



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.



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- 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 coalition 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



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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.



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- 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 (AHC)*, 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.



Summary

The U.S. faces a severe shortage of affordable housing as production has failed to keep pace with demand. At the same time, certain other commercial real estate assets like office buildings are under significant stress due to structural shifts in workplace demand. **RER is encouraging lawmakers to help revitalize cities, boost local tax bases, and address housing challenges** by enacting a tax incentive and federal loan support for converting older, underutilized buildings to housing. RER also supports a meaningful expansion of the Low-Income Housing Tax Credit (LIHTC).

Key Takeaways

- Congress should help expand and grow the supply of affordable and workforce housing by investing greater resources in time-tested tax incentives like the LIHTC and adopting creative new approaches that support the conversion of underutilized, existing buildings to housing.
 - Property conversions are a cost-effective way to increase housing supply, create jobs, and generate critical sources of local property tax revenue.
 - The LIHTC is an efficient, market-based housing solution that relies on the private sector to finance, build, and operate affordable housing by creating a federal incentive for new construction and redevelopment.
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Background

Property Conversions

- Bipartisan legislation introduced by Reps. Mike Carey (R-OH) and Jimmy Gomez (D-CA), the *Revitalizing Downtowns and Main Streets Act of 2025* (H.R. 2410), would create a new tax credit to reduce the costs associated with converting older office buildings to housing or other uses. The legislation is supported by a broad coalition of pro-housing and real estate-related organizations.
- Conversion projects can occur in a variety of settings, from central business districts and suburban office parks to rural communities and industrial facilities. The repurposing of existing structures can save energy while reinvigorating communities and reigniting economic growth where it is most needed.
- The inherent risks and elevated costs associated with property conversions, combined with the numerous social and economic benefits of conversions that flow to the broader community, justify proactive government policies that incentivize owners to adapt existing properties to new uses.

Property Redevelopment

- Not all properties can be converted to new uses. Often, in the case of vacant, obsolete, and underutilized buildings, the best course of action is to tear down the structure and redevelop the property.
- Current tax law discourages property redevelopment by not allowing taxpayers to deduct (or depreciate) the remaining basis of demolished buildings.
- Similarly, the actual demolition costs are also nondeductible. This disincentive to property redevelopment is an impediment to the revitalization of communities, reduces local tax revenue, and undermines investment and job growth.

The LIHTC

- Since its inception in 1986, the LIHTC has financed the development of nearly 3.5 million affordable rental homes that house over 8 million low-income households. Proposed legislation would make major new investments (\$29-32 billion) in expanding and improving the LIHTC.



Property Conversions and Housing Tax Incentives

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- Under the successful LIHTC program, states can award housing credits based on their own affordable housing priorities. They can target credits to housing units dedicated to certain populations such as seniors or veterans, or to specific regions most in need of affordable housing.
- The One Big Beautiful Bill Act (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.

Recommendations

Implement Property Conversion Incentives: Congress should pass the *Revitalizing Downtowns and Main Streets Act of 2025* (H.R. 2410) to incentivize property conversions, increase the housing supply, and revitalize downtowns.

- The bill would create a 20 percent tax credit for commercial-to-residential conversions with a significant set-aside for affordable rental units.
- Federal loan programs should be streamlined to support conversion projects.
- In particular, the administration should gear Department of Transportation loans for transit-oriented development (RRIF and TIFIA) to better enable commercial-to-residential building conversions.

Correct the Tax Treatment of Redevelopment Costs: Congress should modify the tax treatment of demolished buildings and demolition costs.

- The remaining tax basis of a demolished building should be immediately deductible as a loss. These changes would lead property owners to replace vacant and underperforming properties with new housing and mixed-use developments while spurring the redevelopment and revitalization of cities and neighborhoods.

Expand the LIHTC: Congress should further expand LIHTC, and RER continues to support elements of the *Affordable Housing Credit Improvements (AHCI) Act* (S.1136, H.R. 2573 in the last Congress) that were not included in the OB3 Act.

- The *AHCI* would create and preserve more than 2 million affordable homes, support 3 million jobs, and generate \$119 billion in sustainable tax revenue.



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Fannie Mae, Freddie Mac, and the Future of Housing Finance in the U.S.

Housing, Infrastructure, and Cities

Summary

In response to the Global Financial Crisis in September 2008, the U.S. Treasury placed Fannie Mae and Freddie Mac into conservatorship under the oversight of the Federal Housing Finance Agency (FHFA). This action was intended to stabilize the mortgage market and restore confidence in the government-sponsored enterprises (GSEs). It also involved an injection of \$190 billion of capital, while creating an explicit U.S. government guarantee. The ongoing conservatorship means that the government has total control over these huge government-backed mortgage enterprises, with \$7.7 trillion in combined assets.

Conservatorship was not meant to be indefinite. More than 18 years later, the GSEs are in a much stronger financial position and have repaid the \$187 billion used to preserve Fannie and Freddie during the financial crisis. Yet, retiring the government's preferred and common equity stake would require a refinancing of massive scale, a taxpayer gift from the U.S. Treasury of tens of billions of dollars to Fannie and Freddie, or both.

The GSEs are currently "effectively owned" by the U.S. Treasury, which holds senior preferred stock and warrants for 79.9 percent of their common stock. While they have built significant reserves, the Congressional Budget Office (CBO) projected that their equity value by early 2027 would still fall short of full recapitalization requirements.

Policymakers have increasingly discussed various reform proposals, including ending the conservatorship, full privatization, hybrid models, and continued government backing with additional safeguards. The administration has set reform as a key priority, yet concrete details have yet to emerge.

As policymakers consider privatization or structural reforms, it is essential to the real estate industry and the broader economy to **preserve a well-functioning housing finance system that supports homeownership, expands affordable housing supply, and sustains economic growth.**

Key Takeaways

- A complete, rapid exit from conservatorship is considered unlikely in the immediate term due to the technical complexity of raising enough capital to meet regulatory requirements. Instead, a gradual transition involving partial share offerings is more likely.
 - A critical future debate is whether the government will provide a "paid-for explicit guarantee" on GSE mortgage-backed securities (MBS). Without this, critics warn mortgage rates could spike due to increased risk for private investors.
 - While the House Financial Services Committee has explored a legislative overhaul, no legislation has been introduced. Some experts believe the administration will try to use its existing authority to restructure the Treasury's senior preferred stock into common shares.
 - However, one key concern for a successful exit is the "explicit guarantee." If the government doesn't legally guarantee the mortgages post-exit, mortgage rates could rise by 0.2 to 0.8 percentage points (\$500-\$2,000 more per year for a typical buyer). An explicit, paid-for guarantee would likely stabilize the 30-year fixed-rate mortgage but requires an act of Congress.
 - If Fannie and Freddie are transitioned to private ownership, the process must ensure **financial stability, avoid market disruptions, and protect access to affordable mortgages.**
 - Reforms to the GSEs should be part of a **larger national transformation in housing policy** to unleash a wave of new housing construction and fully address the underbuilding gap, including Yes In My Backyard (YIMBY) policies, property conversion incentives and reforms to zoning and permitting rules, Opportunity Zones, and the Low-Income Housing Tax Credit (LIHTC).
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Background

Fannie Mae and Freddie Mac

- The Federal National Mortgage Association (FNMA), known as Fannie Mae, was chartered in 1938 to support the housing market during the Great Depression. In 1968, Fannie Mae was removed from the federal budget and became a federally chartered, stockholder-owned corporation. The Federal Home Loan Mortgage Corporation (FHLMC), or Freddie Mac, was chartered in 1970 to further expand the secondary mortgage market.
- Both of these entities enjoyed an “implicit guarantee” that the government would not allow such important institutions to fail or default on debt, enabling them to borrow in the credit markets at lower rates than other financial institutions. They have played a vital role in the U.S. residential single-family and multifamily mortgage market. As of December 2024, Fannie Mae and Freddie Mac collectively guarantee \$6.6 trillion in Agency Mortgage-Backed Securities (MBS), or some 50 percent of all outstanding U.S. mortgage debt.
- Since 2019, the GSEs have been authorized to retain profits to build capital. As of the first quarter of 2026, the Treasury’s liquidation preference for the senior preferred shares stands at \$400 billion. This would need to be addressed as part of any privatization plan.
- As a result of retaining capital, Fannie Mae and Freddie Mac increased their combined net worth to \$179 billion as of the first quarter of 2026. Despite this steady growth, the GSEs remain well below the minimum regulatory capital framework requirements set by the FHFA in 2020. As of 2025, Fannie Mae’s capital requirement is \$187 billion, and Freddie Mac’s is \$141 billion, with a combined requirement of \$328 billion.
- Trump administration officials, FHFA Director Bill Pulte, and Treasury Secretary Scott Bessent have expressed a desire to end the conservatorship. Yet, a key consideration of ending the conservatorship for Sec. Bessent is the potential impact on mortgage rates. He has indicated that any plan to release the GSEs from government control must carefully assess potential effects on mortgage rates to ensure that homeownership remains affordable.

Recommendations

Preserve Market Liquidity: Reforms must preserve sufficient liquidity to avoid higher borrowing that could reduce investment in new housing supply and exacerbate the housing shortage.

- The GSEs serve a vital purpose in the U.S. housing market, helping to keep mortgage rates relatively low and encouraging financial institutions to finance single-family and multifamily housing.
- Fannie Mae and Freddie Mac support around [70 percent](#) of the mortgage market, and in the first half of 2024, were responsible for [48 percent](#) of newly originated apartment loans.

Support Affordable Housing Goals: GSE reforms should ensure that Fannie and Freddie continue to maintain a strong emphasis on affordable housing and underserved markets.

- GSE-backed financing assists in the construction of new affordable housing, which is essential to address the chronic housing shortage.
- As part of their mission, Fannie and Freddie purchase [multifamily loans](#) which support affordable and workforce housing. The FHFA oversees these purchases and sets volume caps based on market forecasts.

Ensure Soundness and Stability: Any privatization or restructuring must ensure that the GSEs maintain financial strength, mitigate risk to taxpayers, and support long-term market confidence.

- Fannie Mae and Freddie Mac together accounted for 42 percent of the total dollar volume of multifamily mortgages originated in 2023, according to the Mortgage Bankers Association (MBA). Reforms should ensure that the soundness of these and other loans continue to meet standards while providing sufficient liquidity to meet the market’s needs, particularly in the affordable sector.
- The Enterprise Regulatory Capital Framework ([ERCF](#)), adopted by the FHFA as part of the conservatorship, established risk-based capital standards for the GSEs that exceed the statutory minimum leverage



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requirements. Reforms to Fannie and Freddie's capital requirements should ensure that they continue to be well-capitalized and can withstand economic distress.

Enhance Private Market Capacity: GSE financing efforts should focus on affordable and workforce housing and avoid crowding out private-sector financing and investment in class "A" market-rate apartments. However, reforms must appropriately calibrate any restrictions on multifamily lending to avoid any unintended consequences to aggregate credit capacity—particularly in times of economic distress.