NATIONAL HOUSING TRUST FUND

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The New National Housing Trust Fund Frequently Asked Questions*

The National Housing Trust Fund is a dedicated fund to provide local communities with revenue to build, preserve, and rehabilitate housing for people with the lowest incomes. The Trust Fund was enacted in Public Law 110-289 on July 30, 2008.

1. What is the National Housing Trust Fund?

The National Housing Trust Fund (NHTF) is a permanent federal program with dedicated source(s) of funding not subject to the annual appropriations process.

The purposes of the NHTF are to:

- increase and preserve the supply of rental housing for extremely low and very low income households, including homeless households, and
- increase homeownership for extremely low and very low income households.

2. What can NHTF dollars be used for?

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.

3. Who does the NHTF benefit?

At least 75% of the funds for rental housing must benefit extremely low income households (30% of area median income or less) or households with incomes below the federal poverty line. All funds must benefit very low income households (50% of area median income or less).

*updated March 11, 2009

4. Is the NHTF a new HUD program? Will it compete for funding with other HUD programs?

The NHTF will be administered by HUD, but it will not compete with other HUD programs for resources. Funding for the NHTF will come from dedicated sources of revenue, not annual appropriations, which fund the rest of HUD programs.

5. How did H.R. 3221 pay for the NHTF?

The NHTF, as established in H.R. 3221, was to receive funding from the Government Sponsored Enterprises (GSEs), Freddie Mac and Fannie Mae.

The GSEs are required to contribute of a portion of the value of their new business purchases ("4.2 basis points for each dollar of the unpaid principal balance of [the GSE's] total new business purchases") each year to an Affordable Housing Fund. NOTE: The contributions are NOT based on the GSEs' profits. Twenty-five percent will be turned over to the Federal Treasury to offset potential losses to federal revenue that may result from the GSEs paying reduced taxes.

Of the remaining funds, starting in FY12, 65% goes to the NHTF and 35% goes to the Capital Magnet Fund (CMF) (described in #21 below).

For FY09-11, a decreasing portion of these funds will be diverted to pay for the potential costs of the new HOPE for Homeowners program within the Federal Housing Administration. All of the GSE money will go towards this new foreclosure prevention FHA program in FY09, 50% will be split between HOPE for Homeowners and the NHTF/CMF in FY10, and 75% will go to the NHTF/CMF in FY11. Beginning in FY12, all of the funds from the GSEs will be dedicated for the NHTF and CMF.

Another source of funding for the NHTF is the provision in H.R. 3221 that any penalties incurred in connection with a failure by a GSE to comply with certain reporting or housing goal requirements must be used for the NHTF.

H.R. 3221 also provides that the NHTF can be funded by other dedicated sources of revenue, such as any appropriations, transfers or credits that Congress may designate in the future. The NHTF Campaign is continuing to work to secure other sources of funding to be dedicated to the NHTF.

6. But Fannie Mae and Freddie Mac are in financial trouble, right?

Yes. Both GSEs were taken over by their new federal regulator, the Federal Housing Finance Administration, to prevent them from going out of business.

The FHFA regulator has the authority to suspend contributions to the NHTF/CMF under certain circumstances related to the fiscal distress of the GSEs. If allocating money to the NHTF/CMF contributes to the instability or undercapitalization of the GSEs, or would prevent them from completing a capital restoration plan, then the regulator can suspend the GSEs contributions. The regulator indicated he would indefinitely suspend contributions as of December 2008. It is unlikely that this suspension will be lifted before FY10.

The future of Fannie Mae and Freddie Mac remains uncertain. Some are calling for complete nationalization, others for total privatization. More likely a reformed hybrid model will emerge. Congress will undertake major restructuring of the housing finance system in the 111th Congress in response to the foreclosure crisis, which will include more GSE reform. Advocates will need to make sure this funding for the NHTF is protected.

7. What about other sources of dedicated funding?

In his proposed budget for FY10, President Obama has included an initial capitalization of $1 billion for the NHTF. The entirety of funding could be obligated in FY10. The source of funding has not yet been released, but will be as more detailed information becomes available in April 2009. These funds are 100% for the NHTF and are not expected to be shared with the Capital Magnet Fund.

In addition, the NHTF Campaign has identified several other potential dedicated funding sources and will be proposing that Congress consider them in 2009.

The short term goal is an annual distribution of $5 billion.

8. How will HUD distribute the NHTF dollars?

The NHTF is a HUD-administered block grant to the states, the District of Columbia, and the territories. The bill directs the Secretary of HUD to develop a formula for distribution of the funds within 12 months of enactment of the legislation, that is, July 30, 2009. The bill also spells out five factors that are to be used in developing the formula. They are:

1. 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.
2. 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.
3. 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.
4. 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.
5. The cost of construction or building rehabilitation in the state relative to other states.

Factor #1 is to be weighted more heavily than the others, but the bill does not say by how much. The sum of factors #1-4 is to be multiplied by factor #5.

The minimum grant for each state and the District of Columbia is $3 million annually.

9. What other rules will HUD establish for the NHTF?

In addition to the distribution formula, the HUD Secretary must issue regulations on the following financial reporting and auditing requirements:

- HUD must issue an audit at least annually of the state's use of the grants to ensure compliance.
- HUD is authorized to audit, provide for an audit, or verify in another way, the state's activities to ensure compliance.
- Audits must be reviewed by an independent certified public accountant.

HUD must also issue regulations on the allocation plan that states must use to distribute funds to eligible grant recipients (see #10, below).

10. What does each state have to do?

The governor of a state, or the Mayor of the District of Columbia, designates a state agency to administer the program. Eligible state designees are the state housing authority or state housing finance agency, housing or community development entities, tribally designated housing entities, or any other qualified state entity.

The administering agency is to develop, make public, and seek public comment on the state allocation plan. The allocation plan must reflect priority housing needs in the state based on these factors:

- geographic diversity,
- the applicant's ability to obligate amounts and undertake funded activities in a timely manner,
- the extent to which rents are affordable in the proposed project,
- the duration of the affordable rents in the proposed project,
- the use of other funding sources in the proposed project, and
- the merits of an applicant's proposed eligible activity.

The state must also insure that rental housing developed with NHTF dollars benefit only extremely low and very low income families.

Finally the state must set performance goals, benchmarks, and timetables for carrying out purposes of the NHTF.

The state can use up to 10% of its grant amount for costs related to administering the program.

11. How long does the state have to spend its funds?

The state has two years to either commit or spend its funds, or they are returned to HUD, which then is to distribute them to other states.

12. Who is eligible to receive NHTF dollars from states?

Eligible recipients of grants from the states are organizations and agencies (for-profit and nonprofit) that demonstrate:

- The experience and capacity to produce the kind of housing called for by:
  - its ability to own, construct, rehabilitate, manage, and operate an affordable multi-family rental housing development;
  - proving their experience to design, construct, rehabilitate, or market affordable housing for homeownership; and
  - their ability to provide forms of assistance, such as down payments, closing costs, or interest rate buy-downs for purchasers.
- The financial capacity to undertake, comply, and manage the eligible activity.
- Familiarity with federal, state, and local housing programs that will be used in conjunction with the grant.

13. Are there prohibitions on what the NHTF can be used for?

Funds cannot be used for political activities, lobbying, counseling, traveling and administrative expenses, or endorsements of a particular candidate or party.

Recipients of the grants from the states cannot use any of the funds for administrative costs.

14. Can NHTF dollars be used for operating costs for rental housing?

The bill as passed says the funds can be used for the production, preservation, rehabilitation, and *operation* of rental housing, but does not define what operation means. That will be left to the regulatory process. However, the NHTF is intended to provide one time capital grants. Because operating costs are ongoing and must be renewed each year, use of the NHTF for operating costs will be difficult.

15. What happens if the funds are misused?

The state is required to ensure that all funds are used properly and must submit an annual report to HUD that:

- describes the activities the grants were used for,
- clarifies the manner in which the state or state designee complied with their allocation plan, and
- is made public.

If a state determines that a grant recipient has misused funds, that organization or agency has 12 months to reimburse the state for the amount it had been allocated.

If HUD determines that a state has failed to substantially comply with what is required, HUD can:

- reduce the amount of assistance to the state by an amount equal to the amount unused by the state up to that point;
- require the state to repay HUD any amount of the grant not used;
- limit the availability of assistance to the state to activities or recipients not affected by their failure to comply; or
- terminate any assistance to the state.

16. Is the NHTF considered to be federal financial assistance?

Yes, for the purposes of federal civil rights laws, the Housing Trust Fund is considered federal financial assistance.

17. Do other federal laws apply to the NHTF?

Yes, all activities carried out must comply with federal laws on tenant protection and tenant participation, including laws related to Consolidated Plans, Qualified Allocation Plans, and Public Housing Plans, laws requiring public participation, and fair housing and laws related to accessibility for people with disabilities.

18. Is there a requirement that NHTF dollars be matched by the state or grant recipients?

No, there is no match requirement. This is different from other bills that were introduced to establish a National Affordable Housing Trust Fund.

19. Do NHTF dollars have to be used to develop mixed-income housing?

No, there are no mixed-income requirements. This is also different from other bills that were introduced to establish a National Affordable Housing Trust Fund.

20. What can state and local advocates do to help implement the NHTF?

- Contact their governors to voice their opinions on which state agency should be designated to administer their programs.
- Participate in the development of the state allocation plan, including providing comments on the allocation plan before it is finalized.

21. What is the Capital Magnet Fund?

PL 110-289 also establishes a Capital Magnet Fund (CMF) with 35% of the contributions from the GSEs. It is an account within the Community Development Financial Institutions (CDFI) Fund at the Department of Treasury. It can receive additional funding from other sources.

The Secretary of the Treasury is to set up a competitive grant program to distribute funds to Treasury-certified Community Development Financial Institutions or nonprofits that have as at least one of their purposes the development or management of affordable housing.

Funds can be used to develop, preserve, purchase, and rehabilitate affordable housing for extremely low, very low, and low income families, as well as economic development or community service facilities in conjunction with affordable housing to help stabilize a low-income or rural area, and 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 for which the institution would use the grant, 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. Criteria for determining which areas should be served are:

- the percentage of low income families or the extent of poverty,
- the rate of unemployment or underemployment,
- the extent of blight and disinvestment,
- projects targeting extremely low, very low, and low income families in an area of economic distress, 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.

For more information, visit www.nhtf.org.