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Housing Issues in the 109th Congress

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Housing Issues in the 109th Congress

Summary

The second session of the 109th Congress will likely consider a number of housing-related issues, including assistance for families and communities affected by Hurricanes Katrina, Rita, and Wilma; FY2007 appropriations for the Department of Housing and Urban Development (HUD); reform of the Government Sponsored Enterprises — Fannie Mae and Freddie Mac — and Federal Home Loan Banks (GSEs and FHLBs); and increases in or changes to the Low-Income Housing Tax Credits.

Congress has appropriated $11.9 billion to HUD in FY2006 supplemental funding to provide assistance in areas affected by the hurricanes. The Community Development Block Grant (CDBG) program received $11.5 billion of this amount, which was divided among the states of Louisiana, Mississippi, Alabama, Florida, and Texas. Congress also provided $390 million in Section 8 vouchers for families that had received HUD assistance before being displaced by Hurricane Katrina. Another supplemental appropriations bill, H.R. 4939, passed the House of Representatives on March 16, 2006, and was reported out of the Senate Appropriations Committee on April 7, 2006 (S. Rept.109-203). The House version of the bill would appropriate $4.2 billion to the CDBG program for disaster recovery activities whereas the Senate Appropriations Committee has recommended $5.2 billion for disaster relief activities.

The President's budget proposal for FY2007 would reduce funding to at least 13 HUD programs and increase funding for 11 others from the FY2006 appropriation level. The largest dollar reduction would be seen in the CDBG program, which the President has proposed to reduce from $3.7 billion in FY2006 (not including supplemental funding) to $3.0 billion in FY2007, a reduction of nearly 20%. Section 202 Housing for the Elderly, Section 811 Housing for the Disabled, the public housing capital fund, and HOPE VI would also be cut. Housing Opportunities for Persons with AIDS (HOPWA), Section 8 vouchers, Homeless Assistance Grants, and the HOME program would all be increased under the President's budget.

Two bills to strengthen oversight of the GSEs and FHLBs under one regulator were introduced in the first session of the 109th Congress (S. 190 and H.R. 1461). The House passed H.R. 1461 on October 26, 2005. The Senate Banking and Urban Affairs Committee reported S. 190 to the Senate on July 28, 2005.

Legislation was also introduced in the first session of the 109th Congress that would increase Low-Income Housing Tax Credits (LIHTC). The LIHTC program gives tax credits to developers that build and rehabilitate housing that is affordable to those households with low incomes. The Affordable Housing Tax Credit Enhancement Act of 2005 (H.R. 2681) would double LIHTC authority nationwide. Two bills, H.R. 659 and H.R. 3159, each entitled the Community Restoration and Revitalization Act of 2005, would also increase credits, but would also modify the tax credit in order to target it more directly to low-income communities.

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Housing Issues in the 109th Congress

Introduction

The effects of Hurricane Katrina and the annual budget process have driven housing issues in the 109th Congress thus far. Congress has enacted an FY2006 supplemental funding bill, with another pending, that provided funds to the Department of Housing and Urban Development (HUD) for hurricane recovery and reconstruction. Congress may consider legislation to provide additional funding or to offer additional guidance for the funds already provided. Congress will also consider HUD's FY2007 budget in the second session. The President submitted his budget request on February 6, 2006. It included reductions for several programs, including the Community Development Block Grant (CDBG) program, and increases for other programs, such as the Section 8 voucher program. The Appropriations Committees in both houses held hearings on the budget in which Members from both parties expressed concern about several proposed funding reductions.

In the second session, Congress may also consider: new initiatives to promote homeownership; legislation to combat predatory lending; proposals to create a stronger regulator for Fannie Mae and Freddie Mac; and reform of the Real Estate Settlement Procedures Act. Legislation was also 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.

Table 1. Department of Housing and Urban Development Appropriations, FY2002 to FY2006

(net budget authority in billions)

FY2002	FY2003	FY2004	FY2005	FY2006
$30.15	$31.01	$31.20	$31.92	$33.97

Source: House Appropriations Committee tables, as cited in CRS Appropriations reports. 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.

Overarching Policy Issues

Rebuilding after the 2005 Hurricanes. The initial need to evacuate and relocate families after the 2005 hurricanes is mostly met and, while some families are still in temporary and transitional living situations, focus has now primarily shifted to recovery and rebuilding. The storms caused unprecedented damage to the Gulf Coast housing stock. Studies estimate that the hurricanes and their related flooding damaged 1.2 million housing units. Of those, over 305,000 were seriously damaged. Most of the seriously damaged units were owner occupied — about 63% or 193,000 homes. More than half of them lacked flood insurance (55%) and about a quarter of them lacked any insurance (23%). Louisiana, specifically New Orleans, was hit the hardest; about 67% of the seriously damaged units were located in Louisiana (204,737 renter and owner-occupied homes).[1]

The future of the affected areas — especially in and around New Orleans — has not been determined. The levees have not been fully redesigned or rebuilt and new FEMA flood maps have not been drawn. As of March 2006, the Army Corps of Engineers had not demolished any housing units in New Orleans and few building permits had been issued.[2] The pace of rebuilding has been slowed by uncertainty at the local, state, and federal levels about what the new New Orleans should be and how it should look.

The appropriate balance of public sector and private sector effort in rebuilding the damaged housing stock is also still under debate. Private insurance is expected to cover some of the cost, and new investment may come to the area, but given the enormity of the damage, the local, state, and federal governments have been heavily involved. Thus far, Congress has approved grants and increased tax credit allocations to affected states to aid in their rebuilding. Other proposals have been offered to expand the government's role, including one to create an entity to buy out owners of damaged properties in at-risk areas. Congress is likely to continue to consider the best way to respond to the damage throughout the second session of the 109th Congress.

The Budget Environment. Members of Congress have shown increasing concern about the size of the federal budget deficit and have sought ways to reduce it. The President has outlined a two-pronged approach for reducing the federal budget deficit: increase revenues to the Treasury without raising taxes and cut spending.[3] In FY2006, the President sought to keep discretionary spending growth below the rate of inflation and Congress complied. The President's FY2007 budget again seeks to keep discretionary spending growth below the rate of inflation.

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[1] CRS analysis of data found in U.S. Department of Housing and Urban Development, Office of Policy Development and Research, *Current Housing Unit Damage Estimates: Hurricanes Katrina, Rita, and Wilma*, February 12, 2006.

[2] Katz, Bruce, Fellowes, Matt, and Mabana, Mia, *Katrina Index: Tracking Variables of Post-Katrina Reconstruction*, The Brookings Institution, March 2, 2006, p. 4.

[3] See President's FY2007 Budget, p. 16.

The majority of HUD's budget is discretionary funding and many of its programs have been targeted for funding reductions. The President's FY2006 budget asked Congress to cut funding for several programs, including Housing for the Disabled and Housing for Persons with AIDS, and to eliminate funding for several others, including the Community Development Block Grant (CDBG) program, HOPE VI, and Brownfields redevelopment. Congress did not enact most of the requested cuts in FY2006. For FY2007, the President again requested large cuts for several HUD programs, including Housing for the Elderly, Housing for the Disabled, and CDBG. The Administration has criticized all of the programs slated for reduction for being ineffective or inefficient.

Efforts to contain discretionary spending have also increased internal pressures in the HUD budget. The cost of the Section 8 voucher program is partially pegged to housing costs, which have risen faster than inflation. As a result, the voucher program requires increased funding to serve the same number of people. Since HUD's overall budget has been constrained, any increases in funding for the voucher program have come at the expense of other programs. Another internal HUD budget pressure involves the contribution of the Federal Housing Administration's (FHA) insurance program. FHA collects fees from participants, and excess fees are used by Congress to offset the cost of the HUD budget. FHA's market share has been dropping in recent years, and as a result, the amount of excess fees has been declining. With fewer fees to offset the cost of the HUD budget, the President and Congress have had to find additional dollars to keep the overall budget at the same level.

Congress is likely to face pressure to reduce funding for HUD's programs in the FY2007 appropriations process. At the same time, Congress is also likely to face pressure to maintain or increase funding for housing programs because of a growing concern about a perceived shortage of affordable housing.

Housing Affordability. The U.S. Housing Act of 1949 established a national goal of "a decent home and a suitable living environment for every American family." Since the establishment of that goal, great progress towards it has been made, with record homeownership rates and the elimination of much of the slums and blight that plagued the first half of the last century. At the same time, problems remain. The bi-partisan, congressionally-mandated Millennial Housing Commission's 2002 final report identified "affordability"[4] as "the single greatest housing challenge facing the nation." The Harvard Joint Center for Housing Studies' 2005 *State of the Nation's Housing* report found that more than 37 million American families faced housing affordability problems or lived in inadequate or overcrowded housing.[5] While affordability is the overarching concern, different factors threaten the affordability of owners and renters.

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[4] Housing is generally considered affordable if it costs no more than 30% of a family's income.

[5] The report is available at [http://www.jchs.harvard.edu/publications/markets/son2005/index.html].

Rising Housing Prices. The unprecedented U.S. housing boom has continued, with housing prices again setting records in 2004. Home equity stood at $9.6 trillion in 2004 and it is estimated that the wealth effect from rising housing prices generated one third of the growth in consumer spending that year, helping to buoy the economy.[6] Homeownership rates reached all-time highs, up to 69% in 2004.[7] And minorities, who have consistently lagged behind whites in homeownership rates, have made some gains. According to the Harvard Joint Center for Housing Studies, between 1991 and 2003, the minority share of first time homebuyers increased from 22% to 35%. Despite all of the good news, fears about the health of the housing market and the sustainability of recent homeownership gains are growing.

Speculation about a housing "bubble" has permeated local and national real estate news.[8] Former Federal Reserve Chairman Alan Greenspan, in testimony before the Joint Economic Committee on June 9, 2005 noted that, while he did not believe that the U.S. is experiencing a national housing bubble, home prices in some markets seem to have risen to unsustainable levels. The pace of future interest rate increases, the health of the economy, and the rate of job growth will all play an important role in determining the pace of future housing price appreciation. More serious market corrections could occur if speculators begin to fear the end of the boom has arrived.

Soaring home prices have also resulted in a proliferation of exotic and potentially risky mortgage products that make the entry into homeownership in these hot markets more affordable. Loans for more than the value of the home, interest-only loans, and various forms of adjustable rate mortgages have all become options for households buying high-priced homes they could not otherwise afford. At the lower end of the market, relaxed credit standards and the proliferation of subprime loans have expanded the pool of first-time homebuyers to include families with little or no cash and with limited or blemished credit histories. While all of these practices have helped to increase the national homeownership rate, they come with repayment risks. If interest rates soar, buyers with adjustable rate loans and interest-only loans will be in for payment shocks, and some might find themselves at risk of default. If the economy falters and there are job losses, some low- and moderate-income families could be at risk of default if they become unemployed. A small but growing number of low- and moderate-income homeowners are already considered severely "cost burdened," meaning they are spending half or more of their incomes on housing.

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[6] Joint Center for Housing Studies, Harvard University, *State of the Nation's Housing Report, 2005*.

[7] Ibid.

[8] For a more detailed analysis of the question of a housing bubble, see CRS Report RL31918, *U.S. Housing Prices: Is There a Bubble?*

Rent Burdens. In 2003, over 8 million renter households were severely cost burdened, an increase of over 1.3 million from 2000.[9] While moderate-income renters are not immune from severe rent burdens, low-income renters face the greatest burdens; just over half of all renters in the bottom quarter of the income distribution were severely cost burdened in 2003. When low-income families pay such a large portion of their incomes for housing, they have little left to meet their other needs, let alone establish savings or build assets. The problem of severe rent burdens appears to be growing as the supply of low-cost rental units continues to dwindle. The Joint Center for Housing Studies' report attributes the growing "affordability problem" to a "structural mismatch between the large number of low-wage jobs that the economy is generating and the high costs of supplying housing." They note that solving the problem will be difficult and will require the cooperation of government, business and non-profits. However, the federal government's role in addressing what HUD has termed "worst-case housing needs" is increasingly in question as deficits grow and pressure to restrain domestic spending mounts.

Housing Reconstruction After the 2005 Hurricanes

Community Development Block Grant Funds. On February 16, 2006, in support of Gulf Coast recovery efforts following the hurricanes of 2005, the Administration forwarded to Congress a $19.8 billion supplemental appropriations request.[10] The request included $4.2 billion in additional CDBG assistance for the state of Louisiana for housing and flood mitigation activities. The funds would be used for infrastructure improvements, real property acquisition or relocation, and other activities designed to reduce the risk of future damage including elevating homes in the most flood prone areas.

On March 8, 2006, the Senate Appropriations Committee held a hearing on the President's supplemental appropriations request and Senator Kay Bailey Hutchison of Texas voiced concern about the absence of additional assistance for Texas. The Senator noted that the Administration's proposal to provide $4.2 billion in emergency supplemental assistance exclusively for use by Louisiana was unfair to Texas, which used its regular CDBG appropriations to assist Katrina victims evacuating from Louisiana. In addition to the cost of addressing the immediate needs of evacuees, the state incurred additional educational and public safety expenses associated with the significant increase in population. In his testimony before the Committee, Texas Governor Rick Perry requested an additional $2 billion in CDBG funds be awarded to the state.

On March 16, 2006, the House passed its version of the Administration's emergency supplemental request. The House version of H.R. 4939 would appropriate $4.2 billion for CDBG disaster recovery activities, the same amount

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[9] Joint Center for Housing Studies, Harvard University, *State of the Nation's Housing Report, 2005*.

[10] For details on the overall supplemental request, see CRS Report RL33298, *FY2006 Supplemental Appropriations: Iraq and Other International Activities; Additional Katrina Hurricane Relief*, coordinated by Paul Irwin and Larry Nowels.

requested by the Administration. The Senate Appropriations Committee, which reported its version of the bill on April 5, 2006 (S.Rept. 109-203), recommends an appropriation of $5.2 billion for disaster recovery activities. Both the House and the Senate Appropriations Committee versions of the bill would make the funds available to the five states affected by the hurricanes of 2005. The Administration had sought to provide the assistance exclusively to Louisiana. The House and Senate versions of H.R. 4939 target assistance to both infrastructure reconstruction and activities that would spur the redevelopment of affordable rental housing. Both versions of H.R. 4939 would also:

- require that at least $1 billion of the CDBG amount be used for repair and reconstruction of affordable rental housing in the impacted areas;
- allow each state to use no more than 5% of its supplemental CDBG allocation for administrative expenses;
- allow the affected states to seek waivers of program requirements, except those related to fair housing, nondiscrimination, labor standards, and environmental review;
- allow Governors of the affected states to designate one or more entities to administer the program;
- prohibit the use of CDBG funds for activities reimbursable by FEMA or the Army Corps of Engineers, additionally, the Senate Committee version of the bill also would prohibit CDBG funds for activities reimbursable by the Small Business Administration;
- lower the program's low- and moderate-income targeting requirement from 70% to 50% of the funds awarded;
- require each state to develop a plan for the proposed use of funds to be reviewed and approved by HUD;
- require each state to file quarterly reports with House and Senate Appropriations Committees detailing the use of funds;
- require HUD to file quarterly reports with the House and Senate Appropriations Committees identifying actions by the Department to prevent fraud and abuse, including the duplication of benefits; and
- prohibit the use of CDBG funds to meet matching fund requirements of other federal programs.

Prior to considering the Administration's current $4.2 billion supplemental CDBG disaster recovery request for the hurricanes of 2005, Congress approved $11.5 billion in supplemental CDBG disaster-recovery assistance in the Defense Appropriations Act for FY2006, P. L. 109-148, which was signed by the President on December 30, 2005.[11] These funds are to be used for "necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas" in the five states (Alabama, Florida, Louisiana, Mississippi, and Texas) impacted by Hurricanes Katrina, Rita, and Wilma. The act allows:

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[11] For more details on this supplemental appropriation, see CRS Report RS22239, *Emergency Supplemental Appropriations for Hurricane Katrina Relief*, by Keith Bea.

- the affected states to use up to 5% of their supplemental allocation for administrative costs;
- HUD to grant waivers of program requirements (except those relating to fair housing, nondiscrimination, labor standards, and the environment);
- Mississippi and Louisiana, the most affected states, to use up to $20 million for Local Initiative Support Corporation and Enterprise Foundation-supported local community development corporations; and
- the Governor of each state to designate multiple entities to administer a portion, or all of a state's share of the $11.5 billion.

The act also lowers the income targeting requirement for activities benefitting low- and moderate-income persons from 70% to 50% of the state's allocation; limits the maximum amount of assistance any of the five states may receive to no more than 54% of the total amount appropriated; and requires each state to develop, for HUD's approval, a plan detailing the proposed use of funds, including eligibility criteria and how the funds will be used to address long-term recovery and infrastructure restoration activities. But it does not specify the method to be used to allocate funding among the five states. That task was left to HUD. On January 25, 2006, HUD Secretary Alphonso Jackson announced the allocation of the $11.5 billion among the five states (See **Table 1**).

Table 1. Allocation of $11.5 Billion in CDBG Disaster Relief Assistance (P.L. 109-148)

State	Allocation
Alabama	$74,388,000
Florida	$82,904,000
Louisiana	$6,210,000,000
Mississippi	$5,058,185,000
Texas	$74,523,000
Total	$11,500,000,000

Source: HUD, Federal Register, Feb. 13, 2006, vol. 71, no. 29, p. 7666.

According to an agency press release, HUD used a number of data sources in developing the methodology for allocating the $11.5 billion in CDBG supplemental assistance, including data sources from FEMA, Small Business Administration, National Oceanic and Atmospheric Administration (NOAA), and U.S. Geological Survey. Using data from these agencies, HUD calculated for each of the five states, the extent of each state's unmet housing needs and areas of concentrated distress. HUD defines *unmet housing needs* as homeowners and low-income renters whose homes had major or severe damage, while *concentrated distress* is defined as the total number of housing units with major or severe housing damage in counties

where 50% or more of the units had major or severe damage.[12] HUD then allocated 55% of the funds based on each state's unmet housing needs and the remaining 45% on the degree of concentrated distress as measured by each state's share of damaged and destroyed housing stock, and business and infrastructure damage.

On February 13, 2006, HUD published a notice of allocations, waivers, and alternative requirements governing the $11.5 billion in CDBG disaster recovery assistance.[13] In addition to providing waivers allowing the states to allocate funds to CDBG entitlement communities and directly administer the program, the notice also includes language that states that "Funds allocated are intended by HUD to be used toward meeting unmet housing needs in areas of concentrated distress."[14] The language included in the act does not restrict the use of these funds to unmet housing needs. Rather, the act provides some level of flexibility allowing funds to be used for long term recovery and infrastructure restoration in the areas most affected by the Gulf Coast Hurricanes of 2005.

The Louisiana Recovery Corporation Act. Bills are pending in both the House and Senate (H.R. 4100 and S. 2172, respectively) to create a Louisiana Recovery Corporation as a federal government agency with the mission of coordinating the economic stabilization and redevelopment of areas within Louisiana that were devastated or significantly distressed by Hurricane Katrina or Hurricane Rita. The corporation would follow local redevelopment plans, and it would depend on financial incentives to obtain residential and commercial property. It would not have any power of eminent domain. It would purchase homeowners' equity for a portion of the pre-hurricane value[15] and pay the mortgage lenders no more than 60% of the pre-hurricane mortgage balance. Owners and mortgage holders would benefit in cases where the post-hurricane values were less than these amounts. Because the mortgage would be forgiven, owners with mortgages would benefit more than owners without mortgages. The corporation would build infrastructure and sell the property to developers who would complete the redevelopment process. The original owners would have the right of first refusal to the developed property or to similar property in a similar location. The corporation would be funded with $100 million in start-up federal funds and by a $30 billion government bond issue. It would not be part of the regular appropriations process. The corporation would cease operations after 10 years. The House Financial Services Committee approved an amended version of the bill and reported it to the House on December 15, 2005. The Senate Banking,

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[12] U.S. Dept. of Housing and Urban Development, *Jackson Announces Distribution of $11.5 billion in Disaster Assistance to Five Gulf Coast States Impacted by Hurricanes; Funding will help states in long-term recovery of high impact areas.* Available at [http://www.hud.gov/news/release.cfm?content=pr06-011.cfm], visited March 8, 2006.

[13] U.S. Dept. of Housing and Urban Development, "Allocation and Common Application and Reporting Waivers Granted to and Alternative Requirements for CDBG Disaster Recovery Grantees Under the Department of Defense Appropriations Act, 2006," Federal Register, vol. 71, no. 29, Feb. 13, 2006, p. 7666.

[14] Ibid, p. 7666.

[15] At least 60% in H.R. 4100 and 80% in S. 2172.

Housing, and Urban Affairs Committee held hearings on Louisiana's recovery from the hurricanes, including the Louisiana Recovery Corporation, on February 15, 2006.

Housing Assistance

Section 8 Voucher Funding and Reform. The Section 8 voucher program has come under criticism in recent years for increases in its cost without corresponding increases in the number of families it serves. In FY2006, Congress funded the program at $15.8 billion, a 7% increase over FY2005, and it accounted for more than 46% of the total HUD budget (in part because of reductions to other programs). For FY2007, the President requests $15.9 billion for the voucher program, an increase of over 3%. The program has also been criticized for not promoting self-sufficiency among its participants and for its administrative complexity, which results in high rates of error in calculating subsidies.

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 the FY2003 appropriations act and continued in the FY2004, FY2005, and FY2006 laws, Congress has converted the voucher program from a unit-based, actual cost program to a budget-based, fixed cost program. Prior to FY2003, PHAs had a number of vouchers that they were authorized to distribute, and HUD reimbursed them for the actual cost of those vouchers (statutorily set at roughly rent minus 30% of family income). In FY2005, PHAs were funded based on the number of vouchers they were using and the cost of those vouchers in a snapshot of time — May through July 2004 — with an adjustment for inflation. 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 FY2006 appropriations law continued the trend and allocated funds to agencies based on what they received in FY2005, plus inflation, pro-rated to fit within the amount appropriated. The President's budget requests that Congress use the same formula again for FY2007. (For more information, see CRS Report RS22376, *Changes to Section 8 Housing Voucher Renewal Funding, FY2003-FY2006*, by Maggie McCarty.)

The second major initiative is an Administration-led drive to eliminate the existing Section 8 voucher program and replace it with a new and restructured housing subsidy program. 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 Flexible Voucher Program (FVP) proposal from the 108th Congress. It would replace the Section 8 voucher program with the Flexible Voucher Program and would expand eligibility for the program to higher-income families. It would also 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 RL33270, *The Section 8 Housing Voucher Program: Reform Proposals*, by Maggie McCarty.)

Public Housing Operating Funds. HUD will begin using a new formula to distribute public housing operating funds to public housing authorities in 2007. It will cause major changes in the way PHAs receive funding, with the potential that some PHAs will receive substantial increases in funding and others will receive substantial decreases.

Operating funds make up the difference between what tenants pay in rent and the cost of running public housing. The amount a PHA receives is based on a set of allowable expenses set by HUD. PHAs calculate their budgets by totaling up the allowable expenses for all of their units and subtracting the amount they receive in tenant rents. HUD then adds together all of the agencies' budgets and compares the total to the amount Congress appropriated for the operating fund that year. Typically, Congress appropriates less than the full amount that PHAs qualify for under the formula, so HUD applies an across-the-board cut to agencies' budgets, called a proration. The 2006 proration was 89%, so agencies' budgets were cut by 11%.[16]

The new funding formula for FY2007, established by HUD through regulation, adopts new allowable expense levels. It also requires PHAs to adopt a new form of property management — called asset-based management — by FY2011. Some agencies will qualify for a higher budget under the new allowable expense levels and others will face reductions. Those that face a decrease can transition to asset-based management sooner to help limit their losses. However, the magnitude of gains and losses under the new formula will depend on how much is appropriated for the operating fund and, subsequently, how low a pro-ration HUD will set.

HUD requested $3.5 billion for operating funds in FY2007, which is the same amount that was provided in FY2006. According to HUD estimates, the FY2007 funding level will lead to an 85% proration.[17] PHA advocacy groups have protested that HUD's request is insufficient to meet their needs. They have disagreed with HUD's estimated proration and estimate the actual proration will be close to 80%.[18] They also argue that agencies facing cuts will not be able to stop their losses because, they contend, HUD has not issued sufficient guidance on asset-based management.[19]

HOPE VI Funding. The HOPE VI program provides competitive grants to PHAs for the demolition and/or revitalization of distressed public housing. HOPE

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[16] HUD FY2007 Congressional Budget Justifications, page E-4.

[17] Ibid.

[18] See Public Housing Authorities Directors Association (PHADA). 2006. *Asset management, yes — Micromanagement, no: PHADA's solutions for getting HUD's asset management guidance on the right track*. Washington, DC: PHADA. Available from [http://www.phada.org/pdf/asset_mgmt.pdf]

[19] Ibid.

VI has been popular with many Members of Congress, but it has been criticized by the Administration, which argues that grantees spend money too slowly, and by tenant advocates, who argue the program displaces more families than are housed in new developments. Reflecting these criticisms, HUD proposed no new funding for HOPE VI in its FY2004, FY2005, FY2006, and FY2007 budget submissions. Congress continued funding the program in FY2004 ($149 million), FY2005 ($143 million), and FY2006 ($100 million), although at a lower level than in previous years ($570 million in FY2003). HUD's FY2006 budget asked Congress to rescind the funds Congress appropriated for the program in FY2005, but Congress rejected the proposal. HUD's FY2007 budget again asks Congress to rescind the funds it appropriated in the prior year.

Authorization for the HOPE VI program is set to expire at the end of FY2006. On July 27, 2005, Senator Mikulski introduced a bipartisan bill to reauthorize the program through FY2011. The HOPE VI Improvement and Reauthorization Act of 2005 (S. 1513) includes provisions designed to promote collaboration with local school systems and give priority to grant applicants that minimize both temporary and permanent displacement of public housing residents. (For more information, see CRS Report RL32236, *HOPE VI Public Housing Revitalization Program: Background, Funding, and Issues*, by Maggie McCarty.)

Section 202 Housing for the Elderly Program Funding. The Section 202 Housing for the Elderly program primarily provides capital grants and project rental assistance to developers so that they can provide housing for very low-income elderly households (those with a member age 62 or older). The Section 202 program also provides funds for service coordinators to work at Section 202-funded housing developments and connect residents with available services in the community. Additionally, the Section 202 program allocates funds so that developments may be converted to assisted living facilities.

In FY2006, Congress appropriated $735 million for the Section 202 program. Of this amount, $51 million went to fund service coordinators and $24.5 million was allocated for assisted living conversion. The majority of remaining funds were available to fund capital grants and project rental assistance. In the President's proposed budget for FY2007, however, the Section 202 program would receive $546 million, approximately $196 million less than the President's FY2006 request, and a reduction of almost 26% from the FY2006 appropriation. According to HUD estimates, the amount requested in the President's budget for FY2007 would fund the construction of 2,730 new elderly housing units, compared to FY2006, when 4,313 new units were funded. Funding for service coordinators would increase to $59 million, while funding for assisted living conversion would remain approximately the same at $25 million.

Section 811 Housing for the Disabled Program Funding. The Section 811 Housing for the Disabled program provides capital grants and project rental assistance to developers that construct, acquire, or rehabilitate accessible housing for very low-income persons with disabilities. The program also provides Section 8 Mainstream Vouchers for disabled tenants to use in the private rental market.

For the second year in a row the President's FY2007 budget proposal would cut funding for the Section 811 program nearly in half, from $237 million in FY2006 to $119 million. In FY2006 the President's budget request similarly would have reduced funding for the program, to $120 million from the FY2005 appropriation of $238 million. The proposed cut for FY2007 differs from the request for FY2006, which would have provided funds only for Section 8 vouchers, and none for capital grants or project rental assistance contracts (PRAC). While the FY2007 budget request would allocate $75 million for voucher renewals and approximately $15 million for new vouchers, it would also provide some funds for PRAC renewals and amendments ($15 million) and new PRAC ($13 million).

Homelessness. The Homeless Assistance Grants fund the four major homeless assistance programs — Shelter Plus Care (S+C), the Supportive Housing Program (SHP), Section 8 Moderate Rehabilitation Single Room Occupancy (SRO), and Emergency Shelter Grants (ESG) — authorized by the McKinney-Vento Homeless Assistance Act (P.L. 100-77) and administered by HUD. The act, which was signed into law in 1987, has remained unauthorized since 1994. The President's FY2007 budget request, as in his FY2004 through FY2006 budget requests, proposes to consolidate the three competitive components of the Homeless Assistance Grants account (S+C, SHP, and SRO) into one program. On September 29, 2005, Senator Jack Reed introduced a bill (S. 1801) to reauthorize the McKinney-Vento Act. It would similarly consolidate the three competitive Homeless Assistance Grants into one Homeless Assistance Program and would make up to 10% of funds available for permanent housing for non-disabled homeless families. Current law does not allow funds to be used for permanent housing for non-disabled families. The bill would also include homeless families in the definition of the chronically homeless (discussed below) under certain circumstances. Another bill, H.R. 4347, would also reauthorize the McKinney-Vento Act and consolidate the competitive grants.

In 2002, the Bush Administration set a goal of ending chronic homelessness in 10 years. The chronically homeless are generally single adults with serious mental health and/or substance abuse problems. While the chronically homeless are estimated to constitute only about 10% of the homeless population, they are estimated to absorb more than half of the resources available for the homeless. The Administration's plan calls for increasing the number of permanent housing units with supportive services (referred to as permanent supportive housing) developed every year. As a part of that plan, the Administration first proposed a $200 million Samaritan Initiative for FY2004, which would have funded the development of permanent supportive housing for the chronically homeless. Legislation to enact the Samaritan Initiative was introduced in the 108th Congress, but was not enacted and funds were not provided. The President also proposed Samaritan Initiative funding in FY2005 and FY2006, with no action by Congress. In his FY2007 budget request, the President again requested $200 million for the Samaritan Initiative, without a request for separate authorizing legislation. Additionally, the Administration proposed to set-aside $25 million in the Homeless Assistance Grants account for transfer to the Department of Labor for a Prisoner Re-entry Initiative. The initiative, which the President also proposed in FY2005 and FY2006, would attempt to prevent homelessness among individuals leaving prison. Congress did not appropriate funds for either the Samaritan or Prison Re-entry initiative in FY2006.

In FY2006, Congress funded the homeless assistance grants at $1.3 billion, approximately $86 million more than in FY2005. For FY2007, the President requested just over $1.5 billion, including set-asides for the Samaritan and Prisoner Re-entry Initiatives. (For more information on homeless programs, see CRS Report RL30442, *Homelessness: Recent Statistics, Targeted Federal Programs, and Recent Legislation*, coordinated by Libby Perl.)

Housing Finance

Fannie Mae, Freddie Mac, and Federal Home Loan Bank Regulation. Fannie Mae and Freddie Mac are government chartered, privately owned corporations charged with supporting the secondary mortgage market. By purchasing mortgages from the original lenders, they free up funds to be lent for more mortgages. They do this by purchasing existing mortgages and either packaging and selling them to investors, or keeping them in their own portfolios. They are not allowed to lend directly to homeowners. They finance their portfolios by selling bonds and other debt to investors. The secondary mortgage market has improved the efficiency of mortgage lending and lowered the interest rate that home owners pay. Many economists and other analysts believe that because of their ties to the federal government, Fannie Mae and Freddie Mac (also known as government-sponsored enterprises or GSEs) can borrow at lower interest rates than they could otherwise and that some of this advantage accrues to stockholders and employees.

Regulation of Fannie Mae and Freddie Mac is split between two parts of HUD. The independent Office of Federal Housing Enterprise Oversight (OFHEO) is the safety and soundness regulator. It has been the primary regulator during recent accounting problems, although the Securities and Exchange Commission and the Department of Justice have also been involved, especially in the case of Fannie Mae. (See CRS Report RS21949, *Accounting Problems at Fannie Mae*, by Mark Jickling and CRS Report RS21567, *Accounting and Management Problems at Freddie Mac*, by Mark Jickling for more details.) HUD's Financial Institutions Regulator Division establishes and monitors affordable housing lending goals at Fannie Mae and Freddie Mac.

The Federal Home Loan Bank System is comprised of 12 regional banks (the Banks) that collectively comprise the third housing GSE. Started in 1932 as lenders to the savings and loan associations that were the primary lenders for home mortgages, the Banks have undergone major changes, particularly since the cleanup of the savings and loan association failures of the 1980s. As a result, membership in the Banks has changed, today encompassing more commercial banks than savings associations and including credit unions, insurance companies, and some associated housing providers. Purposes of lending — while still primarily housing-related — now include agricultural and small business lending. The changes also have resulted in special mission set-asides for low- and moderate-income housing, special programs for community development, and a continuing responsibility for paying debt raised to fund deposit insurance payouts in the 1980s. For both mission and safety and soundness, the five-member Federal Housing Finance Board (FHFB) regulates the System.

Two bills were introduced in the first session of the 109th Congress to strengthen the oversight of Fannie Mae, Freddie Mac, and the banks under a single regulator. Most analysts believe that the Senate bill (S. 190) would give the new regulator greater powers than the House bill (H.R. 1461) would, especially in the area of limiting the size the GSEs mortgage portfolios, which, some argue, could be a source of risk to the nation's financial system. H.R. 1461, unlike S. 190, would create a new Affordable Housing Fund that could contribute as much as $350-$400 million for the development of affordable housing over the first two years. H.R. 1461 includes controversial limits on that ability of nonprofit organizations that receive money from the fund to attempt to influence public policy.

H.R. 1461 would also raise the maximum size of the mortgage that Fannie Mae and Freddie Mac could purchase in high cost areas of the country. This ceiling, known as the conforming loan limit, is $417,000 for one-unit properties for 2006. The main impact would be to allow Fannie and Freddie to purchase more mortgages on homes on the east and west coasts. (For more information on this issue, see CRS Report RS22172, *Proposed Changes to the Conforming Loan Limit,* by Barbara Miles and Mark Jickling.)

The House passed H.R. 1461 on October 26, 2005. The Senate Banking and Urban Affairs Committee reported S. 190 to the Senate on July 28, 2005. (For more a detailed comparison of the bills, see CRS Report RL32795, *Government-Sponsored Enterprises (GSEs): Regulatory Reform Legislation* by Mark Jickling. For information on controversial provisions concerning Fannie Mae and Freddie Mac see CRS Report RS22336, *GSE Reform: A New Affordable Housing Fund*, by Eric Weiss, and CRS Report RS22307, *Limiting Fannie Mae's and Freddie Mac's Portfolio Size,* by Eric Weiss. For information on the FHLBs, see CRS Report RL32815, *Federal Home Loan Bank System: Policy Issues*, by William Jackson.)

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. 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)[20] provides federal prohibitions on certain predatory lending practices. 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

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[20] 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.

Predatory Lending: A Comparison of State Laws to the Federal Home Ownership and Equity Protection Act, by Nathan Brooks.) Varying requirements among state and local statutes that seek to limit predatory lending have led many in the lending community to call for a uniform federal statute. The difficulty, from a public policy standpoint, 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. 1182, H.R. 1643, and H.R. 4471. The bills include provisions related to counseling and financial literacy programs to give consumers the tools to recognize and avoid becoming victims of predatory lending practices, amendments to the Truth in Lending Act to add restrictions on high-cost mortgages and prohibit certain practices, amendments to additional banking laws to combat predatory lending practices that affect low- and moderate-income individuals, and a provision that would preempt state and local laws that address predatory lending.

Some groups argue that the state and local laws result in a reduction of the availability of credit to those who need the loans. A recent report by the Center for Responsible Lending suggests that state and local laws work to reduce predatory lending, and that such laws increase the availability of credit to those in need of it.

Real Estate Settlement Procedures Act Regulation. 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) 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 actually 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). After strong opposition by some Members of Congress and various industry groups, 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.[21] During a series of meetings with these groups over the summer, the Secretary said the Department will take as much time as is necessary to develop a meaningful RESPA reform proposal, and that the proposal will be introduced as a proposed rule enabling comments by interested parties.

Low-Income Housing Tax Credit Modifications. The Low Income Housing Tax Credit (LIHTC) was created by the Tax Reform Act of 1986 (P.L. 99-514) to provide an incentive for the acquisition and development or rehabilitation of commercial property for affordable housing for renters. These federal housing tax credits are awarded to developers of qualified projects. Sponsors, or developers, of real estate projects apply to the corresponding state housing finance authority for LIHTC allocations for their projects. Developers either use the credits or sell them to investors to raise capital (or equity) for real estate projects. The tax benefit reduces the debt and/or equity that the developer would otherwise have to incur. With lower financing costs, tax credit properties can potentially offer lower, more affordable rents.

In December 2005, the Gulf Opportunity Zone Act of 2005 (P.L. 109-135) was enacted to provide tax relief to communities adversely affected by Hurricanes Katrina, Wilma, and Rita.[22] The new law temporarily adds to existing LIHTC allocation authority for Alabama, Louisiana, and Mississippi. There are now two authorized allocations of tax credits for these states. The first allocation, which existed prior to the Gulf Opportunity (GO) Zone enactment, is the nationwide statutory allocation of $1.90 per capita per state. According to this formula, for calendar year 2006, LIHTC authority is approximately $5,515,635 for Mississippi, $8,579,963 for Louisiana, and $8,607,346 for Alabama. As mentioned earlier, the per capita rate is indexed for inflation and is adjusted annually.

The second allocation of tax credit authority, which is temporary, is in addition to the amounts listed above. The second allocation is an amount equal to the lesser of either $18.00 multiplied by the portion of the state's population in the GO Zone as determined prior to August 28, 2005, or the amount of tax credits that had been allocated by each state to buildings in the GO Zone as determined prior to August 28, 2005.[23] These provisions apply for 2006, 2007, and 2008. The second allocation will

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[21] "Jackson Says He's Listening on RESPA," *Housing Affairs Letter*, Apr. 22, 2005.

[22] The Gulf Opportunity Zone (GO ZONE) is defined as those areas in Alabama, Mississippi, and Louisiana that have been designated by the federal government as warranting assistance due to Hurricane Katrina.

[23] The amount of tax credits allocated by each state to buildings in the GO Zone prior to the hurricane reflects not only the value of credits allocated to current construction projects that may have been in progress, but also the value of credits allocated to buildings already placed in service, yet still in the 10-year tax credit claim period.

yield an annual amount of approximately $12,000,000 for Mississippi, $23,000,000 for Louisiana, and $5,600,000 for Alabama for each of the three years.[24]

The new law also makes an additional $3.5 million in LIHTC authority available to both Texas and Florida in 2006.

Other legislation introduced in the 109th Congress also proposes increases in the allocation amounts of the LIHTC. H.R. 2681, the Affordable Housing Tax Credit Enhancement Act of 2005, proposes to double LIHTC authority nationwide. Both H.R. 659 and H.R. 3159, each entitled the Community Restoration and Revitalization Act of 2005, propose increases in, and administrative modifications to, the tax credit in order to target it more directly to low-income communities.

Other Issues

Community and Economic Development Consolidation Proposals. For the second consecutive year, the Administration has included in its budget request a proposal that would eliminate a number of federal economic and community development programs. Last year, the Administration's FY2006 budget recommendations included a proposal that would have consolidated the activities of at least 18 existing community and economic development programs into a two-part grant proposal called the "Strengthening America's Communities Initiative" (SACI). Responsibility for the18 programs now being carried out by five federal agencies (the Department of Housing and Urban Development, the Economic Development Administration in the Department of Commerce, the Department of the Treasury, the Department of Health and Human Services, and the Department of Agriculture) would have been transferred to the Commerce Department, which currently administers the programs of the Economic Development Administration. Under the Administration's FY2006 proposal, the Department of Commerce would have administered a core program and a bonus program. The bonus program would have awarded additional funds to communities that demonstrated efforts to improve economic conditions.

The FY2006 SACI proposal would have reduced total funding for the 18 programs from $5.6 billion in FY2005 to $3.7 billion in FY2006. Congress rejected the Administration's budget proposal and funded all 18 programs at a total level of $5.3 billion. Although an outline of the proposal was included in the Administration's FY2006 budget documents, the Administration did not submit a legislative proposal during the 1st session of the 109th Congress. Instead, after facing significant opposition, an advisory group was established within the Department of Commerce to assist the Secretary develop a detailed legislative proposal.

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[24] U.S. Congress, Joint Committee on Taxation, *Estimated Revenue Effects of H.R. 4440, the "Gulf Opportunity Zone Act of 2005," as passed by the House of Representatives and the Senate on December 16, 2005*, JCX-89-05R, Dec. 20, 2005, and *Technical Explanation of the Revenue Provisions of H.R. 4440, the "Gulf Opportunity Zone Act of 2005," as passed by the House of Representatives and the Senate*, JCX-88-05, Dec. 16, 2005.

The Administration's FY2007 budget request outlines a revamped SACI proposal. Under the FY2007 version, two of the 18 programs would be funded — HUD's Community Development Block Grant program, and a new Regional Development Account within the Economic Development Administration (EDA). The FY2007 budget proposes a SACI funding level of $3.4 billion — nearly $2 billion less than the aggregate appropriation for the 18 programs in FY2006.

The Administration's FY2007 budget identifies some general elements of the new SACI proposal, including development of a common set of goals and performance measures for federal community and economic development programs by HUD and the Department of Commerce. In HUD, the Administration plans calls for a new CDBG allocation formula targeted to the neediest communities, a bonus fund component, and reforms that address the program's shortcoming outlined in the Program Assessment Rating Tool. The Administration's budget proposal calls for the creation of a new Regional Development Account (RDA) in EDA that would be funded at $257 million and would replace the agency's current budget categories of public works, economic adjustment assistance, technical assistance and research and evaluation.

Rural Housing Funding. In recent years, the Administration has proposed zero funding for the Rural Housing and Economic Development program (RHED) in HUD, but Congress has continued to fund the program. For FY2006, the Administration proposed the consolidation of RHED into a new program within the Department of Commerce. Congress did not accept the proposal and funded RHED at $17 million for FY2006. (See discussion of Community Development Block Grant Program above.) For FY2007, the Administration is again proposing zero funding for RHED. It is argued that rural housing needs will be addressed through the housing programs administered by the Rural Housing Service (RHS) of the U.S. Department of Agriculture (USDA).

The FY2007 Budget for RHS rural housing programs proposes zero funding for Section 515 direct loans for multifamily housing and a doubling of funding for the Section 538 guaranteed multifamily housing loans. An issue for rural housing advocates is how to prevent or reduce the prepayment of Section 515 loans, or at least ensure that the housing continues to be available as affordable housing for rural residents. P.L. 109-97 included $9 million for the cost of a demonstration program for the preservation and revitalization of Section 515 housing. The Budget would not fund the program in FY2007, and would transfer any balances to the multifamily housing rural voucher program. Language would provide that, subject to authorization, these funds could also be used for preservation and revitalization of Section 515 multifamily rental housing properties.

On March 6, 2006, the USDA published a proposed rule that would require borrowers who will be first-time homebuyers to provide documentation that they have passed a publicly available homeowner education course.[25] Unlike the housing finance programs of the Department of Veterans Affairs (VA) and the Federal

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[25] U.S. Department of Agriculture. Direct Single Family Housing Loans and Grants, V.71 No. 43, March 6, 2006, p. 11167.

Housing Administration (FHA), the Section 502 program is a means-tested program. As such it is not surprising that the Section 502 program would have higher delinquency rates than VA or FHA. The intent of the proposal is to help the borrowers become successful homeowners and thereby decrease the delinquency rate.

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