 2020), which was passed in the Senate in November 2005, proposed to triple current LIHTC authority per capita to $5.55 for Alabama, Mississippi, and Louisiana for 2006 through 2009. The Gulf Opportunity Zone Act of 2005, H.R. 4440, proposed to increase the credits available to Alabama, Louisiana, and Mississippi by the lesser of either the current amount allocated by each state to buildings in the Gulf Opportunity (GO) Zone or $18.00 multiplied by the portion of the state's population in the GO Zone as determined prior to August 28, 2005.[19] These provisions apply for 2006, 2007, and 2008. H.R. 4440 was passed in the House and Senate in early December 2005, and became law (P.L. 109-135) on December 22, 2005 with these provisions intact.

Single-Family Housing 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. 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 to enact an SFHTC.

Fannie Mae, Freddie Mac, and the Federal Home Loan Banks

The Office of Federal Housing Enterprise Oversight (OFHEO) is an independent office within HUD that is responsible for safety and soundness regulation of Fannie Mae and Freddie Mac. The Financial Institutions Regulatory Division establishes and monitors affordable housing lending goals. The Federal Housing Finance Board (FHFB) regulates the Federal Home Loan Banks (FHLBs)

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[18] The initial minimum tax credit ceiling for small states was $2,000,000 and was indexed for inflation annually after 2003.

[19] The Gulf Opportunity Zone (GO ZONE) is defined as those areas in Alabama, Mississippi, and Louisiana that have been designated by the federal government as warranting assistance due to Hurricane Katrina.

for both safety and soundness and mission. Fannie Mae, Freddie Mac, and the FHLBs are referred to as the housing Government-Sponsored Enterprises (GSEs).

Stronger regulation of the housing GSEs has been an issue for many years. An accounting scandal in June 2003 at Freddie Mac — for understating profits — gave the issue new impetus. This increased in 2004 with the discovery that Fannie Mae had been overstating profits. Some senior managers at both GSEs have resigned, and other senior managers have been fired. Both GSEs are still working on revising their accounting reports.

Two GSE reform bills were introduced in the first session of the 109th Congress. Both the House bill (H.R. 1461) and the Senate bill (S. 190) would create one regulator for the housing GSEs. Both would give the new regulator additional powers to oversee the GSEs, but most analysts believe that S. 190 would give the new regulator greater authority to limit Fannie Mae and Freddie Mac's retained portfolios. H.R. 1461, but not S. 190, would create a new Affordable Housing Fund that could contribute as much as $350 to $400 million for the development of affordable housing in the first two years. Both bills would fund the new regulator through the GSEs and remove it from being subject to the appropriations process. The House passed H.R. 1461 on October 26, 2005. The Senate Banking and Urban Affairs Committee reported S. 190 to the Senate on July 28, 2005. For a more detailed comparison of the bills, see CRS Report RL32795, *Government-Sponsored Enterprises (GSEs): Regulatory Reform Legislation*, by Mark Jickling. For information on controversial provisions concerning Fannie Mae and Freddie Mac, see CRS Report RS22336, *GSE Reform: A New Affordable Housing Fund*, by N. Eric Weiss, and CRS Report RS22307, *Limiting Fannie Mae's and Freddie Mac's Portfolio Size*, by N. Eric Weiss. For information on the FHLBs, consult CRS Report RL32815, *Federal Home Loan Bank System: Policy Issues*, by William Jackson.

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)[20] provides federal prohibitions on certain predatory lending practices. Twenty-five states and several

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[20] 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.

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*, by Nathan Brooks.) Varying requirements among state and local statutes that 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. 1182, H.R. 1643, and H.R. 4471. The bills include provisions related to counseling and financial literacy programs to give consumers the tools to recognize and avoid becoming victims of predatory lending practices, 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 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 actually 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.[21] During a series of meetings with these groups over the summer, the Secretary said the Department will take as much time as is necessary to develop a meaningful RESPA reform proposal, and that the proposal will be introduced as a proposed rule enabling comments by interested parties.

Rural Housing

In recent years, the Administration has proposed zero funding for the Rural Housing and Economic Development program (RHED) in HUD, but Congress has continued to fund the program. For FY2006, the Administration proposed the consolidation of RHED into a new program within the Department of Commerce. Congress did not accept the proposal and funded RHED at $17 million for FY2006. (See the above discussion of the Community Development Block Grant Program.)

The FY2006 budget also proposed several cuts in the rural housing programs of the Department of Agriculture (USDA). The most drastic cut would have been a 73% reduction to the Section 515 Rural Rental Housing program from the FY2005 appropriation level. The FY2006 Agriculture Appropriations Act (P.L. 109-97) funded the program at the FY2005 level of $100 million. 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. P.L. 109-97 includes $9 million for the cost of a demonstration program for the preservation and revitalization Section 515 housing.

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CRS Report RL31918, *U.S. Housing Prices: Is There a Bubble?*, by Marc Labonte.

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CRS Report RS22358, *HUD's Response to Hurricane Katrina*, by Maggie McCarty, Libby Perl, and Bruce Foote.

CRS Report RL33078, *The Role of HUD Housing Programs in Response to Past Disasters*, by Maggie McCarty, Libby Perl, and Bruce Foote.

CRS Report RL33173, *Hurricane Katrina: Questions Regarding the Section 8 Housing Voucher Program*, by Maggie McCarty.

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

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CRS Report RL32236, *HOPE VI Public Housing Revitalization Program: Background, Funding and Issues*, by Maggie McCarty.

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CRS Report RL30442, *Homelessness: Recent Statistics, Targeted Federal Programs, and Recent Legislation*, coordinated by Libby Perl.

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CRS Report RS22303, *Community Development Block Grant Funds in Disaster Relief and Recovery*, by Eugene Boyd.

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Housing Government-Sponsored Enterprises (GSEs)

CRS Report RS22336, *GSE Reform: A New Affordable Housing Fund*, by N. Eric Weiss.

CRS Report RS22307, *Limiting Fannie Mae's and Freddie Mac's Portfolio Size*, by Eric Weiss

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