

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

September 8, 2021

Memorandum

To: Members, Committee on Financial Services
From: FSC Majority Staff
Subject: September 13, 2021, Full Committee Markup

The full Committee will convene to mark up the following measures, in an order to be determined by the Chairwoman at 12 p.m. on Monday, September 13, 2021, and subsequent days if necessary, in a hybrid format in room 2128 of the Rayburn House Office Building as well as on the WebEx platform.

1. **Amendment in the Nature of a Substitute to the Committee Print - Providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022**

Summary: S.Con.Res. 14, the Concurrent Budget Resolution for FY 2022, instructs the Financial Services Committee to “report changes in laws within its jurisdiction that increase the deficit by not more than \$339,000,000,000 for the period of fiscal years 2022 through 2031.” Accordingly, the Committee Print being considered at this markup provides more than \$300 billion in funding for new and existing federal housing programs designed to provide a comprehensive response to address our nation’s urgent housing needs including the national eviction and homelessness crisis, particularly among the lowest income families, people with disabilities, millennials, and people of color. It includes targeted funding streams for new construction, rehabilitation/preservation, rental assistance, downpayment assistance, green housing, fair housing enforcement, among other investments.

Background: Prior to the pandemic, homelessness was on the rise again in America. Since 2016, homelessness overall has increased by 5.6%, with 580,466 persons experiencing homelessness on a single night in January 2020.¹ The lack of affordable housing is the primary cause of homelessness and housing instability in the United States.² In 2019, prior to the pandemic, 37.1 million households, nearly one-third of all the households in the U.S., spent over 30% of their incomes on housing, and nearly half of them (17.6 million) paid over 50% of their incomes on housing.³ Over 60% of these severely cost-burdened, low income renters are people of color.⁴ The overrepresentation of Black, Latinx, and other households of color among those experiencing severe rent burdens and homelessness is driven in part by the nation’s long history of racial discrimination and exclusion, including decades of federal housing policy that was explicitly racially discriminatory.⁵

The COVID-19 pandemic and economic instability has only exposed and exacerbated the inadequacies and inequalities in the American rental housing market. According to the National Low Income Housing Coalition, nationwide there is a shortage of more than 7 million rental housing units that are affordable

¹ HUD Office of Community Planning, [The 2020 Annual Homeless Assessment Report \(AHAR\) to Congress](#), (Jan. 2021).

² National Low Income Housing Coalition, [The Primary Causes and Solutions to Homelessness](#), (Feb. 4, 2020).

³ Harvard Joint Center on Housing Studies, [State of the Nation’s Housing 2020](#), (2020).

⁴ Center on Budget and Policy Priorities, [More Housing Vouchers: Most Important Step to Help More People Afford Stable Homes](#), (April 14, 2021).

⁵ See, e.g., Richard Rothstein, *The Color of Law: A Forgotten History of How the Government Discriminated* (2017)

and available to the lowest income families.⁶ In fact, no state in America has an adequate supply of affordable housing for the lowest income renters.⁷ The public housing stock, which houses 1.9 million Americans, needs billions of dollars in investments to ensure that it provides safe and decent living conditions for its residents.⁸

The Harvard Joint Center for Housing Studies State of the Nation’s Housing 2020 noted that the for-sale home supply in the US stood at its lowest level since 1982.⁹ Meanwhile, black homeownership is lower than at any point since the Fair Housing Act passed in 1968.¹⁰ The Urban Institute also projects that the Black homeownership rate will fall even further by 2040,¹¹ negatively affecting black wealth.¹²

Investments in housing infrastructure not only increase affordability, but it also boosts economic output. According to the National Association of Home Builders, building 100 affordable rental homes generates 300 jobs, \$28 million in wages and business income, and \$11 million in taxes and revenue for state, local, and federal governments.¹³

The Committee Print provides several investments that are targeted to address both the immediate problem of housing instability as well as more long-term needs of the nation’s affordable housing infrastructure. The table below provides a summary of topline funding amounts in the bill. A more detailed section-by-section is included in Appendix A of this memo.

Program	Funding Level (in billions)
Public Housing + Choice Neighborhoods	80
Housing Trust Fund (HTF)	37
HOME Investment Partnerships (HOME)	35
Housing Investment Fund	10
Section 811 Housing for People with Disabilities	1
Section 202 Housing for the Elderly	2.5
New HUD program for greening & preservation of HUD subsidized multifamily properties	6
Funding to preserve and address health and safety concerns in properties supported by HUD Project Based Rental Assistance (PBRA)	4
USDA Multifamily Housing Preservation & Revitalization (MPR) + funding for new USDA-backed affordable multifamily housing	5
USDA Section 504 Home Repair Program	0.1
New Section 8 Housing Choice Vouchers and Project Based Rental Assistance	90
CDBG (with specific set-asides for Colonias and manufactured housing communities)	8.5

⁶ National Low Income Housing Coalition, [The Gap: A Shortage of Affordable Homes](#), Mar. 2021.

⁷ *Id.*

⁸ National Low Income Housing Coalition, [Public Housing](#), (Accessed Sep. 8, 2021).

⁹ Harvard Joint Center on Housing Studies, [The State of the Nation’s Housing](#) (Nov. 2020)

¹⁰ Jacob S. Rugh, [Why Black and Latino Homeownership Matter for a Multiracial Democracy](#) (2020)

¹¹ Laurie Goodman and Jun Zhu. 2021. [By 2040, the US Will Experience Modest Homeownership Declines. But for Black Households, the Impact Will Be Dramatic.](#) Urban Institute. (2021)

¹² Laurie Goodman, and Christopher Mayer. 2018. [Homeownership and the American Dream](#). Journal of Economic Perspective, 32(1), pp 31-58.

¹³ National Association of Home Builders, [Housing Fuels the Economy, Housing and the Economy](#)

Funding to address lead hazards and ensure healthy homes	10
New HUD program to improve zoning, planning and land use, and coordination between housing and transportation investments	4.5
FEMA’s National Flood Insurance Program (NFIP)	5
New HUD program to restore and revitalize communities	7.5
CDBG-DR	1
New Manufacturing Facility	1
Fair Housing Assistance Program (FHAP)	0.25
Fair Housing Initiatives Program (FHIP)	1
New HUD program for first-generation downpayment assistance and housing counseling	10
New federally back mortgage innovations, including an FHA small dollar mortgage pilot and a new 20-year mortgage product for first-generation homebuyers (LIFT)	0.6
HUD IT/Personnel/TA/capacity building	2
Indian Housing Block Grant (IHBG) and Native Hawaiian Housing Block Grant (NHHBG)	2
Minority Business Development Agency (MBDA)	3.1
TOTAL	327.05

2. Amendment in the Nature of a Substitute to H.R. 5195, the Native American Housing Assistance and Self-Determination Act of 2021 (Waters)

Summary: This bill would provide a 5-year reauthorization of Native American and Native Hawaiian housing programs, as well as make several reforms to the programs, including a provision that would withhold funding from any tribe that discriminates against descendants of Black Native American Freedmen in violation of the tribe’s 1866 treaty obligations.

Background: The Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) is the central statutory framework through which the federal government provides housing and community development assistance to Native American tribes and Native Hawaiian homelands. Across the nation, Native Americans and Native Hawaiians disproportionately suffer from experiencing chronic homelessness, as well as unsafe and unsanitary housing conditions. Access to safe and affordable housing is made even more difficult for Native Americans as a result of a sparse lending market on reservations to support and finance homeownership and construction projects.¹⁴

During the time of slavery in America, the Cherokee, Choctaw, Chickasaw, Muscogee Creek, and Seminole Nations (“The Five Tribes”) purchased and enslaved Black people from African countries.¹⁵ During the American Civil War, the Five Tribes sided with the Confederate States.¹⁶ In 1866, when the

¹⁴ HUD Office of Policy Development and Research, *Obstacles, Solutions, and Self-Determination in Indian Housing Policy* (2015).

¹⁵ See, e.g., *Cherokee Nation v. Nash*, 267 F. Supp. 3d 86, 93 (D.C. 2017) (“[T]he Cherokee Nation was complicit in legitimizing slavery within the Nation.”)

¹⁶ University of Nebraska Lincoln, *As long as grass shall grow and water run: The treaties formed by the Confederate States of America and the tribes in Indian Territory*, 1861 (Accessed on Jul. 21, 2021); See also *The Statutes At Large of the Confederate States of America*, xiv –iv.

war ended and slavery was abolished, the Five Tribes signed treaty agreements reinstating their government-to-government relationship with the U.S., known as the Treaties of 1866, which required the Five Tribes to abolish slavery by freeing any enslaved individuals and agree to treat them and their lineal descendants as equal to “native citizens.” They are known as the Freedmen.

Descendants of the Freedmen are disproportionately affected by the lack of safe and affordable housing, because many of the Five Tribes continue to openly discriminate against descendants of Freedmen, in direct violation of their obligations under the Treaties of 1866.¹⁷ At a hearing held by the Committee’s Subcommittee on Housing, Community Development, and Insurance on July 27, 2021, entitled “NAHASDA Reauthorization: Addressing Historic Disinvestment and the Ongoing Plight of the Freedmen in Native American Communities,” Marilyn Vann, the President of the Descendants of Freedmen of the Five Tribes Association, testified that descendants of Freedmen continue to be disenfranchised in various way, including lacking access to federal resources, such as NAHASDA.

3. Amendment in the Nature of a Substitute to H.R. 5196, the Expediting Assistance to Renters and Landlords Act of 2021 (Waters)

Summary: This bill would expedite the delivery of emergency rental assistance provided by Congress through previous pandemic relief bills by removing barriers preventing tenants from receiving assistance and allowing landlords to directly apply for rental arrears after meeting certain requirements. This bill also directs Treasury and grantees to conduct additional outreach to prospective tenants and landlords, and to provide more guidance to grantees on how they can engage with local governmental bodies. It also requires poor performing grantees to develop a performance improvement plan that describes how they will adopt best practices to improve the distribution of relief, in addition to directing Treasury to provide technical assistance and IT solutions to support grantees efforts to expedite the delivery of assistance.

Background: According to the U.S. Census Bureau's Household Pulse Survey from August 4 to August 16, 2021, more than 3.5 million renters reported that they are very or somewhat likely to be evicted in the next two months.¹⁸ To address the escalating housing crisis and to prevent evictions as well as public health concerns associated with evictions during the pandemic, on December 20, 2020, Congress passed H.R. 133, the FY2021 Omnibus and COVID Relief and Response, which included \$25 billion in emergency rental assistance (ERA1) and an extension of the eviction moratorium until January 31, 2021.¹⁹ On March 11, 2021, Congress passed H.R. 1319, the “American Rescue Plan Act,” which provided an additional \$21.6 billion dollars in emergency rental aid (ERA2), for a total of \$46.6 billion.²⁰ The eviction moratorium was extended multiple times due to the changing public health landscape and expired on July 31, 2021.²¹ However, on August 3, 2021, as a result of the surge in cases brought by the highly transmissible Delta variant, the CDC issued a new order halting evictions for persons in counties experiencing substantial or high rates of transmissions.²² This order was set to expire October 3, 2021, but was overturned by the Supreme Court on August 26th, 2021.²³ Research has shown the consequences of

¹⁷ In the past, the Cherokee Nation was at the forefront of the debate regarding treatment of descendants of Freedmen and the denial of their citizenship rights. However, after a 2017 federal court ruled that Cherokee Freedmen have “a present right to citizenship in the Cherokee Nation that is coextensive with the rights of Native Cherokee,” the tribe has taken action to come into compliance with the ruling and their treaty obligations. Cherokee Nation v. Nash.

¹⁸ United States Census Bureau, [Likelihood to Having to Leave this Housing in Next Two Months Due to Eviction, by Select Characteristics](#) (Aug. 25, 2021).

¹⁹ Sec. 502 of Subtitle A of Title V (Banking) of P.L. 116-260.

²⁰ American Rescue Plan Act of 2021, H.R. 1319, 117th Congress.

²¹ Centers for Disease Control and Prevention, [Temporary Halt in Residential Evictions in Communities with Substantial or High Levels of Community](#)

²² *Id.*

²³ [U.S. Supreme Court, Alabama Association of Realtors, et al. v. Department of Health and Human Services et al.](#) (August 26, 2021).

evictions on the spread of the coronavirus. One study found that after state eviction moratoriums expired, the number of coronavirus cases and the number of coronavirus deaths increased by fivefold.²⁴

Beginning in March, grantees began processing payments to landlords and renters, however, many renters and landlords have applied to receive assistance through local and state programs and are still waiting due to delays by grantees in reviewing and processing applications, and other reasons. According to the latest data from Treasury, as of July 2021, \$5.1 billion or 11% of the \$46.6 billion in emergency rental assistance funds has been spent by state and local governments to assist approximately one million renters.²⁵ The pace of assistance delivered to tenants has increased over time, with 341,000 tenants assisted in July, compared to 293,000 tenants assisted in June and 157,000 tenants in May.²⁶ The Committee will hold on September 10, 2021 to discuss the challenges in the implementation of emergency rental assistance.

To address concerns with the implementation of emergency rental assistance, this amendment in the nature of a substitute to H.R. 5196 would make the following changes:

- Allowing landlords to directly apply for back rent after providing notice to their tenants that they intend to apply, and conditioning the federal assistance the landlord receives on certain requirements, such as the tenant being able to remain stably housed for at least 120 days after receiving the assistance, to which the landlord can apply for rent payments to cover the 120-day period;
- Allowing landlords of vacant properties to apply for rental arrears, provided that landlord attests under penalty of perjury that the landlord did not file an eviction notice on the renter, sever utilities to the dwelling or change the locks while the renter still resided in the dwelling, or took another action to bar the renter from the dwelling;
- Requiring grantees to accept the self-attestation of a tenant and providing a safe harbor for grantees relying on the attestation, easing the ability of renters to demonstrate hardship as a result of COVID, providing assistance directly to tenants in certain circumstances, prohibiting written leases being required in applications, and extending assistance from 15 months in ERA1 and 18 months in ERA2 to a total of 24 months across both programs;
- Directing Treasury and grantees to conduct additional outreach to prospective tenants and landlords, including by sending mailings to all taxpayers stating that they may be eligible to apply, and taking out radio, tv, and internet ads to promote the program;
- Directing Treasury to provide technical assistance and IT solutions to grantees to support applications being processed more quickly, and requiring struggling grantees to develop a performance improvement plan that describes how the grantee will adopt best practices to improve the distribution of assistance;
- Providing Treasury with an additional \$50 million to conduct such outreach and provide TA and IT solutions;
- Authorizing grantees to spend up to 15% of their allotted funds under ERA1 on administrative expenses;
- Authorizing Treasury to reallocate funds to housing nonprofits and entities supervised by courts that operate in the jurisdiction of a grantee that had funds reallocated, and to consider jurisdictions with high proportions of cost-burdened renters when reallocating funds; and,

²⁴ Kathryn M. Leifheit et al., [Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality](#) (2021).

²⁵ See U.S. Department of the Treasury [Emergency Rental Assistance Program \(ERA\) Reporting Consolidated Appropriations Act, 2021](#).

²⁶ See U.S. Department of the Treasury, [Press Release: Treasury Announces Seven Additional Policies to Encourage State and Local Governments to Expedite Emergency Rental Assistance](#) (Aug. 25, 2021).

- Directing Treasury to provide additional guidance to grantees on how they can engage with local governmental bodies, such as schools and libraries, to better facilitate the awareness and distribution of emergency rental assistance.

Appendix A: Section by Section for the Amendment in the Nature of a Substitute to the Committee Print - Providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022.

TITLE IV. COMMITTEE ON FINANCIAL SERVICES

Subtitle A—Creating, Preserving, and Greening Affordable Housing.

Section 40001. Public Housing Investments.

- *Public Housing Capital Fund and Choice Neighborhoods.* This section authorizes \$77.25 billion to fully address the capital needs backlog of public housing. This section also provides \$2.75 billion grants structured to be similar to the Choice Neighborhood Initiatives Program, a place-based grant program that supports communities develop and implement locally-driven comprehensive to transform underserved neighborhoods into thriving communities with greater economic opportunity for all residents. This investment for Choice Neighborhoods will enable communities to redevelop nearly 16,000 units of distressed public and HUD-assisted housing.

Section 40002. Investments in Affordable and Accessible Housing Production.

- This section provides \$35 billion for the HOME Investment Partnerships Program to fund the construction, purchase, or rehabilitation of affordable homes for low-income people. This investment will create or rehabilitate over 250,000 units, provide rental assistance to over 134,000 low income families, enable over 73,000 low income families to repair their homes, and move over 151,000 families into sustainable homeownership.

This section also provides a set-aside of \$37 billion for activities under the national Housing Trust Fund to support the preservation and creation of over 330,000 new rental homes affordable to the lowest income households.

Section 40003. Housing Investment Fund.

- This section provides \$10 billion to the Community Development Financial Institutions (CDFI) Fund to provide competitive grants to CDFIs and non-profit developers which leverages private sector investment to create or preserve over 170,000 affordable homes.

Section 40004. Section 811 Supportive Housing for People with Disabilities.

- This section provides \$1 billion HUD's Section 811 program which provides project-based rental assistance to very low- and extremely low-income persons with disabilities to live independently in integrated housing settings with community-based support and services. This investment will provide assistance to over 111,000 units. HUD's Worst Case Housing Needs: 2019 Report to Congress states that over 1.3 million very low income renter households paying more than half of their income in rent or living in substandard housing included one or more non-elderly people with disabilities.²⁷

Section 40005. Section 202 Supportive Housing for the Elderly.

- This section provides \$2.5 billion for the 202 Supportive Housing for the Elderly program, which expands the supply of affordable housing with supportive services for the elderly through capital advances and project rental assistance contracts to non-profit developers. This investment will create over 37,500 units that will enable seniors to continue live independently and with dignity in the community.

²⁷ HUD, [Worst Case Housing Needs: 2019 Report to Congress](#).

Section 40006. Direct Loans and Grants for Energy or Water Efficiency or Climate Resilience of Affordable Housing.

- This section appropriates \$7 billion to establish a grant program for owners of federally assisted housing affordable housing to make energy efficiency upgrades, including electrification of systems and appliances, and installation of renewable energy types and resiliency. This investment will retrofit or otherwise upgrade over 92,000 HUD-assisted units.

Section 40007. Revitalization of Distressed Multifamily Properties.

- This section appropriates \$4 billion to preserve and improve safety conditions in properties receiving Section 8 project-based rental assistance (PBRA). This investment will preserve ## of affordable units nationwide.

Section 40008. USDA Multifamily Housing Preservation and Development.

- This section appropriates \$5 billion to fully address the capital needs backlog of the Section 515 Rural Rental Housing and Section 514/516 Farm Labor Housing programs, under which USDA provides direct loans and grants to support the development of affordable rental housing that serves rural areas. This investment will preserve over 89,000 units,

Section 40009. USDA 504 Home Repair.

- This section provides \$100 million in grant funding through the Department of Agriculture's Section 504 program to help low-income homeowners in rural areas repair, upgrade, and preserve modest, affordable homes, including manufactured homes.

Section 40010. Housing Vouchers.

- This section provides \$75 billion to fund incremental Housing Choice Vouchers. Housing Choice Vouchers are intended provide better housing options and economic opportunity for very low- and extremely low-income families, reduce the number individual and families experiencing or at risk of homelessness, and reverse the effects of residential segregation in the pursuit of racial equity. Of this funding, \$25 billion is targeted to individuals and families experiencing or at risk of homelessness, and survivors of domestic violence and human trafficking.

Section 40011. Project-Based Rental Assistance.

- This section provides \$15 billion to the PBRA program, which provides over 1.2 million low-income and very low-income families with decent, safe, and affordable housing. These are the first new PBRA contracts funded in nearly four decades, and this investment will assist over 260,000 units.

Subtitle B. 21st Century Sustainable and Equitable Communities.

Section 40101. Community Development Block Grant Funding for Affordable Housing and Infrastructure.

- This section provides \$8.5 billion for the Community Development Block Grant program (CDBG), which assists urban and rural communities by expanding economic opportunities and improving quality of life principally for low- and moderate-income persons. This section includes set-asides of \$1 billion and \$500 million to address the housing and community infrastructure needs of colonias and resident-owned manufactured housing communities, respectively.

Section 40102. Community Development Block Grants for Disaster Recovery.

- This section appropriates \$1 billion to establish a fund to provide assistance for necessary expenses related to recovery from major disasters declared in 2021 or future major disasters in the form of formula grants.

Section 40103. Lead-Based Paint Hazard Control and Housing-Related Health and Safety Hazard Mitigation in Housing of Families with Lower Incomes.

- This section provides \$10 billion to address lead paint and other health hazards in our nation's housing stock. This program protects low-income families, particularly those with children and other vulnerable populations, such as the elderly, from exposures to lead from house paint and the lead-contaminated dust and soil it creates, and simultaneously addresses multiple health hazards in these homes that contribute to such conditions as asthma, cancer, and/or unintentional injuries. This investment will increase safety in over 581,000 units.

Section 40104. Unlocking Possibilities Program.

- This section provides \$4.5 billion in grants that are available to States, units of general local government, and Indian tribes on a competitive basis to eliminate exclusionary, restrictive zoning and land uses, and to responsibly streamline development processes that advance fair housing and support the creation of affordable housing.

Section 40105. Strengthening Resilience Under National Flood Insurance Program.

- This section provides \$3 billion to support flood mapping under the National Flood Insurance Program (NFIP) administered by FEMA. This section also forgives \$20.5 billion in NFIP debt.

Section 40106. Community Restoration and Revitalization Fund.

- This section provides a total of \$7.5 billion in competitive grants to eligible local partnerships that are led by nonprofits to conduct neighborhood revitalization activities in rural, suburban and urban localities, including in neighborhoods experiencing cycles of blight and abandonment. The grants will help existing community residents preserve the equity in their homes and offset displacement.

Section 40107. Fair Housing Activities and Investigations.

- This section provides \$1 billion for the Fair Housing Initiatives Program to strengthen and expand local fair housing oversight and enforcement capacity.

Section 40108. Intergovernmental Fair Housing Activities and Investigations.

- This section provides \$250 million for the Fair Housing Assistance Program to support cooperative efforts with State and local agencies administering fair housing laws.

Subtitle C. Homeownership Investments.

Section 40201. First-Generation Downpayment Assistance.

- This section provides first-time, first-generation homebuyers with up to 10% of the purchase price of an eligible home in financial assistance, including for downpayment costs, closing costs, and costs to reduce the rates of interest. This section also provides \$500 million for housing counseling agencies to help qualified homebuyers meet the bill's housing counseling and education requirements prior to entering into a sales purchase agreement or loan application.

Section 40202. Wealth-Building Home Loan Program.

- This section provides \$500 million to subsidize 20-year mortgages for first-generation homebuyers in order to accelerate home equity.

Section 40203. FHA-Insured Small Dollar Mortgage Demonstration Program.

- This section provides \$100 million for HUD to carry out a pilot program at HUD to expand small-dollar lending options to everyday homebuyers seeking to purchase affordable homes priced at \$100,000 or less.

Subtitle D. Other Investments.

Section 40301. Program Administration, Training, Technical Assistance, and Capacity-Building, and USICH.

- This section provides \$2 billion for HUD to properly staff and oversee the administration of investments in this Act, as well as provide technical assistance, and funding for the US Interagency Council on Homelessness.

Section 40302. Community-Led Capacity Building.

- This section provides \$100 million for technical assistance and capacity building.

Section 40303. Minority Business Development Agency.

- This section provides \$3.1 billion to the Minority Business Development Agency, the only federal agency tasked to promote and administer programs to assist the development and resiliency of minority business enterprises. \$900 million will be provided for agency administration, operations, and support for business centers; \$200 million will be provided for establishing rural business centers, and \$2 billion will be provided for grants to minority business enterprises.

Section 40304. Manufacturing Facility.

- This section provides \$1 billion through the State Small Business Credit Initiative (SSBCI) administered by the U.S. Department of the Treasury to provide up to \$10 billion in new investments in small and medium enterprises to strengthen the resiliency of supply chains in critical industries and promote economic competitiveness in the United States, including supporting a strong manufacturing base that promotes innovative and advanced manufacturing technology.

Appendix B: Section by Section for Amendment in the Nature of a Substitute to H.R. 5195, the Native American Housing Assistance and Self-Determination Act of 2021 (Waters)

Section 1. Short title, Table of Contents; References.

- This section establishes the short title of the bill as the “Native American Housing Assistance and Self-Determination Reauthorization Act of 2021” and provides a table of contents and references.

Section 2. Office of Native American Programs

- This section establishes an Office of Native American Programs and creates a new 8th Assistant Secretary position within HUD to head the Office.

Title 1. Block Grants and Grant Requirements

Section 101. Block Grants.

- This section mandates that HUD act on waiver requests submitted within 60 days of receipt.

Section 102. Recommendations Regarding Exceptions to Annual Indian Housing Plan Requirement.

- This section mandates that HUD submit recommendations to Congress for waiver of, or alternative requirements for the annual submission of one-year housing plans for an Indian tribe, no later than 120 days after the date of enactment.

Section 103. Environmental Review

- This section allows grant recipients to consolidate environmental review requirements if they are using one or more sources of federal funds in addition to IHBG grant amounts.

Section 104. Deadline for Action on Request for Approval Regarding Exceeding TDC Maximum Cost for Project.

- This section states that the Secretary of Housing and Urban Development must respond in no later than 60 days to a request for a project to exceed the total development cost (TDC) maximum by more than 10 percent.

Title II. Affordable Housing Activities

Section 201. National Objectives and Eligible Families.

- This section provides greater flexibility for tribes in implementing their grants by exempting them from certain requirements under the Housing and Urban Development Act of 1968 related to training and employment associated with the activities funded by their grants.

Section 202. Homeownership or Lease-to-Own Low-Income Requirements and Income Targeting.

- This section ensures that if a rental housing unit is made available to a renter household for conversion to ownership or lease-to-purchase, that the household would be considered to meet the income targeting requirements so long as they met those requirements at the time of their initial occupancy of the unit.

Section 203. Lease Requirements and Tenant Selection.

- This section ensures a uniform requirement regarding notice period for termination of a lease even if other federal funding sources were used that have conflicting notice requirements.

Section 204. Tribal Coordination of Agency Funding.

- This section clarifies that recipients can use funding from the Indian Health Services of the Department of Health and Human Services to build sanitation facilities for housing construction and renovation projects that are funded by this Act.

Section 205. Exception to Maximum Total Development Cost for Energy Efficient Housing.

- This section requires the HUD Secretary to approve a request to exceed the TDC maximum to the extent necessary to provide energy efficiency upgrades for the project as long as the cost of those upgrades do not exceed the average cost of such upgrades in the area in which the project is located.

Title III. Allocation of Grant Amounts

Section 301. Authorization of Appropriations.

- This section authorizes the following amounts to be appropriated for IHBG:
 - \$680,000,000 for fiscal year 2022;
 - \$713,000,000 for fiscal year 2023;
 - \$747,000,000 for fiscal year 2024;
 - \$783,000,000 for fiscal year 2025;
 - 5) \$820,000,000 for fiscal year 2026.

Section 302. Effect of Undisbursed Grant Amounts on Annual Allocations

- This section provides establishes protocols such that if a recipient has a level of undisbursed funding equal to the allocations for the previous 3 years, there would be a notice from HUD and opportunity to cure, but ultimately a reallocation of funds if funds are still not disbursed in a timely manner.

Title IV. Audits and Reports

Section 401. Review and Audit by Secretary

- This section requires that in the instance of an audit, HUD must issue a final report within 60 days of receiving comments from the recipient.

Section 402. Reports to Congress

- This section specifies the House and Senate committees that must receive annually required reports and that such reports be made publicly available to grant recipients.

Title V. Other Housing Assistance for Native Americans

Section 501. HUD-Veterans Affairs Supportive Housing Program for Native American Veterans.

- This section codifies the tribal HUD-VASH program, which has been carried in appropriations bills for year, and requires HUD to use at least 5 percent of HUD-VASH grants for the tribal HUD-VASH program.

Section 502. Loan Guarantees for Indian Housing.

- This section authorizes the following appropriated amounts for the Indian Housing Loan Guarantee (IHLG) program through 2026:
 - \$12,200,000 for fiscal year 2022;
 - \$12,800,000 for fiscal year 2023;

- \$13,400,000 for fiscal year 2024;
- \$14,000,000 for fiscal year 2025;
- \$14,700,000 for fiscal year 2026.
- This section also establishes that foreclosure proceeding requirements under the IHLG program account for foreclosure proceedings in tribal courts having jurisdiction.

Section 503. Set-Aside of USDA Rural Housing Funding for Indian Tribes

- This section creates a new annual five percent set-aside of the Department of Agriculture’s rural housing funding under section 502, 504, 515, 533, and 538 as well as the Rural Utilities Service.

Section 504. Indian Tribe Eligibility for HUD Housing Counseling.

- Section 504 provides that tribes are eligible for HUD housing counseling funding.

Section 505. Competitive Grants.

- Section 504 would authorize competitive grants for tribes to spend on affordable housing activities.

Title VI. Miscellaneous

Section 601. Lands Title Report Commission.

- This section amends the American Homeownership and Economic Opportunity Act of 2000 by eliminating the requirement that appropriations be provided before the Indian Lands Title Report Commission may become operational.

Section 602. Leasehold Interest in Trust of Restricted Lands for Housing Purposes.

- This section would increase the maximum allowable term of a leasehold interest in trust or restricted land under NAHASDA. It would increase it to 99 years from 50 years.

Section 603. Exemption for Indian Tribes from National Flood Insurance Program Participation Requirement.

- This section exempts tribes from the requirement to purchase flood insurance as long as the tribe has a plan for mitigating damage resulting from flooding that has been approved by the tribal government for the tribe.

Section 604. Compliance with Treaty Obligations.

- This section requires the HUD Secretary to withhold all or partial funds from a recipient of funding under NAHASDA if, after consultation with the Secretary of the Interior and the tribe, the Secretary determines that the tribe is not in compliance with its obligations under its 1866 treaty with the U.S. as it relates to the inclusion of persons who are lineal descendants of Freedman as having the rights of the citizens of such tribes. There is an exception in cases where a federal court has issued a final order that determines the treaty obligations with respect to including the Freedmen as citizens.

Section 605. Clerical Amendment.

- This section is a clerical amendment that edits the Table of Contents.

Title VII. Housing for Native Hawaiians

Section 701. Reauthorization of Native Hawaiian Homeownership Act.

- This section authorizes the following amounts to be appropriated for the Native Hawaiian Housing Block Grant:
 - \$13,000,000 for fiscal year 2022;
 - \$13,620,000 for fiscal year 2023;
 - \$14,280,000 for fiscal year 2024;
 - \$14,960,000 for fiscal year 2025; and
 - \$15,680,000 for fiscal year 2026.

Section 702. Reauthorization of Loan Guarantees for Native Hawaiian Housing.

- This section reauthorizes the Native Hawaiian Loan Guarantee program and authorizes the following amounts to be appropriated:
 - \$386,000 for fiscal year 2022;
 - \$405,000 for fiscal year 2023;
 - \$424,000 for fiscal year 2024;
 - \$444,000 for fiscal year 2025; and
 - \$466,000 for fiscal year 2026.

Appendix C: Section by Section for ANS to H.R. 5196, “Expediting Assistance to Renters and Landlords Act of 2021”

Section 1. Short title.

- This section establishes the short title of the bill as “Expediting Assistance to Renters and Landlords Act of 2021”.

Section 2. Expediting Applications for Payment of Rental Arrearages by Landlords

- This section amends ERA 1 to require the Treasury Secretary to establish a process for a landlord of a residential dwelling to submit an application on behalf of a renter when the landlord is unable to obtain a renter’s consent under the following conditions:
 - Landlords must notify the renter that an application will be submitted no less than 10 days before application submission.
 - The amount of assistance a landlord receives will be deemed to satisfy all monetary claims relating to rent against the renter from the date of declaration of a national emergency related to COVID-19 to the date of application submission.
 - Landlords must comply with a 120-day eviction prohibition with specific exceptions related to health and safety of other individuals or property damage. Landlords must also set aside and vacate any past eviction judgement based on non-payment of rent, rescind any eviction notice, and agree to seal any eviction filing. Landlords may apply for rental assistance to cover the 120 day period.
 - Upon receipt of rental arrearages, landlords must notify renters that such arrearages were received and provide notice of the 120-day eviction prohibition associated with receipt of such funds, including if the landlord received payment of rent for the 120-day period.
 - Any other conditions that the Treasury Secretary prescribes to ensure that renters remain stably housed.
- Grantees must notify state and local courts and the renter that rent is no longer past due and that any eviction proceedings related to non-payment of rent should be halted. Grantees must also inform the renter about renter rights in the Fair Housing Act and relevant state and local fair housing laws, and how the renter can file complaints with respect to Fair Housing Act violation and state and local law violations related to fair housing.
- Vacant Properties. Treasury is required to establish a process to permit landlords of vacant properties to apply for rental arrears owed by an eligible renter provided that the landlord attests under penalty of perjury that the landlord did not file an eviction notice on the tenant, sever the utilities or change the locks of the dwelling while the tenant resided in the dwelling, or otherwise bar the tenant from the dwelling.
- For such instances when a landlord is applying for assistance without a renter’s consent, this section requires that the Secretary provides methods for landlords to establish the income of a renter for purposes of documentation, and to, where possible, limit the amount of documentation required for an application for assistance when a landlord owns four or fewer residential dwellings.
- This section states that nothing in the paragraph may be construed to prevent a renter from applying for assistance that is not included in an application submitted by a landlord on their behalf.
- This section requires grantees to prioritize applications filed by renters and applications filed by landlords with their renters’ consent over applications filed by landlords without their renters’ consent.

Section 3. Mandating Tenant Access to Financial Assistance

- This section amends ERA1 and ERA2 to extend the amount of time that assistance can be provided. Currently under ERA 1, renters can receive up to 12 months of assistance plus an additional 3 months “only if necessary to ensure housing stability for a household.” This section extends the amount of time to 20 months plus an additional 4 months if necessary. Currently under ERA 2, renters can receive up to 18 months of assistance. This section extends that to 24 months.
- This section requires grantees provide renters assistance for rent and utility payments even when the landlord or utility company refuse to participate in the program. Currently, grantees “may” provide assistance directly to renters, but many do not.
- This section requires grantees to accept the self-attestation of renters to document a renter meets the eligibility requirements, including the income determination. It also amends the eligibility requirements so that renters experiencing hardship “during” the pandemic can qualify; currently only renters experiencing hardship “due, directly or indirectly” to the pandemic can qualify.
- This section provides a safe harbor for grantees who provide assistance under this section to a renter who does not meet the relevant eligibility requirements so long as the grantee provides such assistance in good faith pursuant to rules issued by the Treasury Secretary, including accepting the attestation of a renter.
- This section provides more flexibility for grantees in providing housing stability services. Currently, grantees can use up to 10 percent of their funds under ERA1 to provide case management and other services intended to keep households stably housed for eligible households. This section would also more broadly define the population that may be served by an organization contracted by a grantee to provide housing stability services.
- This section prohibits grantees from requiring a renter to submit a written lease agreement to be eligible for assistance.

Section 4. Performance Improvement Plans

- This section requires grantees that have obligated less than 25 percent of funds by September 30, 2021 to provide the Secretary a performance improvement plan that explains how the grantee will expedite the delivery of assistance.

Section 5. Outreach to Renters and Landlords and Technical Assistance

- This section requires the Treasury Secretary and grantee to conduct outreach to renters and landlords to ensure maximum participation, including by sending direct mail to taxpayers and by purchasing television, radio, and electronic advertisements.
- This section requires the Secretary to provide technical assistance to grantees, including assisting grantees with development and administration of programs, by providing technical advice and technology solutions to grantees, and by providing other information and technical assistance as the Secretary determines appropriate.
- This section authorizes appropriations of \$50 million to use in fiscal year 2022 to carry out outreach and technical assistance required under this section.

Section 6. Recapture Process Modification

- This section allows any funds recaptured by the Treasury Secretary to be reallocated, in addition to other grantees, to (1) any nonprofit entity that primarily provides housing services and operates in the jurisdiction of the grantee from whom the funds were recaptured, or (2) a public or private entity supervised by a court that primarily provides housing services and operates in the jurisdiction of the grantee from whom the funds were recaptured. Under current law, recaptured funds can only be reallocated to other grantees who have obligated at least 65 percent

of their funds. This section also directs the Secretary to consider the population of cost-burdened renters in a jurisdiction when reallocating funds.

Section 7. Collaboration with Public Entities

- This section amends ERA1 by changing the amount a grantee can use for administrative costs from 10 percent to 15 percent and by stating that this money can be used for data collection and reporting requirements related to such funds in collaboration with private entities.
- This section requires the Secretary of the Treasury to issue guidance within 30 days designed to instruct grantees on how to best collaborate with public entities to provide application assistance services. It clarifies that a grantee may collaborate with public entities and may use amounts available for administrative costs to develop administrative infrastructure necessary to provide application assistance services.