



# A home is the *foundation.*

## **H.R. 2895, National Affordable Housing Trust Fund Act of 2007**

*(As passed and amended by the House of Representatives, October 10, 2007.)*

### *Goals and Objectives*

A National Housing Trust Fund shall be established to serve as a source of revenue for the production of new housing and the preservation or rehabilitation of existing housing that is affordable for low income people. The goal of the National Housing Trust Fund is to **produce, rehabilitate, and preserve 1,500,000 units of housing over the next 10 years.**

### *Source of Funds*

Establishes a Trust Fund with revenue from Fannie Mae and Freddie Mac that equal 1.2 basis points for each dollar of the average total mortgage portfolio of each enterprise during the preceding year (see H.R. 1427), savings resulting from the elimination of the current statutory volume cap on the FHA Home Equity Conversion Program (HECM) and any additional amounts that may be appropriated, transferred or credited to such fund under any other provisions of law. The funds used to capitalize the National Housing Trust Fund shall not be funds that are currently funding other federal programs.

### *Eligible Activities*

The Trust Fund shall be used for the production of new housing, preservation of existing federally-assisted housing, and rehabilitation of existing private market affordable housing, including manufactured housing and community land trusts. **It is expected that the Trust Fund will be primarily used for rental housing.** Funds may be used for both grants and loans.

## **S. 2523, National Affordable Housing Trust fund Act of 2007**

*(As introduced in the Senate, December 19, 2007)*

A National Housing Trust Fund shall be established to serve as a source of revenue for the production of new housing and the preservation or rehabilitation of existing housing that is affordable for low income people. The goal of the National Housing Trust Fund should be to **produce, rehabilitate, and preserve 1,500,000 units of housing over the next 10 years.**

Establishes a Trust Fund with revenue from Fannie Mae and Freddie Mac. The funds used to capitalize the National Housing Trust Fund shall not be funds that are currently funding other federal housing programs.

(One source of funds will be dropped as S. 2523 moves through Committee -- savings resulting from the elimination of the current statutory volume cap on the FHA Home Equity Conversion Program (HECM) and any additional amounts that may be appropriated, transferred or credited to such fund under any other provisions of law. )

The Trust Fund should be used for the production of new housing, preservation of existing federally-assisted housing, and rehabilitation of existing private market affordable housing including manufactured housing and community land trusts. **It is expected that the Trust Fund will be primarily used for rental housing.**

Funds may be used for both grants and loans.

Cooperatives are eligible uses of Trust Fund dollars in all cases as long as income-targeting requirements are met. Funds can be used for down payment and closing cost assistance by first time homebuyers. Grantees can give preferences for public employees who also meet the bill's income requirements.

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*Distribution*

Trust Fund assistance shall be distributed by **formula allocation**, based on criteria that assure distribution in proportion to the need for eligible housing, with 60% of Trust Fund assistance allocated to local participating jurisdictions and 40% of Trust Fund assistance allocated to states, Indian tribes and insular areas. Every state would receive at **least one half of 1% of** the total funds available that are allocated to states, Indian tribes and insular areas. The distribution of funds shall ensure geographic diversity of funds and encourage regional consortia. Grantees will distribute the funds to **eligible entities prepared to conduct activities that are eligible for Trust Fund support**. An alternative application process is provided for funds from areas without an allocation plan or from recipients with insufficient matching contributions. These funds shall remain in the state and jurisdiction originally allocated and shall be distributed through a competitive grant process conducted by the Secretary. In years when the total amount available is less than \$2 billion, for jurisdictions whose formula amount is less than \$750,000, that allocation will be zero, except that states may transfer to the local jurisdiction a portion of the state's allocation equal to or greater than the difference between the formula amount and \$750,000. Or, the local jurisdiction in each state that is slated to receive the largest amount by formula in its state would be entitled to receive funds directly. The funds allocated to Indian Tribes will be distributed on a competitive basis.

Trust Fund assistance should be distributed by **formula allocation**, based on criteria that assure distribution in proportion to the need for eligible housing, with 60% of Trust Fund assistance allocated to local participating jurisdictions and 40% of Trust Fund assistance allocated to states, Indian tribes and insular areas. Every state would receive at least **1%** of the total funds available that are allocated to states, Indian tribes and insular areas. The distribution of funds shall ensure geographic diversity of funds and encourage regional consortia. Grantees will distribute the funds to **eligible entities prepared to conduct activities that are eligible for Trust Fund support**. An alternative application process is provided for funds from areas without an allocation plan or from recipients with insufficient matching contributions. These funds shall remain in the state and jurisdiction originally allocated and shall be distributed through a competitive grant process conducted by the Secretary. In years when the total amount available is less than \$2 billion, for jurisdictions whose formula amount is less than \$750,000, that allocation will be zero, except that states may transfer to the local jurisdiction a portion of the state's allocation equal to or greater than the difference between the formula amount and \$750,000. Or, the local jurisdiction in each state that is slated to receive the largest amount by formula in its state would be entitled to receive funds directly. The funds allocated to Indian Tribes will be distributed on a competitive basis.

*Rural Access to Funds*

States and participating jurisdictions must provide Trust Fund monies to rural areas in proportion to the needs, including priority housing needs, in those rural areas.

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*Allocation of Funds to Grantees*

The Secretary shall establish a formula to allocate funds among States, Indian tribes, insular areas and local participating jurisdictions. The formula shall be based on a comparison in the above areas of the following factors: the populations of the eligible areas,

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the percentage of families living in substandard housing, the percentage of families paying more than 50% of their income for housing costs, the cost of construction or rehabilitation, the percentage of the population in these areas that reside in counties having extremely low vacancy rates, the percentage of housing stock that is extremely old housing, areas that build rental housing in areas with an extremely low percentage of affordable rental housing, and other factors that the Secretary determines to be appropriate. If in any fiscal year the Secretary fails to establish a formula, the funds would be distributed under the HOME program.

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*Selection Process and Criteria*

The allocation plan shall establish the process for the grantee to select eligible activities meeting the grantee's priority housing needs as well as criteria for selecting among the applicants. These criteria shall include the merits of the activity and how they meet the identified housing needs in the allocation plan, the ability to carry out the plan in a timely manner, development of mixed income housing, the amount of assistance leveraged by the applicant, the extent of employment and other economic opportunities for low income families in the area, and compliance with energy efficiency standards, among others.

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*Eligible Recipients*

State and local governments are required to make Trust Fund monies available through grants to eligible recipients. These recipients can be any organization, agency or other entity, including for-profits, nonprofits, faith-based organizations and units of government that have demonstrated the experience and the capacity to carry out the proposed Trust Fund activity.

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*Grantee Allocation Plan*

The grantee must develop an allocation plan with certain application requirements and selection criteria for its eligible recipients. Application requirements include a description of the eligible activities to be conducted using such assistance and certification that income targeting and the affordable housing requirements, the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 prohibition of discrimination on the basis of disability will be

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met. The public shall be notified of the allocation planning process, be given the opportunity to make comments and be given a completed copy of the plan.

### *Match*

**Match (monetary).** States, localities, or non-profit organizations receiving Trust Fund assistance shall **match the federal funds** in the following manner. If the entity uses state, local, or private resources, the match will be 12.5%. If an entity uses state- or locally-controlled federal dollars, the match will be 25%. This match requirement may be waived for jurisdictions that demonstrate fiscal distress or are declared Presidential disaster areas.

**Match (alternative).** Jurisdictions that succeed in siting Trust Fund-assisted units where a zoning variance or other waiver of regulatory barriers was required to site Trust Fund assisted units in existing communities shall, in the following year, be eligible to receive Trust Fund assistance with a reduced match.

Up to 33% of the match can be from revenue committed by a jurisdiction to a Trust Fund-assisted project to provide services to residents.

### *Income Targeting*

All **Trust Fund** grant amounts shall be distributed for low income families whose incomes do not exceed 80% of the higher of state or area median provided these funds are restricted to housing production, preservation, or rehabilitation. **At least 75% of the Trust Fund dollars shall be used for housing that is affordable for** extremely low income households, that is, those with incomes that do not exceed the higher of 30% of the median income for the area with adjustments for small and large families or the poverty line adjusted for family size. At least 30% of total Trust Fund dollars shall be used for housing that is affordable to households with incomes at the equivalent of the federal Supplemental Security Income payment level or less.

**Not less than 10% of the resources must serve households with income above 50% of the median.**

**Until the fund reaches \$2 billion annually, all grant funds shall be distributed for low income families whose incomes do not exceed 60% of the higher of state or area median, with**

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**Until the fund reaches \$2 billion annually, all grant funds shall be distributed for low income families whose incomes do not exceed 50% of the higher of state or area median, with the deeper targeting described above still applying.**

**A review of the targeting requirements**

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**A review of the targeting requirement by the Secretary with a report to Congress is required not later than October 2012.**

*Affordable Housing*

Rental housing shall be considered affordable if the unit rent is not greater than the existing fair market rent under Section 8 or the applicable payment standard, if higher, and if the rent doesn't exceed 30% of a family whose income equals 65% of the median income for the area.

The Secretary may establish incomes higher or lower than 65% if necessary due to prevailing levels of construction costs, fair market rents or unusually high or low family incomes. In no cases will anyone pay more than 30% of their income for housing. There is prohibition against discriminating against voucher holders.

Affordability requirements are in effect for 50 years. In developments where funds are used for rehabilitation, extremely low income (ELI) households may not exceed the higher of 50% or the percent of ELI families occupying the project at the time funds are awarded. In addition, the property must be subject to a requirement that provides a priority for families on Section 8 and public housing waiting lists for 12 months or longer.

*Operating Subsidy*

Up to 20% of a project grant may be used for project-based rental assistance for 12 months or project operating reserves to cover shortfalls in rental assistance to ensure affordable dwellings for homeless and extremely low income households. A grantee may use up to 10% of its funds to cover project operating expense shortfalls when providing housing for families with incomes below the federal Supplemental Security Income (SSI) limit.

*Economic Opportunity and Integration*

The criteria for selection of grantees includes that new housing production and financing in urban and suburban areas be done in a way that assures that **extremely low income households are not isolated from economic opportunity**, and that units are located in proximity to public transportation, services, economic opportunities, or contribute to comprehensive community revitalization. Thus, Trust Fund dollars shall

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be **utilized in conjunction with other funds** to complete the financing for a new multifamily housing development, with the Trust Fund dollars supporting the construction of housing for extremely low income households. Units for extremely low income households shall comprise no more than a minority of the total units in a project. Elderly only projects would be exempt from this mixed income requirement. Trust Fund applicants that propose small projects in low-poverty neighborhoods, rural communities, or that serve special populations may be able to assure economic integration with Trust Fund dollars alone.

*Green Housing*

Criteria for selection include projects that employ energy efficiency standards and the national Green Communities criteria checklist for residential construction principles. HUD will be required to establish a green housing clearinghouse and identify green units built with housing trust fund resources.

*Consistency with Other Federal Provisions*

All Trust Fund dollars must be allocated and all housing funded with Trust Fund dollars must be built and operated in a manner that is **consistent with other federal provisions** including, but not limited to: tenant protections and tenant rights to participate in decision making about their homes; required public participation mechanisms such as the Consolidated Plan, the Qualified Allocation Plan and the Public Housing Agency Plan; Section 286 of the Cranston-Gonzalez National Affordable Housing Act (Davis-Bacon); and all fair housing laws and existing laws regarding accessibility in federally-assisted housing, including Section 504 of the 1973 Rehabilitation Act. All Trust Fund assistance shall be considered **federal financial assistance**. In addition, units not required to be accessible should meet basic visitability standards.

*Compatibility with other housing programs*

The use of Trust Fund funds must be flexible to ensure its compatibility with all federal housing programs.

*Prohibited Use and Program Compliance*

The bill includes prohibitions against any funds being used for administrative costs or expenses (except states and jurisdictions may use up to 10% for such costs), political activities, advocacy, lobbying, counseling, travel expenses, and preparation of or advice on tax returns. In addition, there is a

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requirement that grantees develop a system to ensure program compliance and require annual state fund use reports and authority for HUD to impose penalties on states that do not comply with requirements, including requiring states and grantees to reimburse misused funds.

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Edited (3/28/08)