

# CRS Report for Congress

Received through the CRS Web

## Housing Issues in the 109<sup>th</sup> Congress

**May 4, 2005**

Richard Bourdon, Coordinator

Bruce Foote  
Maggie McCarty  
Domestic Social Policy Division

Eugene Boyd  
Pamela Jackson  
Government and Finance Division

# Housing Issues in the 109<sup>th</sup> Congress

## Summary

On February 7, 2005, the Administration submitted a \$29.1 billion budget for the Department of Housing and Urban Development (HUD) in FY2006, a cut of \$2.8 billion, or 8.75%, from FY2005 appropriations of \$31.9 billion. (The budget figures used in this report are from the House Appropriations Committee tables dated April 4, 2005.) 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 have indicated objections to this proposal in their versions of the FY2006 budget resolution (H.Con.Res. 95). The Administration's proposed budget for FY2006 would increase Section 8 rental vouchers by close to \$1.1 billion; however, the HOPE VI program is again slated for elimination, with the Administration asking for a rescission of the \$143 million appropriated for FY2005. Homeless assistance grants would be increased by \$200 million, but housing for persons with disabilities would be cut by nearly 50% to \$120 million.

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 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 House Appropriations Committee 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 109<sup>th</sup> Congress include bills to address predatory lending (H.R. 200, H.R. 1182, H.R. 1643) and related mortgage fraud issues (including inflated appraisals), which the FBI has described as “rampant,” 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). This report will be updated as issues develop and legislation proceeds in the 109<sup>th</sup> Congress.

## Key Policy Staff

Name	Area of Expertise	CRS Division	Telephone and E-Mail
Richard Bourdon, Report Coordinator	Trust funds, counseling, homeownership, tax- based housing programs	DSP	7-7806 rbourdon@crs.loc.gov
Eugene Boyd	Community Development Block Grants, Brownfields, empowerment zones	G&F	7-8689 eboyd@crs.loc.gov
Bruce Foote	FHA, HOME, predatory lending, rural housing, GSEs, RESPA	DSP	7-7805 bfoote@crs.loc.gov
Pamela Jackson	Tax programs for housing: including the Low Income Housing Tax Credit and tax- exempt bonds	G&F	7-3967 pjackson@crs.loc.gov
Margaret M. McCarty	Section 8, public housing, homeless, AIDS, elderly/disabled	DSP	7-2163 mmccarty@crs.loc.gov

Division abbreviations: DSP=Domestic Social Policy; G&F=Government and Finance

## Contents

Introduction .....	1
Overarching Policy Issues .....	2
The Role of HUD .....	2
Rising Housing Prices .....	2
Community Development Block Grant Program .....	3
Administration's Economic Development Consolidation Proposal .....	3
CDBG Formula Changes .....	4
De-Linking Brownfields and Section 108 Assistance .....	4
CDBG-Related Earmarks and Set-Asides .....	4
Assisted Housing .....	4
Housing Choice Vouchers .....	4
Public Housing .....	6
Section 811 Housing for the Disabled Program .....	7
Homeownership .....	7
HUD Homeownership Initiatives .....	8
Homeownership Tax Credit .....	8
Homeownership Policy Issues .....	9
Homelessness .....	10
Fannie Mae and Freddie Mac .....	10
Predatory Lending .....	11
Real Estate Settlement Procedures Act .....	11
Rural Housing .....	12
CRS Products on Housing .....	13

## List of Tables

Table 1. Department of Housing and Urban Development Appropriations, FY2002 to FY2006 .....	1
Table 2. Homeownership Rates, by Household Category .....	8

# Housing Issues in the 109<sup>th</sup> Congress

## Introduction

Housing issues in the 109<sup>th</sup> Congress center around the Administration's proposed FY2006 budget for the Department of Housing and Urban Development (HUD) and the congressional response.<sup>1</sup> 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	\$30.01	\$31.20	\$31.92	\$29.13*

**Source:** Budget levels remain uncertain until all program activity has been recorded and any supplemental appropriations or rescissions have been taken into consideration. Figures are from the House Appropriations Committee estimate tables. FY2005 figures are adjusted to reflect the 0.8% across-the-board rescission enacted in P.L. 108-447. Final spending levels for any fiscal year include all supplemental appropriations or rescissions. 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.

---

<sup>1</sup> For a more detailed discussion, see CRS Report RL32869, *The Department of Housing and Urban Development (HUD): FY2006 Budget*, by Richard Bourdon, 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 agency's current and future role. Among the agencies overseen by the new Transportation, Treasury, HUD, Judiciary and District of Columbia 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 Saving 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 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 program's growing costs and resulting pressure on the rest of the HUD budget. 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.

**Rising Housing Prices.** A 2003 report by Harvard's Joint Center For Housing Studies, *The State of the Nation's Housing*, found that "[a] staggering three in ten U.S. households have affordability problems." The report found that 14.3 million households were severely cost-burdened (spending more than 50% of their incomes on housing) and another 17.3 million were moderately cost-burdened (spending 30%-50% of their incomes on housing). The Joint Center report found that for the first time ever, more homeowners were cost-burdened than renters. With the rapid rise in the price of housing in recent years in many parts of the country, rising property taxes are becoming a serious issue for low- and moderate-income owners, and those elderly on fixed incomes. In addition, there is growing concern over the number of homebuyers and homeowners who are purchasing with very little or no downpayment, paying subprime mortgage rates, increasing their mortgage payments with home-equity loans, and using adjustable rate and interest-only mortgages.

The strength of the economy can be attributed in part to the "wealth effect" from rising housing prices that make households confident enough to spend more of their income. However, the wealth effect could operate in reverse. Many households may be acting on the assumption that housing prices will continue their rapid increase, putting themselves at financial risk if interest rates should rise significantly, housing prices decline, or the economy should slow. The FBI recently described mortgage fraud as "rampant," and a November 2004 report by the Government Accountability

Office, *Single-Family Housing: HUD's Risk-Based Oversight of Appraisers Could Be Enhanced* (GAO 05-14), has raised the dangers of faulty and inflated appraisals. The issues of predatory lending and reforms to the Real Estate Settlement Procedures Act, discussed later in this report, are part of the larger debate on the implications of rising housing prices.

## 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 109<sup>th</sup> 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.

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.

**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.

## **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. It 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 and for not promoting self-sufficiency.



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. In FY2005, PHAs are restricted in the number of their authorized vouchers they can use, and they are reimbursed for their costs only up to a fixed cost level, defined in appropriations law. 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 would continue and expand the practice of budget-based funding for PHAs.

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 FY2004, the Administration’s proposal was titled Housing Assistance for Needy Families (HANF) and 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 which 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 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 FY2005, the President included a Flexible Voucher Program (FVP) proposal in his 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 108<sup>th</sup> 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 108<sup>th</sup> Congress. It 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.** 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 the contractor’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.”<sup>2</sup> It will present major changes in the way PHAs manage their buildings and receive funding, with the potential that some PHAs will receive increases in funding and others will receive 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. Additionally, it is estimated 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. 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

---

<sup>2</sup> 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](http://www.hud.gov/offices/pih/publications/4874_op_fund_prop_ea.pdf)].

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 advocates for public housing residents 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) announcing the availability of these funds was issued on March 21, 2005. The NOFA states that Congress may rescind any HOPE VI funds awarded through the NOFA. For more information on this program, 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.

## 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 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 decrepit 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**

Household type	1 <sup>st</sup> Quarter 2005
White, non-Hispanic	76.0%
Black	48.8%
Hispanic	49.7%
Households with family incomes greater than or equal to the median family income	84.5%
Households with family incomes less than the median family income	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. It believes 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 economically distressed neighborhoods to stabilize and revitalize themselves.

**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 108<sup>th</sup> Congress, H.R. 3755 would have authorized the creation of a zero-downpayment product for FHA. The proposal was favorably supported after markup and a hearing by the House Financial Services Committee. A subsequent report by the Congressional Budget Office (CBO), however, showed a net cost of the program of \$125 million per year. HUD's original estimates indicated that the costs would be borne through the higher premiums, but CBO disputes this finding. The legislation did not move forward because of debate over the budget impact. Legislation may be reintroduced in the 109<sup>th</sup> Congress, but, as noted above, the budget impact will still be an issue.

**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 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 bills H.R. 1549 and S. 859 have been introduced.

**Homeownership Policy Issues.** 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. Some also argue that without a cautious and thoughtful homeownership program that avoids concentrations of lower-income homebuyers in lower-income neighborhoods, potential benefits to buyers will be minimized. For example, several studies have found that homeownership has positive effects on children's development. However, "... the positive effects of homeownership on children are weakened in distressed neighborhoods, especially those that are residentially unstable and poor. Thus, helping low-income families purchase homes in good neighborhoods is likely to have the best effects on children."<sup>3</sup> Harm can be done to both lower-income buyers and the neighborhoods where the homes are purchased if there are high default rates. HUD's FHA mortgage insurance program continues to operate with very high delinquency rates — more than 12% of borrowers are at least 30 days past due. Before 2000, this rate was never above 9%.

Some applaud HUD and others in the housing industry for giving more attention to increasing the financial literacy of lower-income households, but others would like more efforts to improve the credit records of these households before they buy a first home. Pre-purchase counseling has greatly increased in recent years and has been shown to be helpful. Almost all financial advisers recommend that households have at least three months and preferably six months of liquid assets available to cover the financial setbacks that all households face. Lower-income households are most vulnerable to financial setbacks. Yet lower-income and minority homebuyers are sometimes encouraged to purchase a home when they have almost no savings before or after the purchase. Many are households who have never been able to accumulate savings, who may have poor health and be without health insurance, or have little or no financial knowledge about budgets, mortgages, and home repair contracts. They may be especially vulnerable to layoffs and a variety of financial and housing-related scams.

---

<sup>3</sup> Joseph Harkness and Sandra J. Newman, "Homeownership for the Poor in Distressed Neighborhoods: Does This Make Sense?" *Housing Policy Debate*, vol. 13, no. 3 (2002), 597-630 (597).

## Homelessness

Several of the major federal assistance programs for the homeless are housed within HUD. Called the Homeless Assistance Grants, they were authorized by the McKinney-Vento Homeless Assistance Act, which was signed into law in 1987, but has remained unauthorized since 1994. While legislation to reauthorize the McKinney Act is not anticipated in the 109<sup>th</sup> 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 was not introduced in FY2004 or FY2005, although the FY2006 budget states that legislation will be introduced shortly.

The President's FY2006 budget includes two additional initiatives. The Samaritan Initiative would be a \$200 million set-aside within the proposed consolidated Homeless Assistance Grants program. It would fund services-enriched supportive housing for chronically homeless individuals. The President has set a goal of ending chronic homelessness in 10 years, and this proposal is designed to aid in reaching that goal. Authorizing legislation for the Samaritan Initiative was introduced in the 108<sup>th</sup> Congress, but was not enacted, and no funds were provided for the initiative in FY2005. A proposed \$25 million for a Prisoner Re-entry Initiative would be transferred from HUD to the Department of Justice for use in helping individuals exiting prison successfully transition to community life and employment. The same proposal was included in the President's FY2005 budget request but was not enacted. For more information, see CRS Report RL30442, *Homelessness: Recent Statistics, Targeted Federal Programs, and Recent Legislation*.

## Fannie Mae and Freddie Mac

Currently, HUD has staff handling the mission regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), while the Office of Federal Housing Enterprise Oversight (OFHEO) is the office within HUD that is responsible for regulating Fannie Mae and Freddie Mac regarding the safety and soundness of their operations. 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 109<sup>th</sup> Congress — S. 190 and H.R. 1462. 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. For more information, see CRS Report RL32795, *Government-Sponsored Enterprises: 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. The 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)<sup>4</sup> 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*.) The state and local statutes have led to the call for a uniform federal statute. Basically, the public policy issue 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. 1992, 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)

---

<sup>4</sup> 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.

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 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). 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.<sup>5</sup> 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 be in the Section 515 Rural Rental Housing program, which would have a 73% reduction from the FY2005 appropriation level. The budget expresses a preference for loan guarantees over direct lending programs, so the budget would double funding for the Section 538 Rental Housing Guarantee program. Similarly, the Section 502 Single Family Direct program would be reduced, while the Section 502 Single Family Guarantee program would be increased. The budget includes \$214 million for a new voucher program to protect tenants from rent increases caused by the prepayment of rental housing loans, and to support the revitalizing of the portfolio of rural housing loans. 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.

---

<sup>5</sup> "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*
- CRS Report RL31918, *U.S. Housing Prices: Is There a Bubble?*

### **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 RS21241, *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*

### **Special Populations**

- 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 RL32834, *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*

CRS Report RL21724, *GSE Regulatory Reform: Frequently Asked Questions*

CRS Report RL32230, *Regulation of Fannie Mae and Freddie Mac under the Federal Housing Enterprises Financial Safety and Soundness Act: A Legal Analysis*

CRS Report RS21896, *The Department of the Treasury's Authority to Regulate GSE Debt: A Legal Analysis*

**Housing Discrimination**

CRS Report 95-710, *The Fair Housing Act: A Legal Overview*

CRS Report RS20418, *Funding for Major Civil Rights Enforcement Agencies*