The Real Estate Roundtable

Expanding America's Housing Infrastructure

Housing, Infrastructure, and Cities

Summary

There is a chronic shortage of housing in the U.S. that is driving up housing prices and making it more difficult for lower-income individuals to find safe, affordable housing. Housing production in the U.S. is not keeping pace with expanding housing needs. The underbuilding gap in the U.S. now totals more than 5.5 million housing units. The impact of this growing problem is far-reaching and undermines economic growth—particularly in urban areas. Sweeping bipartisan housing legislation has cleared both chambers but is stalled in the House pending a path forward on reconciliation. Key issues in the Senate-passed bill are proposed restrictions on institutional investment in residential real estate (Section 901). RER recently released a white paper authored by Paul Clement of Clement & Murphy, PLLC, finding that Title IX of the Senate-passed bill raises serious constitutional concerns under the Takings Clause, equal protection, and federalism principles, through unprecedented federal restrictions on certain single-family housing owners. RER and coalition partners have been working to eliminate or amend Section 901 and support measures focused on boosting housing supply and capital formation.

Key Takeaways

- **Safe, decent, and affordable housing is critical to the well-being of America's families, communities, and businesses.** The COVID-19 pandemic intensified the nation's persistent housing crisis and heightened the need to expand the supply of affordable housing.
- Addressing the housing crisis requires a national policy transformation, including a **comprehensive strategy to expand supply.**
- Policymakers should look at the full scope of tools available to bridge the underbuilding gap as part of this national strategy, including:
    - Policies that preserve the flow of institutional capital into residential real estate and support a robust single-family rental (SFR) market;
    - Yes In My Backyard (YIMBY) policies;
    - Property conversion incentives;
    - Reforms to zoning and permitting rules;
    - Reforms to the GSEs that continue to protect financial stability and access to affordable mortgages;
    - Further improving Opportunity Zones (OZs);
    - Enacting the *Housing Affordability Act*; and
    - Further expanding the Low-Income Housing Tax Credit (LIHTC).
- RER has partnered with 16 other national real estate organizations to jointly advocate for policies that will help to **increase housing supplies, grow jobs, and modernize our nation's critical infrastructure**.

Background

The Underbuilding Gap

- A persistent underbuilding gap over many decades has left the U.S. with fewer housing units than needed, leading to higher home and rent prices and lower affordability.
- Housing supply was also significantly impacted by the Global Financial Crisis (GFC) in 2008 and disruptions caused by the COVID-19 pandemic. The construction industry was particularly affected due to higher labor and material costs, worsening the underbuilding gap.

- High housing rental and purchase costs are primarily driven by a chronic nationwide shortage of some 3.8 million homes, exacerbated by high demand, high interest rates, and restrictive zoning laws. Fixing it requires building more supply, reducing regulatory burden, and lowering construction costs.
- A quarter of American renter households spend more than 50 percent of their income on housing expenses. More than 10 million low-income households spend more than half of their monthly income on rent, according to Harvard's Joint Center for Housing Studies.

Recent Housing Legislation

- To address these challenges, the *Housing for the 21st Century Act* (H.R. 6644) passed the House of Representatives on Feb. 9, 2026, by an overwhelming bipartisan margin of 390–9. The final tally included 192 Republicans and 198 Democrats voting in favor, with only 8 Republicans and 1 Democrat voting against the measure. The bill has a number of constructive provisions including:
    - Affordable Housing Financing: Increases FHA multifamily loan limits and modernizes the HOME Investment Partnerships Program.
    - Regulatory Relief: Exempts certain housing construction and rehabilitation projects from federal environmental review processes to speed up development.
    - Manufactured Housing: Eliminates the permanent chassis requirement for manufactured homes, allowing for more varied, multi-story factory-built designs.
    - Community Banking: Includes measures to raise the cap on banks' "public welfare investments," unlocking more private capital for affordable housing projects
- Following House passage, the bill moved to the Senate, where it was combined with the *ROAD to Housing Act* and passed with amendments on March 12, 2026, by a vote of 89–10. The Senate replaced the original House-passed text with a substitute amendment that merged the two bills. The substantially amended package is now in the House of Representatives for reconciliation or concurrence.

Proposed Restrictions on Institutional Investors

- One troubling amendment to the Senate-passed bill involves proposed restrictions on institutional investment in residential real estate (Section 901). The measure would restrict "large institutional investors" (owning 350+ single-family homes) from purchasing new single-family homes and require them to sell certain existing units after seven years.
- Leadership from both parties on the House Financial Services Committee (HFSC) has expressed significant skepticism or outright opposition toward Section 901. Republicans cite concerns about a departure from free-market principles and potential market volatility caused by a "forced-sale" mandate. They argue that the provision could inadvertently undercut new rental housing production and disrupt financing, specifically harming the "Build-to-Rent" (BTR) market. Some members have suggested striking Section 901 entirely or modifying it to exempt contiguous "build-to-rent" parcels from the definition of a prohibited purchase.
- The HFSC generally views the Senate's version as having moved too far away from the deregulatory, supply-side focus of the original House bill. Members from both sides have expressed frustration at feeling "cut out" of the process by the Senate Banking Committee.
- RER has been working with a broad coaltion of housing and real estate groups to eliminate or amend Section 901. The goal is to find a solution that will combine more of the House-passed bill into a final package and incorporate just enough of Section 901 to give the White House a win.
- The House must now decide whether to agree to the Senate's changes or move the bill to a conference committee to resolve the differences.

Recommendations

Eliminate or Amend Section 901 of the Housing Bill: Section 901's proposed restrictions on institutional investment in residential real estate are already having a chilling effect on the market, with many transactions now stalled. RER and coalition partners are highlighting several concerns to policymakers, including:

- Constitutional Concerns: The "forced disposition" aspect of the Senate housing bill's BTR language raises significant concerns under the U.S. Constitution's Fifth Amendment Takings Clause and the infamous decision in *Kelo v. City of New London*, 545 U.S. 469 (2005). This "forced disposition" language in the bill would force a private property owner, after seven years, to sell a single-family rental home that it has built to another private party, or pay an onerous fine. The Wall Street Journal and other outlets have reported on this issue. A federal legislative mandate requiring a private person to sell property that the person owns directly to another private person, without government initiation of eminent domain proceedings, is without precedent. If enacted, no doubt it will result in a constitutional question that will clog the federal courts for years as BTR property owners, their tenants, and the U.S. government litigate Fifth Amendment takings issues. We believe this "forced sale" language should be dropped from the bill.

- The 21st Century ROAD To Housing Act: A Triple Threat To The Constitution: RER released a white paper concluding that Title IX of the Senate-passed bill raises serious constitutional concerns under the Takings Clause, as well as equal protection and federalism principles. The paper warns that the bill's unprecedented restrictions on certain single-family housing owners—including a forced-sale requirement for build-to-rent homes after seven years—would represent a sweeping and likely unconstitutional federal intrusion into the housing market.
- Treasury Power Grab: Both Steve Forbes and The Wall Street Journal Editorial Board raised concerns in recent editorials about a key provision of Section 901 that would give the Treasury Secretary carte blanche authority to issue rules to "minimize market disruptions" and "mitigate, to the extent possible, negative impacts on consumers and communities." Should the bill be enacted, and it actually reduces housing supply, rents are likely to increase. This would cause a negative impact for consumers, thus opening the door for Treasury regulations to address these impacts. Of course, this could include nationally imposed rent control regulation or eviction moratoriums under a Democrat-controlled administration. If there is truly no intent to allow the provision to be interpreted that way, then why not get the legislators to somehow clarify that rent control is in fact off limits?

Support a Robust Single-Family Rental (SFR) Market: The administration and legislators have framed moves to ban "large institutional investors" from purchasing single-family homes as part of a broader push to improve housing affordability. However, research shows that **large-scale SFR investments** have **helped revitalize distressed properties and communities**, contributing to economic growth and stability. RER continues to work with policymakers to demonstrate why institutional capital is essential to expanding housing supply and addressing affordability nationwide. RER will also advance initiatives that remove barriers to housing development, incentivize capital investment in housing, and help people achieve the American Dream.

- A UNC Charlotte study, for example, released in May 2024 found that children from low- and moderate-income households see **improved achievements in school** when they rent single-family homes in neighborhoods where they cannot afford to buy.
- Additionally, an August 2025 report from the American Enterprise Institute found that **institutional investors are not a primary driver of housing unaffordability**, noting that housing shortages stem largely from restrictive zoning, limited new construction, and inflationary pressures.
- On March 24, 2025, RER responded to the FTC's request for public comment regarding the impact that large-scale SFR operators and institutional investors are having on home prices and rents in single-family housing.

Enact Federal YIMBY Legislation: Proposed legislation like the bipartisan *Yes in My Backyard (YIMBY) Act* would help eliminate discriminatory land use policies and remove barriers to production of affordable housing.

- RER and 17 other national organizations submitted a letter in strong support of a version of the bill introduced in the 118th Congress, H.R. 3507.
- The *YIMBY Act* requires recipients of certain federal grants to submit public reports about their implementation of specific land-use policies, such as policies for expanding high-density single-family and multifamily zoning.

Implement Property Conversion Incentives: The bipartisan *Revitalizing Downtowns and Main Streets Act of 2025* (H.R. 2410) would create a market-based tax incentive for converting older commercial buildings to residential use.

- By incentivizing residential conversions, the bill would help modernize U.S. real estate, create new and affordable housing, and strengthen cities and neighborhoods that continue to suffer from the aftereffects of the pandemic.
- The bill would create a new and temporary 20 percent tax credit for qualified property conversion expenditures, modeled after the historic rehabilitation credit. The total credit authority would be limited to $15 billion, allocated by state housing finance agencies based on feasibility and impact.

Reform Zoning and Permitting Rules: Restrictive zoning and permitting rules create prohibitive barriers to constructing affordable housing and are exacerbating the housing crisis.

- Exclusionary zoning policies, such as prohibitions on multifamily homes, constrain housing construction. Streamlining permitting and zoning processes can unlock new housing supply.

Further Improve OZs: Opportunity Zone (OZ) tax incentives have successfully mobilized private investment in historically underserved communities. Long-term extension and targeted reforms are essential.

- Since their enactment in 2017, OZs have spurred billions in private investment to revitalize distressed communities, finance affordable housing, and create jobs. The One Big Beautiful Bill Act (OB3 Act), signed into law on July 4, 2025, permanently extended the OZ tax incentives and made a number of helpful reforms.
- Congress should also continue working on improvements to the OZ tax incentives to boost their scale and impact.
- 72 percent of U.S. counties contain at least one OZ. Recent estimates suggest OZs have attracted over $120 billion in capital.

Further Expand the LIHTC: The LIHTC is a critical federal tool for addressing the widespread lack of affordable rental housing. Expansions to the program are critical to maximizing its impact.

- The OB3 Act included a permanent 12 percent increase in the amount of LIHTC allocations to states and permanently lowered the requirement for private activity bond financing for LIHTC projects from 50 percent to 25 percent.
- Legislation has been previously proposed to strengthen the LIHTC, including the *Affordable Housing Credit Improvement Act (AHCI)*, which would make it easier to combine LIHTC with other sources of capital. RER continues to support elements of this bill that were not included in the OB3 Act. Additionally, the *Decent, Affordable, Safe Housing for All (DASH) Act* would offer a new Middle-Income Housing Tax Credit (MIHTC).

Pass the Housing Affordability Act: Sens. Ruben Gallego (D-AZ) and Dave McCormick (R-PA) introduced the bipartisan *Housing Affordability Act* to expand the supply of affordable housing by increasing Federal Housing Administration's (FHA) outdated multifamily loan limits.

- Without this fix, most areas are misclassified as "high-cost," limiting HUD's ability to support new multifamily developments and deepening the national housing crisis.
- If enacted, it will increase apartment construction, add supply, and help bring down housing costs, making housing more available and affordable for millions of American families.
- The *Housing Affordability Act* has the broad support of a number of real estate industry organizations, including RER, NAHB, NAR, NMHC, NHC, NAA, IREM, NAHMA, NLHAC, NAHC, and others.