NATIONAL HOUSING TRUST FUND
President Signs Housing Trust Fund Into Law on
July 30, 2008

President George W. Bush signed the Housing and Economic Recovery Act of 2008. Among the bill's numerous provisions is the establishment of a national Housing Trust Fund. This is a major victory for low income housing advocates and the lowest income people in our country with the most serious needs.

The Housing Trust Fund's most important features are:

•It is a permanent program with a dedicated source of funding not subject to the annual appropriations process.

•At least 90% of the funds must be used for the production, preservation, rehabilitation, or operation of rental housing. Up to 10% can be used for the following homeownership activities for first-time homebuyers: production, preservation, and rehabilitation; down payment assistance, closing cost assistance, and assistance for interest rate buy-downs.

•At least 75% of the funds for rental housing must benefit extremely low income households and all funds must benefit very low income households.
This is the first new federal housing production program since the HOME program was created in 1990 and the first new production program specifically targeted to extremely low income households since the Section 8 program was created in 1974.

Funds for the Housing Trust Fund will come from annual contributions made by Fannie Mae and Freddie Mac. The amount will be based on a percentage of each company's annual new business. Using the formula in the bill, the amount in 2007 would have been $557 million. Because their new business is increasing, the amount in 2008 is expected to be higher. However, 25% of the funds each year must first go to a reserve fund at the Treasury to offset scoring problems.

The remaining 75% of the funds will be divided between the Housing Trust Fund, which gets 65%, and a new Capital Magnet Fund that gets 35%. For the first three years, a percentage of the funds (100% in FY09, 50% in FY10, and 25% in FY11) will be diverted to a reserve fund to cover losses that the FHA might incur refinancing troubled mortgages through the new HOPE for Homeowners program. Based on the projected amount the formula will produce in calendar year 2008, approximately $300 million would have been available for the housing trust fund this year had it been in place with no diversions for the HOPE for Homeowners reserve fund. Funds not needed to cover FHA losses eventually will revert to the Housing Trust Fund and the Capital Magnet Fund.

Given the recent instability of Fannie Mae and Freddie Mac, concerns have been raised about whether any funds will be available for new programs. The new regulator has the authority to suspend contributions under certain circumstances related the fiscal distress of the GSEs. However, no money will be available for the Housing Trust Fund until FY10, by which time Freddie Mac's and Fannie Mae's fiscal conditions are expected to be much improved.

Now that it has achieved this important and long-sought milestone, the National Housing Trust Fund Campaign will turn its attention to the next two steps towards achieving its goal of 1.5 million homes in 10 years. The first is implementation of the program—working with HUD to create an effective and timely fund distribution system. The second is to identify and advocate for additional sources of dedicated revenue. The bill specifically provides that Congress may "transfer, appropriate, or credit" other funds to the Housing Trust Fund.

More details about the Housing Trust Fund and the Capital Magnet Fund provisions follow: Housing Trust Fund

•For the purposes of federal civil rights laws, the Housing Trust Fund is considered federal financial assistance. All activities carried out must comply with federal laws on tenant protection and tenant participation, laws requiring public participation, and fair housing and laws related to accessibility for people with disabilities.

•It will be administered by HUD, which will provide grants to states, which will designate a state housing finance agency, housing and community development entity, a tribal designated housing entity, or any other qualified agency to receive the grants.

•The HUD Secretary is to establish a distribution formula to the states within 12 months of enactment of the bill. The formula should include the following factors:

o the ratio of the shortage of affordable and available rental units to extremely low income renter households in the state to the aggregate shortage of affordable and available rental units to extremely low income renter households in all the states (this factor is to be given "priority emphasis");

o the ratio of the shortage of affordable and available rental units to very low income renter households in the state to the aggregate shortage of affordable and available rental units to very low income renter households in all the states;

o the ratio of extremely low income renter households in the state living with either incomplete kitchens or plumbing facilities, more than one person per room, or paying more than 50% of their income for housing costs to the aggregate number of extremely low income renter households living with either incomplete kitchens or plumbing facilities, more than one person per room, or paying more than 50% of income for housing costs in all the states;

o the ratio of very low income renter households in the state paying more than 50% of income on rent compared to the aggregate number of very low income renter households paying more than 50% of income on rent in all the states.

o the sum of those factors will be multiplied by the approximate cost of construction in the state to determine the final amount of funding allocated to each state. However, the minimum state allocation will be at least $3 million annually.

•Each year that the state receives a grant, it must establish a plan to distribute the funds and allow public comments on the plan. The plan must detail the eligible uses including the required income targeting.

•Eligible recipients of grants from the states are organizations and agencies (for-profit and non-profit) that demonstrate 1) the experience and capacity to produce the kind of housing the program calls for, 2) the financial capacity to undertake the eligible activity, and 3) familiarity with federal, state, and local housing programs.

•Prohibited uses are political activities, lobbying, counseling, traveling and administrative expenses, or endorsements of a particular candidate or party.
Recipients must conduct and submit periodic financial and project reports, and conform to audit and record retention requirements. If a recipient misuses the funds allocated to it, it must reimburse their grant to the state within 12 months after their misuse is known. Either the Secretary of HUD or the state can determine if a grant is being misused.

•States must submit an annual report describing the activities for which they used the funding. If the Secretary determines that the state is blatantly not complying with the requirements, the Secretary can reduce the amount of the grant to the state, limit the availability of assistance, or require the state to reimburse the Secretary.

•States must spend the allotted amount in two years or the funds are returned to HUD.

•If another affordable housing trust fund is established by law, the funds meant for the trust fund created in this bill will be transferred to the new affordable housing trust fund.

Capital Magnet Fund

•Establishes a Capital Magnet Fund (CMF), which will be an account within the Community Development Financial Institutions (CDFI) Fund at the Department of Treasury, which is also allowed to receive additional funding from other sources.

•Eligible recipients are Treasury-certified Community Development Financial Institution or non-profits that have at least one of their purposes the development or management of affordable housing.

•Eligible recipients can apply for a competitive grant through the Treasury to help develop, preserve, purchase, and rehabilitate affordable housing for mostly extremely low, very low, and low income families. Grant funds may also be used for economic development or community service facilities in conjunction with affordable housing to help stabilize a low-income or rural area.

•The CMF may also be used to provide loan loss reserves, to capitalize a revolving loan fund or an affordable housing fund, or for risk-sharing loans.

•Applications for the competitive grants are required to include a detailed description of the types of affordable housing, economic, and community revitalization projects the institution would use the grant for, and the anticipated time frame they intend to use it.

•No institution can be awarded more than 15% of all Capital Magnet funds available for grants in that year.

•The Secretary is encouraged to fund activities in rural or underserved metropolitan areas.

•Among the criteria in determining which areas should be served are:

o the percentage of low income families or the extent of poverty
o the rate of unemployment or underemployment
o the extent of blight and disinvestment
o projects targeting extremely low, very low , and low income families in an area of economic distress
o or any other criteria chosen by the Secretary

•Institutions receiving grants must spend the funds within two years from the date of receiving them.

•Prohibited uses are political activities, advocacy, lobbying, counseling services, travel expenses, and endorsements of a particular candidate or party.

•Each grantee must track its funds by issuing periodic financial and project reporting, and audit requirements. If the Secretary is not satisfied with the compliance, the grantee may receive fewer funds, have to pay the Treasury back, or have their grant terminated.

•The Secretary must submit a periodic report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services describing the activities these funds are being used for.
For more information, go to www.nhtf.org.