



Affordable Housing  
Preservation Initiative

Local Initiatives Support Corporation

# MULTIFAMILY HOUSING PRESERVATION: CURRENT ISSUES

**Vermont Housing and Conservation Board**  
**November 12, 2009**

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**LISC Vice President for Affordable Housing Preservation**

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# First: *Analyze The Problem*

- Extend affordability –same or new owner, keep subsidies, targeting and regulation
- Rehab, recapitalize at end of systems' useful life
- Redesign, address obsolescence, poor decisions
- Green, sustainable principles - materials, energy & water use, indoor air quality, disposal of materials
- Regulation – extend but also simplify and create reasonable flexibility
- Incentives to stay in
- Ownership change
- Resident Services
- Address aging in place
- Resolution of distressed housing
- Long-term asset management needs

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# Existing Tools

- See Stemming the Tide, Recapitalizing Affordable Housing, Green Rehab Guide, Preserving Affordable Rural Housing
- Data infrastructure, risk analysis, problem identification
- Section 8 renewal and restructuring
- Debt restructuring, §236 decoupling
- LIHTC/TCAP/§1602 Exchange
- Gap financing programs (e.g., CDBG, HOME, HTFs, Inclusionary Zoning Funds)
- Capacity Building and knowledgeable predevelopment funding – e.g. LISC, HAC, HPN, NW, NHT.

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# Policy Update

- Federal Policy

- Housing and Economic Recovery Act (HERA) & American Recovery and Reinvestment Act (ARRA)
- Appropriations Levels and Administrative Provisions
- Upcoming Legislation: Preservation Bill & SEVRA
- Regulatory Issues:
  - Section 8 Rent Caps - Tax Credit Levels?
  - Other Administrative Measures
  - Energy Task Force recommendations

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# Housing and Economic Recovery Act (HERA) 2008

- **GSE Reform**

- Duty to Serve (see next slide)
- Housing Trust Fund and Capital Magnet Fund\*

- **Tax Credit Reforms**

- HUD and USDA Coordination with LIHTC
- Relaxes 10-year rule and related party ownership limits
- Allows LIHTC for a Section 8 Mod Rehab property

- **Project-Based Voucher Program**

- Extended contract terms and renewals to 15 years
- Rents may exceed LIHTC rent
- Simplifies subsidy layering and environmental reviews
- Allows coops, high-rises, and multi-building projects

- **HUD-Energy-EPA consultation on barriers to energy efficient mortgages**

\* funding suspended by GSE regulator until further notice.

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# New GSE Duty to Serve

- **Established in HERA 2008**
- **Creates a “Duty to Serve” for Fannie Mae and Freddie Mac**
  - To increase the liquidity of mortgage investments and improve the distribution of investment capital available for underserved markets
- **Applies to Three Underserved Markets**
  - Affordable Housing Preservation, Rural Markets, Manufactured Housing
  - Other categories may be added by Secretary in consultation with Congress
- **GSEs are Evaluated on:**
  - Loan products, flexible underwriting, and innovative approaches
  - Outreach to qualified loan sellers
  - Amount of loans, investments, and grants

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# GSEs' Duty to Serve Preservation

- **Targeted subsidy programs**

- Project-based and tenant-based Section 8;
- Section 236 and 221(d)(3) mortgage subsidies;
- Section 202 (elderly) and 811 (supportive housing);
- McKinney-Vento permanent supportive housing;
- Section 515 rural rental housing;
- Low-Income Housing Tax Credits; and
- Comparable state and local affordable housing programs.

- **Process**

- Advance Notice of Proposed Rulemaking issued in August
- Expect a Proposed Rule soon
- Rules should be effective in 2010

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# American Recovery and Reinvestment Act (ARRA) of 2009

- **Project-Based Section 8**

- \$2 billion to fully fund contracts for 12 month periods

- **Energy Retrofits for Assisted Housing**

- \$250 million for loans and grants (next page)

- **Tax Credit Assistance Program (TCAP)**

- \$2.25 billion gap funds for LIHTC projects (using HOME channel)

- **LIHTC 9% Exchange**

- Unused 2008 allocation plus 40% of 2009 allocation, exchanged for cash at price of \$0.85

- **Public Housing Capital Fund**

- \$3 billion for formula grants to agencies, \$1 billion competitive

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# ARRA

## Project-Based Section 8

- Amends the Fiscal year 2008 Consolidated Appropriations Act, to provide an additional \$2 billion to fully fund project-based rental assistance contracts for 12-month periods.
- This was done to resolve, for FY 2009, the effects of recent short-funding of project-based Section 8 contracts.
- In addition to providing cash-flow stability to assisted properties, this measure was included to facilitate financing for these projects by increasing investor confidence.

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# ARRA Energy Retrofits

- \$250 million available for loans and grants for energy-efficient retrofits and green investments in assisted multifamily housing
- Provided through HUD's Office of Affordable Housing Preservation (OAHP)
- Eligibility:
  - Project-based Section 8, 202 (elderly) and 811 (disabled) housing
  - Owners with at least a satisfactory management review rating
  - In substantial compliance with applicable performance standards

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# ARRA Energy Retrofits, Cont.

- Projects must undergo a financial assessment and physical inspection, and a “Green PNA”
- HUD provides incentive fees to owners to participate
- Owners must agree to extension of affordability for at least 15 years
- HUD will fund 200-250 out of the 550+ applications received
- Range from \$3,000 to \$15,000 per unit in grants and loans
- HUD developing model subordination agreement with NCSHA
- Expected to Close on first GRP in late October

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# Other ARRA Provisions

## ■ **Weatherization - \$5 billion**

- Available for multifamily properties
- Per unit amount raised from \$2,500 to \$6,500
- Expect final rule on HUD/DOE coordination in November 2009

## ■ **Neighborhood Stabilization - \$2 billion**

- Eligible applicants for 2nd round include nonprofits and consortia of nonprofits in addition to local and state governments
- NSP may be used to purchase and rehab foreclosed or vacant multifamily properties
- HUD expected to announce NSP2 awards soon

## ■ **CDFI Program - \$100 million**

- 25 out of 59 grants were for affordable housing
- Three awards totaling \$6 million to Vermont CDFIs

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# 2010 Appropriations

## ■ **Section 202 Prepayment and Refinancing**

- Provides revised permissive §202 refinancing authority, allowing older projects to be refinanced for purposes of rehabilitation.
- Allows use of mark-up to market or mark-up-to-budget.
- Provides tenant protection vouchers for §202 “old law” (pre-1974) refinancings, and, potentially, new project-based assistance.
- Revised language under consideration to improve workability.

## ■ **Below-Market Sales**

- Directs HUD to utilize industry standard appraisal practices, recognizing cost of needed repairs and affordability restrictions.
- Not in House bill for FY 2010.

## ■ **Section 8 Transferability**

## ■ **Maintain Project-Based Subsidy on Foreclosure and Disposition (Schumer Amendment)**

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# 2009 Preservation Bill

- High priority for House Financial Services
- Draft includes reforms to Section 202 and RHS
- Some provisions may be handled administratively by HUD, but expect to be kept in Bill
- Expect controversial provisions to be removed

## **July 2009 Draft Bill:**

**Title I – Preservation of Housing At Risk of Conversion to Market Rate**

**Title II – Restoration of Housing At Risk of Loss Due to Deterioration**

**Title III – Protection and Empowerment of Tenants Facing Conversion**

**Title IV – Preservation of Troubled Projects Facing Foreclosure**

**Title V – Incentives under MAHRA for Owners to Maintain Affordability**

**Title VI – Preservation Database**

**Title VII – Supportive Housing for the Aging**

**Title VIII – Rural Housing Preservation**

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# Section 8 Voucher Reform Act

- **House passed bill in 2007; Senate introduced 2008**
- **Provisions under consideration include:**
  - **Increase allowable share of a PHAs vouchers that can be project-based from 20% to 25%, with an additional 5% to serve homeless persons**
  - **Increase maximum number of project-based voucher units in a project to the higher of 25 units or 25%**
  - **Allow owners to choose project-based vouchers in lieu of enhanced vouchers; make this authority retroactive for cases where a project that already has enhanced vouchers is purchased in a preservation transaction**
  - **Includes subsidized mortgage maturity in Enhanced Voucher Eligibility**
  - **Add tenant protections to Enhanced Vouchers**
  - **Allow project-based waiting lists**
  - **Permit exception rents up to 120% of FMR without HUD approval and above 120% with HUD approval**

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# HUD Policies

- **LIHTC & Section 8 Rents**
  - **Chapter 15 of the Section 8 Renewal Guide governs nonprofit Preservation transactions**
  - **September 2008 revision limited HAP renewal rents to LIHTC levels in tax credit properties**
  - **Additional recent policy “rumors”:**
    - **Rent limits may apply to all MU2M and MU2B**
    - **Budget-based rent increases based on pre-existing debt service, not new debt service (except 236 decouplings)**
    - **For existing S8/LIHTC: 5-yr rent adjustment cap at LIHTC level?**
    - **More restrictive interpretation of state/local use agreements**

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# HUD Policies

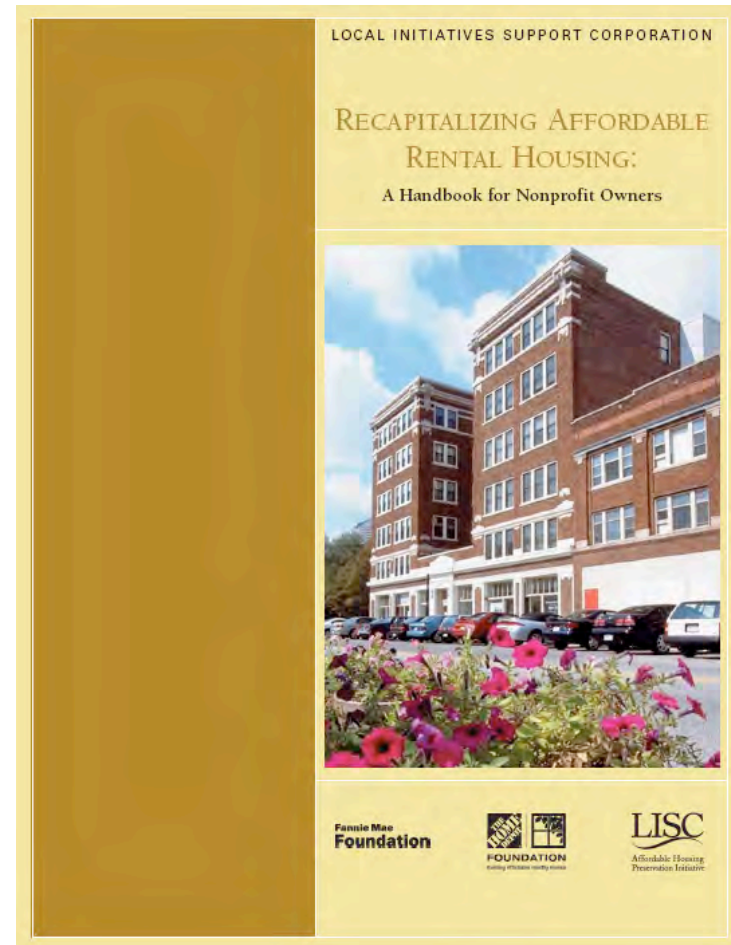
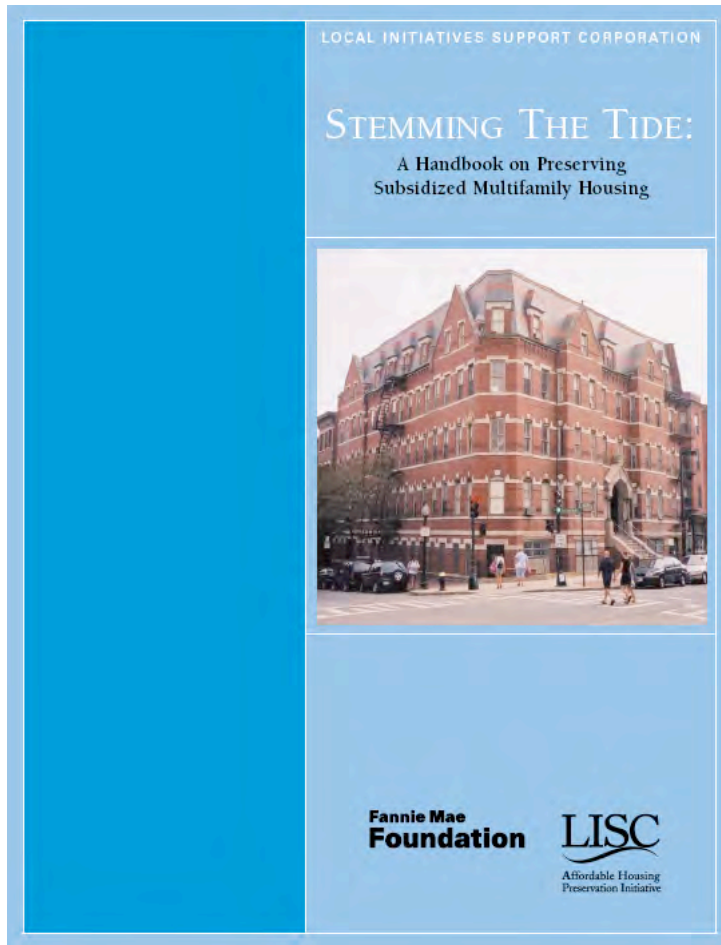
- **Other Administrative: Pending Changes**
  - **236 decoupling notice**
  - **§202 refinancing notice**
  - **§202 subordination**
  - **Flex Sub deferred Repayment**
  - **Unit Conversions**
  - **Use Agreement monitoring and oversight**
  - **Use of RFR, residual receipts**

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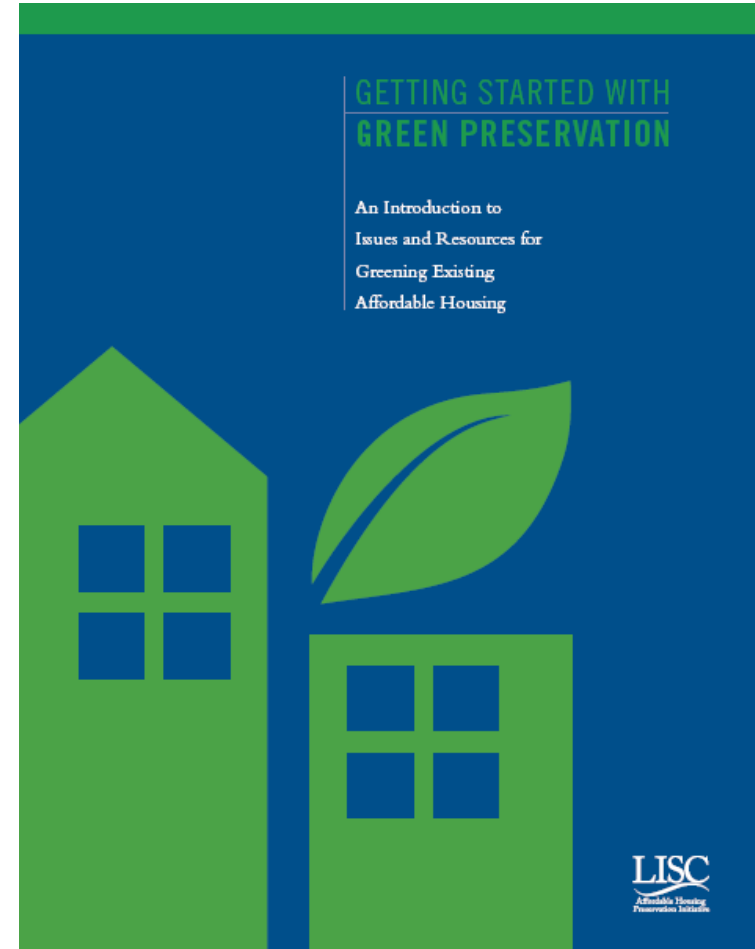
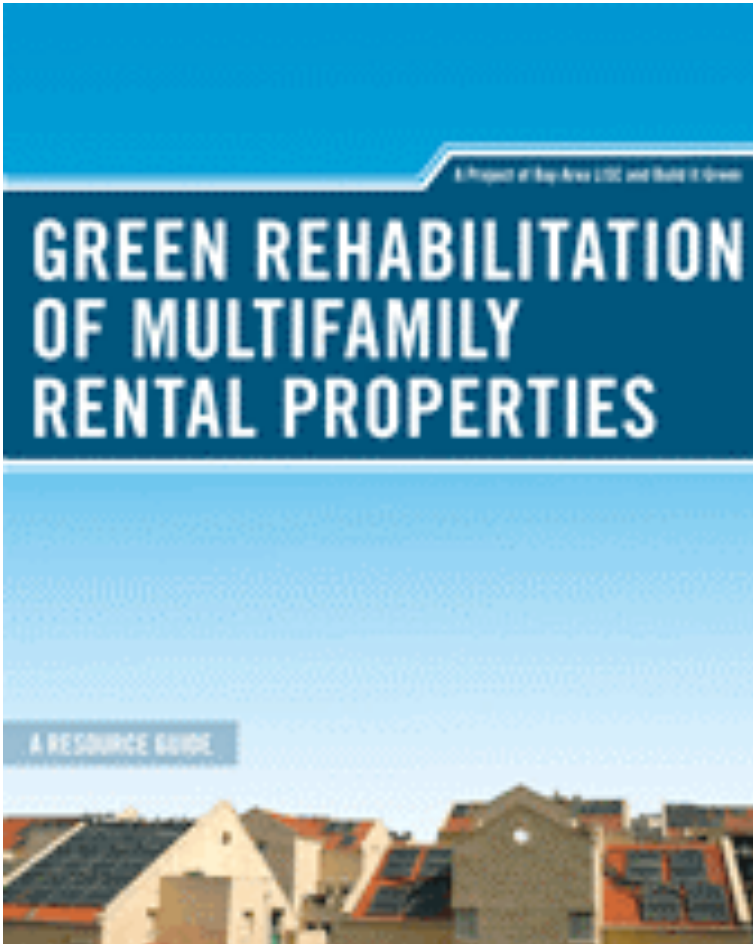
# HUD Policies

- **Energy Task Force – most recommendations approved; expected implementation by end of 2010:**
  - **Increased distribution for use of conservation methods/change def of initial equity**
  - **Allow nonprofits to take a distribution**
  - **Management companies can share in savings, must have master plan, energy audit**
  - **Thinking about requiring use of Energy Star in R4Rs.**

[www.lisc.org/preservation](http://www.lisc.org/preservation)



[www.lisc.org/greenpreservation](http://www.lisc.org/greenpreservation)



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