NAHB
National Association of Home Builders

Office of the President
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The President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. President:

On behalf of the more than 140,000 members of the National Association of Home Builders (NAHB), I am submitting for your consideration policy recommendations for the recovery and revitalization of the American housing industry. As a member of your Great American Economic Revival Industry Group, it is my responsibility to ensure you and your Administration are provided the necessary ideas to aid the residential construction industry and American economy.

The recommendations enclosed cover the impact of the COVID-19 crisis on the home building, remodeling and multifamily construction industry. The policy proposals range from immediate needs to help the industry survive to long-term submissions that will set up the industry for future success. Given the constantly changing and evolving nature of the crisis, the NAHB leadership and I are constantly evaluating industry conditions and I will be making further recommendations to you as conditions demand.

I am honored to represent the women and men of the home building industry as a member of the Great American Economic Revival Industry Group. As I pledged after our first meeting, the members of NAHB are ready to do their part to help usher in the Great American Economic Revival.

Sincerely,

Gerald M. Howard

cc: Cabinet Departments and Agencies

Enclosure

RECOVERY AND REVITALIZATION OF HOUSING AND THE ECONOMY

As an integral part of President Trump's economic advisory group, NAHB has compiled a list of regulatory and legislative policy proposals that will aid the housing industry to not only survive the COVID-19 economic disruption, but to be a force that emboldens our country to lead the world out of this pandemic era. The following proposals fall into several categories: Proposals to meet the immediate needs of the housing industry, and proposals to increase housing supply.

I. PROPOSALS TO ADDRESS IMMEDIATE HOUSING INDUSTRY NEEDS

Small Business Administration (SBA) programs

Improve Access to the SBA Paycheck Protection Program (PPP) for single family and multifamily builders and developers.

Congress and the Administration intended for the PPP to serve all small businesses with 500 or fewer employees. The Interim Final Rule for the PPP, however, deemed certain essential small businesses — including multifamily property developers and owners, land developers and certain single family builders — ineligible for the PPP.

To meet the needs of the housing industry, the PPP should:

- Allow all single family and multifamily builders/developers and property owners to qualify for the program and be eligible for loan forgiveness;
- Prevent lenders from imposing overlays, such as personal guarantees;
- Ensure sufficient funding;
- Expand eligibility to 501(c)(6) organizations;
- Provide flexibility for the PPP loan forgiveness period beyond June 30; and
- Allow small businesses to choose a different 8-week period to cover payroll.

Advance the maximum $10,000 amount to all applicants of the SBA Economic Injury Disaster Loan (EIDL) program.

Unlike the PPP, this EIDL is focused on covering a number of critical business expenses outside of payroll expenses. The Coronavrius Aid, Relief and Economic Security Act (CARES Act) authorized a forgivable advance to applicants of up to $10,000. The SBA program determined that businesses would be limited to an advance of $1,000 per employee, up to $10,000. This determination has arbitrarily given preference to businesses with higher employee headcounts and does not take into consideration the financial responsibilities and economic impacts many small businesses, including home builders who employ fewer than ten employees, have through expenses like the payment of subcontractors and other debt obligations.

Ensure the effectiveness of the Federal Reserve's "Main Street Lending Program" for single family and multifamily builders and developers

The Federal Reserve is developing a program to provide liquidity to the financial system that will provide loans to businesses, states and municipalities. Under the Main Street Lending Program, small and mid-sized businesses may obtain loans from any U.S. federally insured depository, bank holding company or savings and loan holding company to maintain business operations. To ensure effectiveness for the housing industry, single family and multifamily builders/developers, remodelers and property owners must be eligible for the program and the minimum loan amount should be set below $1 million. The Federal Reserve and Treasury should also consider allowing full or partial forgiveness of loans depending on certain criteria.

Waive Fannie Mae, Freddie Mac, HUD and USDA restrictions that require multifamily borrowers to obtain approval before receiving a second loan for a property under a program authorized in response to COVID-19

The multifamily financing/mortgage guarantee programs administered by Fannie Mae, Freddie Mac, HUD and USDA prohibit borrowers from obtaining a second loan for the properties without approval from the Enterprise or Agency. Due to the time sensitivity of COVID-19 funds, the pre-approval requirements could eliminate multifamily borrowers' accessibility to these emergency funds.

Set up an emergency funding facility for mortgage servicers

Widespread, national mortgage borrower forbearance will place mortgage servicers under pressure and will require additional public resources. Steps recently taken by Ginnie Mae and the Federal Housing Finance Agency (FHFA) will ease this burden, but servicers will still need additional support to meet their obligations. There is also no liquidity support for servicers of private-label mortgage-backed securities or commercial mortgage-backed securities. Preserving liquidity for mortgage servicers would help maintain full access to mortgage credit for home buyers while incentivizing lenders to remove credit overlays.

Temporarily increase mortgage limits in high-cost areas for FHA, Fannie Mae and Freddie Mac

In the wake of the economic and financial market disruptions of the COVID-19 outbreak, it has become extremely difficult and costly to obtain mortgage financing in high cost housing markets. Borrowers' access to loans that exceed the maximum loan limits for the Federal Housing Administration and Fannie Mae and Freddie Mac has greatly diminished and interest rates on these mortgages have risen dramatically. If these limits were temporarily raised, the Federal Reserve would be able to purchase securities backed by these "jumbo" agency-backed loans, increase liquidity and normal interest rates in high-cost markets.

Ensure single family and multifamily borrowers have flexibility on their forbearance repayment

Mortgage forbearance for single family and multifamily borrowers provides temporary relief by delaying payments, but many borrowers will struggle to immediately make up the missed payments. Federal regulators should provide flexibility to borrowers, such as adding missed payments to the end of their loan or extending the time period for repayment and ensure that borrowers know their options.

Aid multifamily owners

The CARES Act included a 120-day moratorium on evictions from properties with a federally insured mortgage and properties participating in covered federal housing programs and allows multifamily housing providers to request forbearance for a 90-day period on all federally backed mortgage loans. Many tenants will not be able to make their rent payments, and others who could pay, knowing they can't be evicted, may choose not to do so. Apartment owners will need solutions to address lost rent payments.

Some options would include:

- Aligning the renter eviction moratorium with the multifamily mortgage forbearance to 120 days;
- Providing direct rental assistance to multifamily owners; and
- Developing additional funding vehicles to supplement missed rent payments, such as a forgivable loan program for multifamily owners tied to missed rental payments by struggling tenants.

Allow investors to access the FHA 203(K) program

The 203(k) Rehabilitation Mortgage Program allows buyers to finance both the purchase and rehabilitation of a property with a single loan product. Since 1996, HUD has limited the use of the program to owner-occupiers and non-profits. However, since that time, there has been great improvement in tracking technology and other processes to prevent fraud, making such limitations unnecessary. HUD should revise the 203(k) regulation to allow qualified investors to use this program, with appropriate controls and monitoring systems in place. Allowing small builders/remodelers to renovate older existing housing stock under this program would increase access to safe, decent housing for American families.

Reinstate labor relations letter 96-03 (LR 96-03) to streamline Davis-Bacon wage requirements for certain multifamily developments

Prior to 2013, multifamily new construction and substantial rehabilitation projects with four stories or fewer, financed with FHA-insured mortgages, were assigned by HUD the residential Davis-Bacon wage rate in accordance with LR 96-03. As a result of the

Department of Labor directing HUD to discontinue using LR 96-03, many multifamily projects financed with FHA-insured mortgages have been assigned multiple wage determinations. This has significantly increased administrative burdens for builders and HUD staff, causing unpredictable and often last-minute cost increases that negatively affect project financing, cause unnecessary construction delays or even dissuade some builders from undertaking needed affordable housing projects.

LR 96-03 provided regulators and the industry a predictable, transparent and consistent approach to assigning Davis-Bacon wage rates and should be reinstated.

Provide a one-year extension of the Low-Income Housing Tax Credit (LIHTC) statutory and regulatory deadlines

The Internal Revenue Service and Department of Treasury should immediately issue guidance to allow LIHTC development to proceed free from compliance issues resulting from delays associated with the COVID-19 pandemic.

The guidance would:

- Provide a 12-month extension of the 10% test deadline for carryover allocations as required by IRC Section 42(h)(1)(E)(ii) and IRS regulation 1.42-6;
- Provide a 12-month extension of the 24-month minimum rehabilitation expenditure deadline as required by IRC Section 42(e)(3) and IRC Section 42(e)(4);
- Provide a 12-month extension of the placed-in-service deadline as required in IRC Section 42(h)(1)(E)(i);
- Provide, at minimum, a 12-month extension of the 25-month rehabilitation period currently allowed under IRS Revenue Procedures 2014-49 and 2014-50 to properties that suffered a casualty loss due to a presidentially declared major disaster in the 25-month period prior to the onset of COVID-19. State Housing Credit agencies should be allowed to set restrictions within this period;
- Provide a 12-month extension of the year-end deadline for property restorations for any property that suffers a casualty loss not associated with a major disaster during 2020 (until December 31, 2021);
- Provide a 12-month moratorium on both physical inspections and tenant file reviews as required by IRS regulation 1.42-5. State Housing Credit agencies should continue monitoring emergency work orders during this time and should be allowed to continue or resume inspections depending on their assessment of the situation in their state and their ability to do so. But there should be no penalty for states or owners if inspections are not completed during this time;
- Provide a 12-month moratorium on tenant income recertification requirements;
- Provide a 12-month extension for all open noncompliance corrective action periods;
- Suspend the yet-to-be implemented IRS regulation 1.42-5 which would exacerbate the inspection backlog by increasing the number of physical inspections required to monitor compliance;

- Provide guidance clarifying that the temporary closure of property amenities and common space facilities during the duration of the crisis (with the exception of laundry facilities) will not negatively impact a property's eligible basis and result in loss of credits.

Further extend the grace period to renew flood insurance policies under the National Flood Insurance Program (NFIP) beyond the current extension

Flood insurance is a requirement for homeowners in flood hazard areas. If individual policies lapse, homeowners would be in violation of their mortgage agreements and would lose the lowest rate.

Provide disaster/emergency program flexibility

- Shorten turnaround time for Community Development Block Grant Disaster Recovery Program fund disbursement to ensure that victims of natural disasters can access funds on a timely basis; and
- Ensure flexibility and that resources necessary to respond to dual disaster events (medical and natural disasters such as flooding) are in place through both short-term and long-term recovery periods.

Increase flexibility on federal environmental regulations

- Provide a short-term extension of EPA's Certified Renovators' re-certification requirements under the Lead, Renovation, Repair, and Painting Rule to ensure professional remodelers and other contractors have the sufficient time needed and access to necessary training;
- Extend federal enforcement forbearance to residential developers and builders under environmental permits such as the Clean Water Act's Section 402 Construction General Permit (CGP), who are unable during the COVID-19 pandemic to comply with the CGP permit's requirements for site stabilization, site inspections and required record keeping requirements;
- Extend the life of any already issued Clean Water Act (CWA) Section 404 Nationwide Permits (NWPs) and remove the statutory limitation that NWPs cannot be valid for terms longer than five years; and
- Allow existing jurisdictional determinations to remain valid beyond the timeframe of their underlying CWA 404 wetlands permit.

II. PROPOSALS TO PROVIDE CRITICAL SUPPORT TO HOUSING PRODUCTION

Create a secondary market for Acquisition, Development and Construction (AD&C) loans

The country continues to face a critical housing supply shortage that, in part, can be attributed to a lack of AD&C financing from banks. Allowing community banks to sell AD&C loans to Fannie Mae and Freddie Mac would encourage banks to keep making AD&C loans, thereby substantially increasing the amount of capital available to home builders; lowering the cost of borrowing; increasing housing affordability; and helping to level the playing field between large and small businesses in residential construction.

Revise high volatility commercial real estate (HVCRE) rules that discourage residential land acquisition and development loans

A recent rule issued by the federal banking regulators, effective April 1, 2020, requires all land acquisition and development loans for one-to-four family residential properties to be classified as HVCRE financings, unless the loan also includes funding for the vertical construction of a one-to-four family property. The bank must hold risk-based capital against the loan at 150%, instead of 100%, for loans not classified as HVCRE.

Shift homeownership tax incentives from a deduction to a credit

The tax code provides two meaningful tax incentives to support homeownership: the mortgage interest deduction (MID) and the deduction for real property taxes, which is part of the larger deduction for all state and local taxes (SALT). The Tax Cuts and Jobs Act (TCJA) made two changes that altered who claims these homeownership tax deductions. First, the standard deduction was doubled, significantly reducing the number of itemizing taxpayers. Second, TCJA limited the total SALT deduction to $10,000.

Prior to the TCJA, approximately 70% of homeowners with a mortgage claimed the MID, with fewer than 30% currently claiming the deduction. Of those 30%, the majority report higher annual incomes.

To ensure our public policy continues to support the goal of homeownership for middle-class and first-time buyers, NAHB supports moving from a deduction-based tax incentive to a credit.

Specifically, NAHB is calling for a 15% credit based on:

- Mortgage interest paid on acquisition and/or renovation debt up to $750,000;
- Private mortgage insurance paid; and
- Uncapped state and local real property taxes.

To ensure the benefit is delivered to the most needy taxpayers while also accounting for large geographic differences in the cost of living, NAHB proposes to phase out the credit for taxpayers with incomes above $500,000 ($250,000 for single filers).

NAHB believes second homes must remain eligible, both to support homeowners moving between homes as well as communities that have a significant number of second homes. Furthermore, both the acquisition debt cap and the income phase-out must be adjusted for inflation.

Moving to a homeownership tax credit will ensure that middle-class homeowners continue to have access to a meaningful tax incentive. Properly structured, a credit will result in tens of thousands of additional new home sales annually, increase affordability and provide employment in a sector that can help lead the economic recovery.

Establish a permanent minimum 4% credit floor for the Low-Income Housing Tax Credit

Under the LIHTC program, affordable housing developments receive tax credits that are used to attract equity capital. There are two types of tax credits: one providing 70% present value of the financing cost which is generally used for new construction and substantial rehabilitation; and one providing 30% present value of the financing cost, which is typically used to acquire an existing property for rehabilitation or preservation. These are often referred to as the 9% and 4% credits, respectively, referring to the original credit amount when the program was created in 1986.

In response to declining rates, the Housing and Economic Recovery Act of 2008 set the minimum rate for new construction and substantial rehab credits at no less than 9% — the rate when the program was created. The 4% credit rate, however, continues to float.

Establishing a permanent minimum 4% credit floor will enable the development or preservation of nearly 70,000 additional rental homes over 10 years and support thousands of new construction-related jobs by making more projects financially feasible.

Emphasize down payment assistance (DPA) in the HOME Investment Partnership (HOME) program

The HOME program provides formula grants to state and local governments that fund a wide range of activities to help low- and moderate-income families rent or purchase affordable homes. While one of the eligible activities of the HOME program is DPA, many jurisdictions have not utilized this feature. DPA will be a critical resource to families who have earned less and have been forced to deplete their savings during this economic crisis.

Revise Federal Housing Administration (FHA) condominium regulations to allow approvals for proposed or under construction projects

HUD's final Condominium Rule does not allow approval of projects or phases of projects that are proposed or under construction. Construction of new condominiums has remained at 6% of annual multifamily starts, diminishing the supply of a product that makes homeownership more accessible for many entry level buyers. Reducing the ability for developers to get pre-qualified for FHA financing is a further hindrance to improving the supply of accessible housing.

Increase funding for workforce development programs

Our nation's construction industry has been experiencing a severe skilled labor shortage. The current outbreak has exacerbated this shortage. Workers who have lost their jobs will need new opportunities for employment. Construction and related trades require skills training to prepare individuals for employment opportunities.

To provide the housing industry with a skilled workforce, we suggest:

- Congress and the Administration examine opportunities to incentivize individuals receiving unemployment benefits to pursue training and gain certifications while they receive their benefits. This could include reserving a certain amount of Treasury funds for unemployment to be used as a stipend during an individual's completion of their training courses;
- Offering funding to displaced workers to enroll in pop-up training facilities that offer 4- to 8-week certification courses;
- Providing transition dollars to relocated Job Corps students for housing and transportation. This is an ongoing challenge for students who cannot fund a transition to a new location and their first venture into independent living;
- Ensuring access to personal protective equipment (PPE) to restart training programs as soon as possible;
- Providing incentives for employers to employ individuals from at-risk populations (i.e. Job Corps students and ex-offenders) in hope to motivate them to restart faster. Tax credits are helpful, but more payroll tax abatements would be more effective;
- Considering funding summer programming for high school seniors that were engaged in skills training but were not able to finish with a certificate or finish their training due to school closures; and
- Increasing funding for workforce training to start or continue to fund programs that may be cut due to the crisis.

Improve safety on jobsites

As home builders, our workers are our biggest assets, without which we cannot build homes for American families. To ensure housing stock can increase over the coming months, it is necessary that home builders remain healthy at this time.

To ensure the health and safety of our workers, we suggest:

- Increasing the availability of PPE to construction businesses;
- OSHA should consider adopting a more consultative role in the COVID-19 emergency response rather than simply strict enforcement, which the agency has done in past natural disasters; and
- OSHA should recognize the CISC Exposure Prevention and Preparedness Plan.

Tie reduction of regulations on housing production to state and local aid and infrastructure grants

Due to expanded unemployment benefits, increased social safety net spending and reduced tax revenue, state and local governments will likely require fiscal aid from the federal government. Such assistance from the federal government should be tied to policy improvements connected to zoning and reductions of regulatory burdens associated with land development and home construction. This will ensure that communities that receive benefits from taxpayers can reduce housing affordability challenges in their communities to benefit of future renters and homeowners.

To this end, the federal government can ensure state and local governments support housing by directing federal financial resources (such as CDBG grants) to those state and local governments that lower regulatory burdens and impact fees.