



Affordable Housing Initiative

Friday, August 1, 2008

President Signs Sweeping Housing Overhaul Legislation

Bill Provides \$3.92 Billion for State, Local Governments to Address Foreclosure Crisis

President Bush this week signed landmark legislation aimed at addressing the crisis in the nation's housing market. The "Housing and Economic Recovery Act of 2008" makes critical changes to Low-Income Housing Tax Credits and Tax-Exempt Bonds, establishes a new national housing trust fund, creates a new independent regulator for Freddie Mac and Fannie Mae and extends additional credit to those organizations, and establishes a new Federal Housing Administration foreclosure prevention program, among other provisions. Highlights of the bill, and its potential benefits to Fairfax County, are as follows:

- **Emergency Funding:** The bill provides \$3.92 billion in emergency funding to state and local governments to stabilize neighborhoods hurt by the foreclosure crisis. It is anticipated that the funds will be administered in a manner similar to Community Development Block Grant (CDBG) funds. As with CDBG funds, it is anticipated that 70 percent of the funds will be distributed to local governments and 30 percent will be distributed to the states. This means that as a CDBG entitlement jurisdiction, Fairfax County will receive a direct allocation of funds. HUD will be required to establish a funding allocation formula – based on the number and percentage of home foreclosures, sub-prime mortgages, and homes in default or delinquency in each state or locality – within sixty days.
 - *Household eligibility:* The funds will be used to assist households earning up to 120 percent of the area median income (AMI), but 25 percent of the funds must be used to house individuals and families with incomes of 50 percent of the AMI and below.
 - *Priorities and eligible uses of funds:* Local jurisdictions and states receiving funding under this legislation must give priority to areas with the greatest need, including those with high foreclosure rates, a large number of sub-prime mortgages, and those at risk of increased foreclosures. Eligible uses for the funds include financing for the purchase and rehabilitation of foreclosed properties; direct purchase and rehabilitation of abandoned or foreclosed homes, establishment of land banks; and demolishing blighted structures.

Analysis: The amount of funding Fairfax County will receive from the \$3.92 billion emergency aid package will not be certain until HUD establishes its funding criteria. Unfortunately, the foreclosure metrics in Fairfax County are such that the County could stand to receive a significant allocation. Although the formula and thus the award will be different, by example in Fiscal Year 2008, a total of \$3.77 billion was provided to states and local governments through the CDBG program; that year, Fairfax County received a CDBG grant of \$6.1 million.

Fairfax County's new foreclosure program, approved by the Board of Supervisors on June 30, 2008, provides a good template for the use of the new federal resources. For example, the "Silver Lining" component of the Board's foreclosure program uses existing federal funds to provide "shared equity" loans to assist first-time homebuyers to purchase a foreclosed home. The purchase price of the foreclosed home can not exceed \$385,000, and homes are limited to townhouses and single-family homes. Low-cost first mortgages through the Virginia Housing Development Authority's (VHDA) "SPARC" program will be used for qualifying households.

The additional federal funds could be quickly deployed through our new program structure to reduce the County contribution, serve more Fairfax County first-time homebuyers or encourage non-profits to take more homes off the foreclosure rolls.

Information about the allocation formula for the \$3.92 billion emergency aid package, and its specific impact on Fairfax County, will be reported as it becomes available. HUD has been directed to distribute the funds within 90 days.

- **Low-Income Housing Tax Credits/Tax-Exempt Bonds:** The Act makes a number of critical changes to the rules for Low-Income Housing Tax Credits (LIHTC) and tax-exempt bonds, both of which are very important tools. Highlights of this component of the bill include:
 - Alternative Minimum Tax (AMT): Permanently repeals the AMT on housing credits for buildings placed in service after December 31, 2007, and permanently exempts housing bonds from the AMT.

Analysis: This is a very important provision to Fairfax County. Exempting tax-exempt bonds and credits from the AMT could lead to significant savings for Fairfax County in using tax-exempt bonds to finance affordable housing projects.

- Volume cap increase: Increases by 10 percent the amount of tax credits to the states for 2008 and 2009, and adds \$11 billion in tax-exempt mortgage revenue bond authority.

Analysis: This provision provides more affordable housing capital to the states and, by extension, local government. This presents a significant opportunity for Fairfax County to access additional resources; currently, the 2008 Virginia multifamily volume cap for the private activity bonds is exhausted.

- LIHTC rents: Protecting LIHTC investors by decoupling rents in LIHTC projects from declines in the HUD-published area median income. Previously, when an area's median income declined, rents in tax credit properties had to be lowered by a concomitant amount, which jeopardized the financial feasibility of the property. Under the Act, a decline in an area's median income would not require a reduction of rents.

Analysis: While not as significant as the changes to the AMT, eliminating the link between rents in tax credit projects and decreases in the area median income enhances the financial feasibility of such projects.

- "Ten Year" rule: Repealing the "ten year" rule, which required that ownership of federally subsidized properties not be transferred to another party for at least ten years before it is eligible for tax credits.

Analysis: This provision increases the number of properties potentially eligible for acquisition tax credits.

- Housing Choice Vouchers: Improving how federal Housing Choice Vouchers can be project based in tax credit and other properties by 1) increasing the initial voucher contract term from 10 to 15 years; and 2) allowing housing authorities to "pre-commit" to unlimited renewals of project-based vouchers.

Analysis: Streamlining the means by which vouchers are project-based helps to ensure that voucher funds are utilized in a timely manner. Timeliness of expenditures under the Housing Choice Voucher program directly impacts future funding by HUD for local housing authorities.

- **National Housing Trust Fund:** The Act establishes a national housing trust fund, to be funded by annual contributions by the federally sponsored mortgage giants Fannie Mae and Freddie Mac; contributions will be based on a percentage of each company's annual new business. At least 90 percent of the funds must be used for the production, preservation, rehabilitation or operation of rental housing; the remaining 10 percent may be used for first-time homebuyer activities. At least 75 percent of the rental housing funds must be used to serve "extremely low" income families (those earning 30 percent of the Area Median Income (AMI) and below); all funds must benefit "very low" income families (those earning 50 percent of AMI and below). Funds will be allocated to the states, which will in turn establish criteria to distribute the funds at the local level. Using the allocation formula in the bill, about \$557 million would have been distributed to the states in 2007; the minimum allocation to states will be \$3 million.

Analysis: Fairfax County clearly meets the requirements set forth in the legislation – in terms of experience, capacity and need – to receive a local grant from the state. Should the state include a preference that local jurisdictions have

a local housing trust fund, or base the amount awarded on the amount of local investment in housing, Fairfax County could be at a significant competitive advantage because of the Board's continuing investment in the Penny for Affordable Housing Fund. A preference for localities with an established local revenue source for affordable housing has been included in many of the bills introduced in the General Assembly seeking to establish a statewide housing trust fund in recent years.

- **Freddie Mac, Fannie Mae Reform:** The Act abolishes the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board and establishes in their place the new Federal Housing Finance Agency to oversee and regulate Freddie Mac, Fannie Mae and the Federal Home Loan Banks.

Analysis: Although there is no direct impact on Fairfax County in terms of additional funding resources or oversight, the stability of both Freddie Mac and Fannie Mae – and the flow of capital they provide – are important to Fairfax County's, and the nation's, recovery from the housing crisis. While the \$625,500 loan limit in high-cost areas represents a decrease from the current limit, it is positive in the sense that it will contribute to the continued stability of both institutions.

- **“Hope for Homeowners” Program:** This component of the bill authorizes the Federal Housing Administration (FHA) to refinance up to \$300 billion in mortgages of at-risk borrowers. To be eligible, borrowers 1) must be living in their home; 2) have mortgage debt-to-income ratio of 31% or higher; and 3) have mortgages originated before January 1, 2008. This program will begin on October 1, 2008 and terminate September 30, 2011. It does require the willing participation of the lender.

Analysis: According to the George Mason University Center for Regional Analysis, a total of 4,527 homes were foreclosed in 2007; a total of 3,518 homes were foreclosed in the first three months of 2008. The high foreclosure rate is expected to continue throughout 2008. The “Hope for Homeowners” program provides a potentially significant opportunity for Fairfax County homeowners in distress to stay in their homes, which will enhance the counseling portion of the County's new Foreclosure Program.

The full text of HR 3221, as passed by the US Congress, can be found [here](#).

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