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, the 21st Century ROAD to Housing Act, was enacted in July 2026, without the Senate bill's unconstitutional seven-year forced-sale mandate targeting build-to-rent (BTR) housing.

In April, RER 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, including the forced-sale mandate for BTR homes. RER and coalition partners strongly supported the House amendment, which eliminated the forced-sale mandate while preserving supply-focused reforms to modernize federal housing programs, reduce regulatory barriers, encourage new construction, and support 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**.

21st Century ROAD to Housing Act Enacted

- To address these challenges, the sweeping 21st Century ROAD to Housing Act (H.R. 6644 / Public Law 119-101) was enacted into law on July 11, 2026. The Senate passed the final version 85–5 on June 22, 2026, and the House of Representatives passed it 358–32 on June 23, 2026.
- The legislation includes:
    - Affordable Housing Financing: Increases FHA multifamily loan limits and modernizes the HOME Investment Partnerships Program.

- Regulatory Relief: Streamlines federal environmental review requirements for certain housing construction and rehabilitation projects 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.
- Housing Supply and Local Reforms: Encourages local zoning and land-use reforms, supports transit-oriented development, and advances other supply-focused measures to reduce barriers to housing production.

Proposed Rulemaking (Section 1001)

- The U.S. Department of the Treasury's Notice of Proposed Rulemaking (NPRM), published on Oct. 23, 2026, implements Section 1001 of the 21st Century ROAD to Housing Act and formalizes Executive Order 14376 to restrict large institutional investors (LIIs) from acquiring single-family homes.
- The new law enacts the most significant federal restrictions on institutional single-family housing investment in modern U.S. history, alongside housing supply and banking reforms.
- Starting Jan. 7, 2027, large institutional investors (LIIs)—defined as entities controlling 350 or more single-family homes—are barred from buying additional single-family properties, though passive investors without control are excluded.
- The law requires no forced divestiture of existing portfolios, and earlier proposals for a seven-year sell mandate were removed during negotiations.
- Violations risk penalties up to $1 million or three times the purchase price. The ban sunsets after 15 years, and LIIs must report annual property counts to HUD.

The Roundtable is working on a comment letter in response to the NPRM and welcomes member input before the submission deadline of Nov. 23, 2026.

Recommendations

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 the 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.

The Real Estate Roundtable

Property Conversions and Housing Tax Incentives

Housing, Infrastructure, and Cities

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.

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.
- 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.

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**.

The enactment of the 21st Century ROAD to Housing Act in July 2026 directly impacts GSE operations and capital deployment, moving the goalposts for structural housing finance reform:

- Multifamily Backstop Role: The law explicitly codifies the GSEs' role as a stable liquidity backstop in the commercial and multifamily mortgage markets.
- FHFA Loan Purchase Caps: In alignment with the Act's goals, the FHFA sharply increased the 2026 multifamily loan purchase caps to a combined $176 billion (a 20.5 percent increase over 2025's $146 billion limit). The FHFA committed to a "liquidity backstop" pledge, promising not to reduce these caps even if the broader market contracts.
- Intertwined Legislative Fate: Because the ROAD to Housing Act leveraged banking system relief and increased Public Welfare Investment caps to unlock private capital, standalone legislative GSE reform has been sidelined. Congress has effectively prioritized using the GSEs as tools for immediate supply creation rather than executing a complex wind-down or restructuring of their charters.

Key Takeaways

- The tension between the executive branch's administrative ambitions and the legislative reality in Congress shapes the future of both GSE reform and institutional housing rules. While the administration utilizes regulatory agencies to bypass legislative gridlock, congressional opposition and structural legal hurdles create significant friction.
- The FHFA and the Treasury Department are quietly exploring an administrative "recapitalization and release" framework. With the GSEs holding $328 billion in combined capital, the administration is evaluating a consent decree that would restructure the Treasury's senior preferred stock and allow the enterprises to exit conservatorship without a new act of Congress.
- 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.
- However, one key concern for a successful exit is the "explicit guarantee." If the government does not legally guarantee the mortgages post-exit, mortgage rates could rise by 0.2 to 0.8 percentage points ($500 to $2,000 more per year for a typical buyer). An explicit, paid-for guarantee would likely stabilize the 30-year fixed-rate mortgage but would require 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 (OZs), and the Low-Income Housing Tax Credit (LIHTC).

Background

Fannie Mae and Freddie Mac

- 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.

Recommendations

Preserve Market Liquidity: Reforms must preserve sufficient liquidity to avoid higher borrowing costs 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 continues 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 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.