Bipartisan consensus among Senate taxwriters on role of tax policy in expanding affordable housing access

Senate Finance Committee members found much to agree on this week as they discussed opportunities to use tax policy to expand access to affordable housing—something that nearly every member of the panel noted was an urgent challenge across the nation. In conjunction with a March 7 hearing, the Senate's taxwriters reintroduced—or announced plans to reintroduce—several pieces of bipartisan legislation aimed at addressing access to and the construction or rehabilitation of housing options for low-income and middle-class Americans.

"I strongly believe the next opportunity for a big, bipartisan initiative is affordable housing," said Finance Chairman Ron Wyden, D-Ore., after touting the expansion of renewable energy provisions in the Infrastructure Investment and Jobs Act (P.L. 117-58) and the Inflation Reduction Act (P.L. 117-169), both of which were enacted in the last Congress. "Few things unite Americans quite like the feeling that the rent's too damn high."
URL: https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf
URL: https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf

Enhancements to the low-income housing tax credit

Finance Committee members and witnesses who appeared at the hearing uniformly cited the low-income housing tax credit (LIHTC) as a highly effective incentive to promote public-private partnerships for building affordable housing developments. They expressed support for several measures aimed at expanding it that were introduced in the last Congress and are set to be reintroduced this session.

The Affordable Housing Credit Improvement Act (S. 1136 in the 117th Congress), sponsored by Finance Committee members Maria Cantwell, D-Wash., and Todd Young, R-Ind., would, among other provisions, increase the amount of LIHTCs allocated to each state; increase the number of affordable housing projects that can be built using private activity bonds; and make a number of improvements to the program to better serve targeted populations such as veterans, victims of domestic violence, formerly homeless students, Native American communities, and rural Americans.

With many of the senators focusing on what they said was a gap between use of LIHTCs in urban and rural areas, one witness, Mark Calabria of the Cato Institute, argued that the current credit is too focused on large multifamily urban properties. While expressing support for the changes proposed in the most recent bill, he also recommended that some proportion of the credits be set aside specifically for properties with a small number of housing units, arguing that this would steer benefits towards smaller towns and rural areas. Another witness, Garrett Watson of the Tax Foundation, agreed, saying greater incentives are needed for smaller-sized developments under the LITHC.

Hearing witness Steve Walker, executive director of the Washington State Housing Finance Commission, addressed the rural-urban gap by pointing out that although rents are lower in small towns and rural areas, the cost of construction supplies generally remains the same as in larger suburban and urban communities. Walker also noted that the 2021 expiration of a temporary 14.5 percent boost in the LIHTC "couldn't have come at a worse time" as the COVID-19 pandemic caused economic challenges for many low-income households.

The Decent, Affordable, and Safe Housing for All (DASH) Act, sponsored by Chairman Wyden, would, as in the last Congress, expand the current-law LIHTC to make it more widely available and to allocate a larger portion of available funds to projects serving extremely low-income households. It also would create a refundable tax credit for participating owners of rental buildings who reduce rents for their low-income tenants, create a tax credit similar to the LIHTC for the development of housing for middle-income households (MIHTC), and provide a tax credit of up to $15,000 for first-time homebuyers.

Wyden's broader bill would also include the text of legislation reintroduced March 7 by Sens. Ben Cardin, D-Md., and Young, known as the Neighborhood Homes Investment Act (NHIA). This proposal would create a tax credit for home builders designed to encourage private development in what the taxwriters called "blighted neighborhoods," where poverty rates are high and home values are far below metro or state median values, by making up the "appraisal gap" between the property's sale price to a homeowner and its development cost.

Additional tax incentives

Sen. Debbie Stabenow, D-Mich., spoke to the significant increase in empty commercial space found in many city centers resulting from new work patterns established since the COVID-19 pandemic began and advocated for the Revitalizing Downtowns Act, which would provide an investment credit for the conversion of office buildings into residential and other uses. Stabenow sponsored similar legislation in the 117th Congress, and the House version has been introduced this year (H.R. 419) by Rep. Jimmy Gomez, D-Calif., who serves on the Ways and Means Committee.

Factors driving housing prices

Although there generally was bipartisan consensus on the merits of various tax incentives to promote affordable housing, there were notably divergent views on some of the factors that have driven up housing costs.

Democratic Sens. Elizabeth Warren of Massachusetts and Sherrod Brown of Ohio focused significantly on large private equity companies, which they contend are buying up properties nationwide and creating a demand-supply gap that has led to a spike in rents and in the prices of homes available for purchase. Warren posited that current tax policies, including five-year loss carrybacks, like-kind exchanges, and the passthrough deduction, are making the problem worse.

Hearing witness Denise Scott, president of Local Initiatives Support Corporation (LISC), agreed with Warren and said that in addition to "snapping up" single-family homes and pricing out lower-income and first-time homebuyers, institutional investors—who are "not always easily identified"—often refinance multifamily properties they acquire and "take money out of the community," increase rents, evict existing tenants, and fail to maintain the properties.

“These same biggest investors are collecting record profits while they are subsidized by government funding and tax breaks,” Warren said.

Taking a different perspective, Finance Committee ranking Republican Mike Crapo of Idaho and GOP Sen. Ron Johnson of Wisconsin focused on what they argued is a regulatory landscape that drives up development costs.

“Targeted tax policies such as LIHTC are an important part of solving housing affordability and supply issues, but we must also address the drivers that are raising the cost of housing generally,” Crapo said. “When input and regulatory costs are high, LIHTC is less effective. Zoning laws and regulatory barriers are often uncoordinated, unnecessary, or overly cumbersome, and can ultimately work against the goal of providing affordable housing by creating excessive development costs.”

Johnson expanded on that argument by pointing to other factors he said increase costs, such as a lack of workers and the significantly higher cost of lumber due to “trade wars.”

However, there was agreement among members of the committee about the impact that a lack of affordable housing is having on communities across the country and about the urgency to provide solutions, recognizing that any legislation passed will take time to have an effect.

“The only thing that’s unacceptable to me is for this Congress to take a pass on housing,” Wyden said. “This is too urgent. It’s too important.”

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