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What Is Next for the National Housing Trust Fund?

By Michael J. Novogradac, CPA

With so many eyes on unemployment numbers that topped 10 percent nationwide last fall, it is no surprise that job creation became and remains a national focus. On December 16, 2009 the U.S. House of Representatives passed the Jobs for Main Street Act, H.R. 2847, with the intent that it would create or save jobs by directing \$75 billion in targeted investments for highways and transit, school renovation, hiring teachers, police, and firefighters, small business, job training and affordable housing – key drivers of economic growth that, according to House Speaker Nancy Pelosi, “have the most bang for the buck.”

The jobs bill, labeled by some members of Congress as a second stimulus measure, squeaked by in the House, 217 to 212, and at this writing faces a tough uphill climb in the Senate, particularly in light of the recent election of Republican Scott Brown from Massachusetts. Thirty-eight Democrats joined all of the House Republicans in voting against the legislation.

The jobs bill would redirect \$75 billion from the Troubled Asset Relief Program (TARP) to fund a number of congressional priorities, including the National Housing Trust Fund (NHTF). NHTF would receive \$1.65 billion of the \$48.3 billion directed at putting people to work rebuilding the nation’s crumbling roads and bridges, modernizing its public buildings, and cleaning its air and water. Another \$26.7 billion would be used to stabilize public service jobs.

Also included in that \$48.3 billion is \$1 billion for the Public Housing Capital Fund (PHCF) for additional repairs and re-

habilitation of public housing.

In her comments on the bill’s passage in the House, Pelosi said that nationwide, for every 100 extremely low-income renter households, there are only 37 homes they can afford. In an attempt to remedy that, the NHTF will provide communities with \$1 billion to build, preserve and rehabilitate rental homes that are affordable for extremely and very low-income households, and \$65 million will be directed to project-based vouchers to support units built by the NHTF. Additionally, capital expenditures for housing will support jobs in the construction industry.

The PHCF will direct \$1 billion to repairs and rehabilitation of public housing. In fiscal year 2009, the U.S. Department of Housing and Urban Development (HUD), which administers the funds, received applications totaling \$3.7 billion for PHCF projects but was able to fund only \$1 billion in awards. Pelosi says this funding will spur construction quickly because HUD has ready-to-go applications for projects on hand; however the Associated Press reports that the nonpartisan Congressional Budget Office said in a new report in mid-January that “fewer projects are ‘shovel ready’ than one might expect” and predicted that most of the hires resulting from new infrastructure funding wouldn’t occur until after 2011.



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National Housing Trust Fund (NHTF)

The National Housing Trust Fund, established by the Housing and Economic Recovery Act (HERA) of 2008, became public law as a permanent federal program on July 30, 2008. It is administered by HUD and receives dedicated sources of funding and is not subject to the annual appropriations process, although appropriations is a potential source of funds. HERA provides that the NHTF can be funded by dedicated sources of revenue that include "any appropriations, transfers or credits that Congress may designate in the future" and efforts are under way to secure other sources of funding dedicated to the NHTF.

The fund's purpose is to increase and preserve the supply of rental housing for extremely low- and very low-income households, including homeless households, and to increase homeownership for extremely low- and very low-income households.

At least 90 percent of the funds must be used for the production, preservation, rehabilitation or operation of rental housing and as much as 10 percent can be used for homeownership activities for first-time homebuyers.

At least 75 percent of the funds for rental housing must benefit extremely low-income households, those earning 30 percent or less of area median income (AMI), or households with incomes below the federal poverty line. All of the funds must benefit very low-income households, which are defined as those earning 50 percent or less of AMI.

The NHTF program provides funding to add supply to marketplaces where there is strong evidence of inadequate supply and, according to a HUD analysis, it represents a strong complement to the Housing Choice Voucher program, which provides a tenant-based subsidy for primarily extremely low-income households to afford existing privately owned rental housing. The limitation of the Housing Choice Voucher program, HUD adds, is that it does not work well in markets where there is inadequate housing supply, a problem that HUD says it will address through careful targeting of housing trust fund dollars to markets with inadequate supply.

Funding for NHTF

HERA requires Fannie Mae and Freddie Mac (GSEs) to transfer a percentage of their new business to finance the NHTF. The GSEs were to contribute a portion of the value of their new business purchases to the NHTF each year but when Fannie Mae and Freddie Mac were placed into conservatorship under a new regulator, the Federal Housing Finance Agency (FHFA), the FHFA directed the GSEs to suspend their contributions to the NHTF indefinitely. Those contributions were suspended in December 2008 and FHFA says it is unlikely that this suspension will be lifted in the

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James Matuszak

Novogradac Journal of Tax Credits Information

Address all correspondence and
editorial submissions to:
Jane Bowar Zastrow / 415.356.8034

Address inquiries regarding
advertising opportunities to:
Emil Bagalso / 415.356.8037

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near future.

Another source of potential NHTF funding was President Barack Obama's budget for 2010, which included an initial capitalization of \$1 billion for the NHTF, the entirety of which could have been obligated in fiscal year 2010. But, as I wrote last month, that \$1 billion, unfortunately, was not included in the HUD appropriations bill.

However, the National Low Income Housing Coalition (NLIHC) reported on January 15 that Sen. Jeff Merkley, D-Ore., was circulating a letter that would be sent to President Obama asking that \$1 billion for the NHTF be included in the President's budget that he will submit to Congress on February 1. Sen. Merkley has asked fellow senators to sign the letter with him, and NLIHC reported that as of January 15, co-signers included Sens. Russ Feingold, D-Wis.; Al Franken, D-Minn.; Kirsten Gillibrand, D-N.Y.; Mary Landrieu, D-La.; Carl Levin, D-Mich.; Joe Lieberman, I-Conn.; Bernie Sanders, I-Vt.; Chuck Schumer, D-N.Y.; Jeanne Shaheen, D-N.H.; Olympia Snowe, R-Maine; and Ron Wyden, D-Ore.

Distribution of NHTF Funds

HERA charges HUD with the establishment, through regulation, of a formula for the distribution of the Housing Trust Fund to the various states. The statute specifies five factors are to be part of the formula, some carry more weight than others, and assigns priority to specific factors that relate to the ratio of the shortage of affordable and available rental units; the number of affordable and available rental units of extremely low- and very low-income renter households in the state is weighed against the aggregate shortage of affordable and available rental units to extremely low- and very low-income renter households in all the states. Other factors that are considered are related to housing problems and include availability of kitchen and plumbing facilities, number of persons per room and percentage of income paid for rent.

In developing the allocation formula and to examine the importance of weighting for allocation outcomes, HUD ran formulas using several alternative weight structures. HUD's analysis of the sensitivity of state allocations to the needs of extremely low-income renters under the various factors revealed that about half of the states are not affected greatly by any of the weighting alternatives; in fact 23 to 30 states experienced changes of less than 1 percent. For larger states, the effects tended to be more pronounced, yet rarely exceeding 3 percent relative to HUD's proposed formula.

HUD's proposed rule assigns the shortage of extremely low-income rental units with 50 percent of the total weight; the housing problems of extremely low-income renters with 25 percent of the weight, and 12.5 percent each for a shortage of low-income units

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and the severe cost burdens of very low-income renters. For a copy of HUD's regulatory impact analysis and its methodology on how NHTF funds would be distributed to states, please go to www.novoco.com, click on Hot Topics and under the HUD Hot Topics heading click on National Housing Trust Fund. Comments on the proposed formula for allocating funds were due February 2.

States' Obligations

Each state will decide whether its housing finance agency or another state entity will receive these grants, which will be allocated according to the needs-based formula that HUD is developing. The administering agency will develop, make public and seek public comment on the state's allocation plan and must ensure that rental housing developed with NHTF dollars benefit only extremely low- and very low-income households. Performance goals, benchmarks and timetables are also required and a state has two years in which it must either commit or spend its funds. If this deadline is not met, funds are returned to HUD for distribution to other states.

While no rule currently exists for the NHTF, failure to create a rule would be in violation of HERA so there is no alternative to establishing this regulation and the direct federal cost of the program will be the amount eventually provided by Congress.

While the affordable housing industry has its champions in the Senate, including Senate Finance Committee members Maria Cantwell, D-Wash., Jeff Bingaman, D-N.M., and John Kerry, D-Mass., a jobs package is not uppermost in their minds—or the minds of their colleagues. We must resolve to continue our efforts to bring a focus to policies and legislation that create jobs and the very real need for affordable housing, even as our legislators tackle health care and estate tax legislation, and the extenders package.

President Obama has said that the “economy is on the mend” and that his administration's focus in the coming months will be on job creation. The Jobs for Main Street Act and its funding of the National Housing Trust Fund are an important piece of that jobs creation picture. ❖

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