



June 10, 2024

Dear Representative-

The undersigned national real estate and housing associations and non-profit organizations represent a broad coalition of housing providers and lenders that are committed to working together with policymakers to promote sustainable and responsible solutions to address America’s housing availability and affordability challenges. Today, we write to encourage the Administration, Congress, and all federal policymakers to address the causes of rising insurance premiums across the nation’s housing market, and in particular the significant negative impacts such increases have had on all stakeholders, including, but not limited to, single-family, multifamily, and affordable housing developers, lenders, investors, owners and our nation’s renters.

Ultimately, our primary objective is to ensure housing providers can meet the long-term housing needs of the nearly 40 million Americans who live in rental homes and continue to foster the growing contributions rental housing makes to our economy, which currently stands at \$3.4 trillion annually.¹² The volatility in the insurance market over recent years hinders the ability of housing providers to deliver the housing that is so desperately needed. Rising insurance costs are one of several factors beyond the control of housing providers, driving price increases. Since housing costs are a major driver of inflation, addressing insurance and other operating costs challenges in the rental market will also have positive follow-on effects for the national economy. In this letter, we provide many policy solutions that have the potential to alleviate the impact of skyrocketing insurance costs on housing affordability nationwide.

Insurance Rates Have Increased at Unprecedented Rates in Recent Years

For the better part of a decade, owners, operators, and developers of for sale and rental housing have been hard hit by dramatically rising insurance costs. Coverage limitations, deductible increases, and often, the unavailability of an affordable or viable private insurance market have increased the financial risk borne by housing providers and strained property operations. As of the fourth quarter 2023, U.S. property insurance rates have increased for 25 consecutive quarters.³ Likewise, U.S. casualty insurance

¹ 2021 American Community Survey, 1-Year Estimates, U.S. Census Bureau, “Total Population in Occupied Housing Units by Tenure by Units in Structure”.

² Hoyt Advisory Services, National Apartment Association and National Multifamily Housing Council, “The Contribution of Multifamily Housing to the U.S. Economy”, https://weareapartments.org/pdf/Economic_Impact.pdf.

³ CIAB’s Q2 2023 P/C Market Survey, <https://www.ciab.com/resources/q2-2023-p-c-market-survey/> and NMHC State of Multifamily Risk Survey & Report, June 2023, https://pages.nmhc.org/rs/676-UDD-714/images/NMHC_InsuranceReport_2023.pdf (the 2023 NMHC State of Multifamily Risk Survey & Report). This study covered 160 respondents that covered a broad range of actors in the housing ecosystem, including, but not limited to, owning 1.6 million units; managing 1.5 million units, with the average portfolio containing 11,292 owned units and 18,973 managed units respectively.³ The study also covered several types of housing classes, including Market-rate Class A; Market-Rate Class B, Market-Rate Class C; Subsidized/Affordable; Purpose-built Student Housing; and Age-Restricted (Seniors).

rates have increased for 17 consecutive quarters.⁴ Further, over the past three years, insurance premiums have been subject to unprecedented increases, with providers reporting annual premium increases ranging from 30% to 100% for affordable rental housing communities.⁵ The below highlights these rate increases for various types of insurance coverage:⁶

Type of Insurance Coverage:	Average Reported Percent Increase From the Previous Year:	Maximum Reported Percent Increase From the Previous Year:
Property	26.4%	120%
Liability	14.7%	133%
Umbrella	16.6%	226%
Earthquake	14.9%	55%
Terrorism	6.2%	80%
Cyber	24.4%	220%
Crime	4.7%	25%

The findings of NMHC’s 2023 [State of Multifamily Risk Survey and Report](#) detailed that insurance market volatility and accompanying cost increases have only worsened over the last few years, leading policyholders to raise deductibles and insurers to limit coverage amounts and include new policy limitations. In the past three years:

- 61% of respondents⁷ were forced to increase their deductibles to maintain affordability.
- 57% of respondents indicated their insurance carriers included new policy limitations to reduce their exposure.
- 34% reported their insurance carriers limited or reduced coverage amounts.

The situation is even more daunting in the affordable and workforce housing space. [An October 2023 survey and report](#), commissioned by the National Leased Housing Association (NLHA) and supported by other affordable housing organizations, focused on the impact of the current insurance market challenges on affordable housing providers. The survey found that affordable housing providers are facing much higher premiums, with nearly one in every three policies experiencing rate increases of 25% or more in the most recent renewal period. Additional key findings include:

- For 2022-23 renewals, 29% of housing providers⁸ experienced premium increases of 25% or more, compared to 17% the previous year.
- Limited markets and capacity are responsible for most premium increases, followed by claims history/loss and renter population.
- 67% of respondents reported increasing insurance deductibles to manage the increases followed by reducing operating expenses and increasing rent.

⁴ <https://www.marsh.com/en/services/international-placement-services/insights/us-insurance-rates.html>

⁵ *Id.*

⁶ *Id.*

⁷ NMHC launched the State of Multifamily Risk Survey in February 2023 and received 160 individual responses representing apartment firms of varying portfolio sizes and property types across all geographic regions.

⁸ In August and September 2023, ndp | analytics conducted a survey on changes in housing providers’ insurance premiums for 2020, 2021, and 2022 policy renewals. We received 418 responses from housing providers across the United States, who operated 2.7 million units, including 1.7 million affordable units.

Property Insurance Rates Largely Driven by Volatility in the Broader Market

The insurance markets are experiencing unprecedented volatility. Starting around 2017, the property insurance market began to destabilize as more frequent natural catastrophes occurred, in conjunction with the inflationary impact of higher material and labor costs—which was only further exacerbated by recent pandemic-related economic strife.⁹ Insured losses arising from natural disasters were calculated at \$121 billion and almost \$125 billion in 2021 and 2022, respectively, which are both well above the 10-year average of \$81 billion.¹⁰ 2023 saw a record high 142 insured natural catastrophes across the globe, and insured losses exceeded \$100 billion for the fourth consecutive year.¹¹

As a result of this sharp upward trend, many insurers have simply ceased to underwrite multifamily or other similar property casualty policies. For example, at least 15 insurance carriers in Florida have become insolvent since 2020, including United Property & Casualty Insurance Company, a significant regional insurance carrier. In Louisiana during a similar time period, at least 20 insurers became insolvent or left the state entirely¹². In California, major insurers such as State Farm, Allstate, and AIG all discontinued underwriting new homeowners' insurance policies due to several natural disasters.¹³ And while these impacts have been publicized for their significant effect on the single-family housing market, the multifamily rental housing space has seen similar, if not worse, trend lines.

In addition, there are other property insurance market nuances that can contribute to higher insurance rates including the expansion of the litigation funding industry and the unique dynamics of insurers' investment portfolio performance. Litigation funding is a means to finance legal action using third-party investors who provide financial support for a lawsuit in exchange for an interest in the potential recovery in a case. Unfortunately, the rise of litigation funding has been linked to increases in insurance rates and the tightening of coverage requirements, which in turn has resulted in higher rates for coverage holders in the ordinary course of business. For example, in 2020, AM Best, an insurance industry rating agency, downgraded the "U.S. commercial general liability insurance segment, owing to unfavorable claims trends driven by social inflation and other factors such as third-party litigation financing."¹⁴

With respect to the nature of insurers' investment portfolio performance, insurers typically hold significant investments in corporate bonds and structured securities like collateral loan obligations, residential and commercial mortgage-backed securities, and asset-backed securities, among others. Due to today's higher interest rates, caused in large part by today's inflationary environment, the value of these investments has decreased over the last year to two years.¹⁵

Further, stubbornly high interest rates have raised the cost of borrowing and doing business for insurance companies nationwide, forcing these companies to find other means of raising capital and offsetting such costs. Unfortunately, for many insurers, the solution is to offset such dynamics by raising insurance rates for coverage holders and new applicants, even when applicable risks and the total insurable value (TIV) of an applicable property have not materially increased.

⁹ *Id.*

¹⁰ Swiss Re Institute, Natural Catastrophes and Inflation in 2022: A Perfect Storm, November 1, 2023, <https://www.swissre.com/institute/research/sigma-research/sigma-2023-01.html>

¹¹ Swiss Re Institute, New record of 142 natural catastrophes accumulates to USD 108 billion insured losses in 2023, finds Swiss Re Institute, March 26, 2024, <https://www.swissre.com/press-release/New-record-of-142-natural-catastrophes-accumulates-to-USD-108-billion-insured-losses-in-2023-finds-Swiss-Re-Institute/a2512914-6d3a-492e-a190-aac37feca15b>

¹² More insurance companies pull out of Louisiana: 'We are in a crisis', Fox Business, January 16, 2023, <https://www.foxbusiness.com/features/more-insurance-companies-pull-out-louisiana-crisis>.

¹³ Uninsurable America: Climate change hits the insurance industry, Axios, June 6, 2023, <https://www.axios.com/2023/06/06/climate-change-homeowners-insurance-state-farm-california-florida>.

¹⁴ AM Best, Best's Market Segment Report: AM Best Assigns Negative Outlook to US General Liability Insurance Market, December 15, 2020, <https://news.ambest.com/PR/PressContent.aspx?refnum=30201&altsrc=9>.

¹⁵ "The Impact of Rising Rates on U.S. Insurer Investments," National Association of Insurance Commissioners, February 2023, <https://content.naic.org/sites/default/files/capital-markets-special-reports-impact-of-rising-rates.pdf>.

Rising Insurance Rates Are Harmful to All Stakeholders in the Real Estate and Affordable Housing Markets

Today, in more and more communities, hard-working Americans are unable to rent or buy homes due to increased housing costs driven by a lack of supply and today's current high mortgage rates. This lack of supply, in turn, is created by barriers to development that make it increasingly challenging to build housing at almost any price point.¹⁶ And while policymakers at all levels of government must do more to remove barriers to housing production, they must also understand how operational costs like insurance—outside of the control of property owners—are exacerbating the situation and directly impacting the cost of housing. Unfortunately, the recent trend of unprecedented rising insurance premiums has been a significant contributor to disincentivizing housing providers from participating in the affordable housing market and rising rent inflation for residents.

The impact of rising insurance costs is further exacerbated in affordable housing communities. These challenges may cause housing providers to find operational cost savings in ways that negatively impact residents or to ultimately opt-out of the affordable housing market altogether.

- Due to income and rent restrictions in the Low-Income Housing Tax Credit (LIHTC) program, housing providers of affordable housing communities typically cannot pass through insurance rate increases to their residents via rent increases.
- Private- and public-sector lenders typically require housing developers to maintain property casualty and general liability insurance policies as a condition to receiving financing for the duration of the loan. Costs for these policies are often well above typical inflation metrics such as the consumer price index. Also, these lenders are requiring insurance policies up to 100% replacement cost, despite the resiliency and more favorable location of developments outside of flood zones and away from coasts. Consideration should be given to the actual cost of remediation and rehabilitation when determining required levels of insurance.
- In addition, housing developers and builders have seen significant increases in the rates for builders' risk insurance policies.¹⁷ What is more, insurers have generally tightened the underwriting criteria for these risk policies.
- Many insurance providers are declining to underwrite general liability policies in affordable housing communities or in communities where subsidized housing is located, due to, among several factors, the use of the "crime score" methodology. This methodology can have a disproportionate impact on affordable housing growth and studies have raised concerns that it serves as de-facto discriminatory redlining of affordable housing communities¹⁸.

Ultimately, unprecedented increases in property insurance rates coupled with other difficult economic trends have disincentivized housing providers from participating in the affordable housing market. This impacts not only housing providers, but also the residents they serve. As insurance rates rise and availability declines, housing providers have to either avoid or exit the affordable housing market, or in certain cases, raise rents or lower services, all of which harms residents nationwide in need of affordable housing opportunities.

¹⁶ Urban Institute, Breaking Barriers, Boosting Supply, September 2020, https://www.urban.org/sites/default/files/publication/102963/breaking-barriers-boosting-supply_0.pdf

¹⁷ Carriers Shift More Risk Onto Builders For Multi-Family Frame Projects, CRC Group, 2022, https://www.crcgroup.com/Portals/34/Flyers/Tools-Intel/Builders%20Risk%20SOM_Final.pdf?ver=2022-07-29-075543-540.

¹⁸ Roberts, Jeffrey G., "10 Reasons to Carefully Consider How Insurance Carriers Use Crime Scores to Assess Risk in the Affordable Housing Industry".

Conclusion

The lack of affordability and availability of insurance options for property owners of all types increasingly puts insurance coverage out of reach for property owners and limits their ability to make needed investments in their properties and build new housing. This has both short- and long-term implications for the real estate industry's ability to address the availability and affordability of housing at all price points.

The solutions outlined in the appendix below are meant to serve as a starting point for consideration and the undersigned groups do not necessarily endorse each proposal. However, we stand ready to assist policymakers in this important work to explore these and other possible solutions. Only in partnership can the public and private sectors successfully identify solutions to this crisis and support housing providers as they work to expand the supply of quality housing.

Sincerely,

Affordable Housing Tax Credit Coalition
American Seniors Housing Association
Argentum
Council for Affordable and Rural Housing
Commercial Real Estate Financial Council
Enterprise Community Partners
Fairview Housing Partners
Housing Advisory Group
Housing Assistance Council
Institute of Real Estate Management
Leading Builders of America
Local Initiatives Support Corporation
National Affordable Housing Management
Association

National Apartment Association
National Association of Home Builders
National Association of Housing Cooperatives
National Association of Residential Property
Managers
National Housing & Rehabilitation Association
National Housing Conference
National Leased Housing Association
National Multifamily Housing Council
National NeighborWorks Association
Stewards of Affordable Housing for the Future
The Real Estate Roundtable

cc: Neera Tanden, Director, Domestic Policy Council
Lael Brainard, Director, National Economic Council
Adrienne Todman, Acting Secretary, United States Department of Housing and
Urban Development
Tom Vilsack, Secretary, United States Department of Agriculture
Denis McDonough, Secretary, United States Department of Veterans Affairs
Janet Yellen, Secretary, United States Department of Treasury
Sandra Thompson, Director, Federal Housing Finance Agency

APPENDIX: Policy Considerations to Alleviate Rising Insurance Costs on Housing Affordability

Today's lack of capacity in the insurance and reinsurance markets has reached crisis levels and raises serious alarms across the entire financial system with trillions of dollars in uncovered or uncoverable risk across real estate. Policymakers must examine the state of the insurance market and look for ways to incentivize a more robust insurance and reinsurance market for all types of housing so that affordable, attainable, and quality lines of coverage are available to meet property needs and mitigate risk.

Given the unprecedented impact the increases in insurance rates are having on the housing and broader real estate markets, we respectfully offer the following policy solutions for the Administration, federal agencies, and Congress to consider. The solutions outlined below are varied and deserve serious consideration as policymakers and stakeholders seek to identify ways to alleviate the negative impacts of rising insurance rates on housing affordability, homeowners, residents, and the real estate markets nationwide.

Explore Establishment of a Federal Backstop/Guaranty

A federal backstop (i.e., guaranty) for catastrophic coverage above an established dollar amount threshold is an option that has been deployed in other instances where market solutions have been inadequate. Examples include terrorism risk insurance and national flood insurance, among others. The Administration and Congress could direct the Treasury Department's Federal Insurance Office (FIO) to explore the benefits and challenges of a federal backstop in addressing the insurance premium crisis. FIO is statutorily empowered to identify issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the United States and monitor traditionally underserved communities' access to affordable insurance.¹⁹ Both situations are relevant to today's insurance marketplace.

Ultimately, while FIO does not have direct supervisory authority over insurance companies, there is strong precedent for to examine the current state of the insurance industry. Specifically, FIO could help determine whether a federal backstop could help resolve the current insurance crisis, especially as it relates to affordability and availability in the housing market.

In September 2022, in response to a June 2022 GAO report, FIO issued a RFI entitled, "[Potential Federal Insurance Response to Catastrophic Cyber Incidents](#)"²⁰. The GAO report recommended that FIO and the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) conduct a joint assessment to determine "the extent to which risks to critical infrastructure from catastrophic cyber incidents and potential financial exposures warrant a federal insurance response."²¹

The September 2022 RFI asked the public to respond to several questions as FIO contemplated a federal insurance response in the cybersecurity space. In March 2023, the Treasury Department presented to the Federal Advisory Committee on Insurance a [Summary of Comments on Request for Comments: Federal Insurance Response to Catastrophic Cyber Incidents](#).²² Below is the list of ideas provided :

¹⁹ 31 U.S.C. § 313.

²⁰ Potential Federal Insurance Response to Catastrophic Cyber Incidents, Federal Register, September 29, 2022, <https://www.federalregister.gov/documents/2022/09/29/2022-21133/potential-federal-insurance-response-to-catastrophic-cyber-incidents>.

²¹ <https://www.federalregister.gov/documents/2022/09/29/2022-21133/potential-federal-insurance-response-to-catastrophic-cyber-incidents#footnote-4-p59162>

²² Summary of Comments on Request for Comment: Federal Insurance Response to Catastrophic Cyber Incidents, Presentation to the Federal Advisory Committee on Insurance, March 29, 2023, <https://home.treasury.gov/system/files/311/2023-03-27%20Presentation%20Summary%20of%20Cat%20Cyber%20RFI%20Responses.pdf>.

- Create a new structure not modeled on any existing government program;
- Create a new structure loosely modeled on, but separate from, the Terrorism Risk Insurance Act (TRIA) and the Terrorism Risk Insurance Program (TRIP), dedicated to addressing catastrophic cyber risk. Modify TRIP as needed to coordinate programs (e.g., change TRIP's coverage of cyber terrorist attacks to eliminate overlap with new structure);
- Amend TRIA and expand TRIP to cover catastrophic cyber incidents more generally (i.e., no longer limit it to cyber terrorism incidents);
- Create a new governmental public-private partnership modeled on the UK's Pool Re;
- Create a new structure modeled on the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP); and
- Create a new structure through a newly-created government-sponsored enterprise (GSE) analogous to Fannie Mae or Freddie Mac through which the federal government would assume catastrophic cyber risk.²³

The findings and recommendations included in the 2022 report instructive when determining the potential for a federal response or backstop in the property casualty, general liability, and builders risk insurance spaces with respect to housing development and operation. Accordingly, the Administration and Congress more broadly should urge FIO and other federal agencies to act on their statutory authority to consider the merits of a federal backstop or other similar programs in the property casualty, general liability, and builders risk insurance spaces.

Adjust Operating Cost Adjustment Factor (OCAF) Methodology at HUD

Under Section 524(c) of the Multifamily Assisted Housing Reform And Affordability Act of 1997, the HUD Secretary is authorized to annually adjust rents for Section 8 housing contracts (following the initial renewal thereof) by an Operating Cost Adjustment Factor or on a budget basis upon the request of the applicable owner and approval by HUD.²⁴ HUD calculates applicable OCAFs for all states based on statewide data for inflation in various operating cost categories, including labor, insurance, and utilities.²⁵ While adjustments for inflation are critical, the inflation data that HUD uses to calculate such adjustments are based on consumer data (i.e., with respect to renter and household insurance), instead of commercial insurance rates, which are more relevant to the affordable housing market. Accordingly, in recent years, OCAF adjustments have not accurately reflected unprecedented increases in commercial property insurance rates nationwide. While HUD's decision in 2023 to use Producer Price Index (PPI) insurance data for OCAF calculations was a good first step, this change in methodology still does not fully reflect the realities in the property insurance market across the country.²⁶

There are a number of actions that HUD could consider to ensure the program better reflects the realities of the current insurance markets and to alleviate the negative impacts those realities have on all stakeholders in the affordable housing ecosystem:

- Direct the HUD Office of Policy Development and Research (PDR) to use industry data for direct property and casualty insurers, including the commercial multiple peril insurance series

²³ *Id.* at slide 4.

²⁴

https://www.hud.gov/program_offices/housing/mfh/RAD_Post_Conversion/Annual_Rent_Adjustments_and_UTILITY_Analysis_Requirements#:~:text=Contract%20Rents%20will%20be%20adjusted,not%20exceed%20the%20Maximum%20Rent.

²⁵ *Id.*

²⁶ Notice of Certain Operating Cost Adjustment Factors For 2023, Federal Register, November 15, 2022,

<https://www.federalregister.gov/documents/2022/11/15/2022-24845/notice-of-certain-operating-cost-adjustment-factors-for-2023.>

from the Bureau of Labor Statistics and the Producer Price Index (PPI) as the underlying data behind calculation of OCAFs. This is the most accurate metric for insurance costs for properties of rental housing.

- Direct HUD to implement a one-time “true-up” adjustment for current OCAF methodologies that captures the difference between CPI and PPI based insurance for the prior years of 2020-2022. This would retroactively apply the revised FY 2023 methodological change that uses PPI insurance data to FY 2020-2022 OCAF determinations, and therefore, would help housing providers with costs associated with the years most impacted by the COVID-19 pandemic.
- Direct HUD (specifically PDR) to study public and private insurance data and methodologies to determine and finalize more accurate approaches to addressing insurance costs for applicable HUD programs.
- To the extent possible under current authorities, facilitate budget-based rent increases specifically to address markets and assets most impacted by rising insurance costs, particularly those markets where OCAFs are least reflective of market data.

Modernize and Coordinate Insurance Requirements under Federally-Backed Loans:

Several federal agencies, including HUD, FHA, Fannie Mae, Freddie Mac, Veterans’ Affairs and USDA, among others, provide or guarantee federally-backed loans within the affordable housing market nationwide. However, many of these loans are subject to very stringent insurance requirements, including, but not limited to, minimum insurance coverage amounts for the term of the loan, maximum deductible amounts per occurrence, total insurable value minimums, coinsurance maximums, and minimum business income insurance covering perils including windstorms, floods, earthquake, and terrorism, among others.

In addition, other requirements include insurance coverage during construction or renovation via builders’ risk insurance if the obtained property insurance is excluded during construction or renovation. Further, properties located in areas prone to natural disasters are often required to secure additional insurance. Lastly, property owners are generally required to carry property and general liability insurance policies as well.

Given the unprecedented increases in insurance rates and coverage limitations nationwide, it has become increasingly financially unfeasible for many housing stakeholders to meet these stringent insurance requirements. While some housing stakeholders can take certain steps to reduce insurance pricing, such as by taking on higher deductibles, self-insurance, pooled insurance strategies, or obtaining non-traditional insurance products, insurance requirements for federally-backed loans simply do not afford enough flexibility for housing stakeholders to offset the rising costs of insurance rates in today’s economy.

Both USDA and Freddie Mac have made progress on this front, yet the lack of standardization across all federal agencies in this space continues to be problematic, costly, and burdensome. Accordingly, we urge the Administration and Congress to consider the below policy suggestions as a means of encouraging applicable federal agencies to revisit their insurance requirements:

- Convene a national working group made up of agency lenders, regulators, borrowers, insurers and/or other stakeholders to revisit lender insurance requirements and look for areas to harmonize across the federal landscape. Implement a process to revisit insurance coverage requirements on a regular basis to take into account changing market conditions and products/services’ innovation.
- Urge federal agencies, including FHA, FHFA, HUD and USDA, to encourage agency lenders to design and pilot debt products that incentivize borrowers toward resiliency and risk mitigation

strategies. These pilot products and services should aim to design alternative insurance requirements that reflect effective implementation of such strategies.

- Urge FHA, USDA, Fannie Mae, and Freddie Mac to study their insurance-related and underwriting data to better facilitate product/services innovation. Also encourage these agencies to share such data with industry partners and other housing stakeholders to better facilitate innovations related to products/services as well as insurance-related guidelines.

Expand Reach of Existing Federal Grants and Programs

Given the multitude of legislation that has been passed in recent years, including the American Rescue Plan Act, the Bipartisan Infrastructure Law, and the Inflation Reduction Act, among others, a number of programs contained therein can be repurposed with congressional direction and/or through agency action that may help alleviate the crisis in the insurance markets.

- **Weatherization Assistance Program (WAP) Funds:** Under current guidance, WAP funds can already be used for life and safety issues. Prioritizing inflation-related work or further clarifying the term “life and safety” to be more inclusive of resiliency measures would permit federal agencies to deploy WAP funds under the Bipartisan Infrastructure Law towards this issue.
- **Community Development Block Grant (CDBG) (including CDBG-MIT, CDBG-CV, CDBG-DR):** As the Administration is aware, eligible activities under the CDBG program cover some traditional construction and rehabilitation activities that can be utilized by affordable housing developers and providers. However, the program also covers certain “development adjacent” activities as well. We urge the Administration and HUD to provide further administrative guidance that would permit such CDBG funding to be deployed for the purpose of subsidizing insurance costs and/or resiliency investments in the affordable housing market. Potential categories of eligible activities for amendment could include interim assistance, loss of rental income, privately-owned utilities, special economic development activities, planning and capacity building and other miscellaneous activities. CDBG Mitigation Funds, which are focused on increasing resilience to disasters and the reduction of long-term risk, seem particularly appropriate for additional focus.
- **Flood Risk Mitigation:** FEMA currently administers several mitigation grant programs for the purposes of reducing damages, claims, and overall risk in the event of a natural disaster such as flooding. As described above, pre-disaster mitigation programs and incentives to encourage the creation and implementation thereof would go a long way towards alleviating the insurance crisis currently facing the affordable housing market. However, FEMA’s mitigation grant programs are overwhelmingly focused on primary, single-family and are not otherwise flexible enough to cover other types of affordable housing communities, including most notably, multifamily housing. As such, many of FEMA’s recommendations or approaches in this space are likely impractical for non-single family housing communities and would not afford any flood insurance premium reductions despite the large cost of implementation. Accordingly, the Administration and Congress should consider directing FEMA to consider the following steps that would help alleviate impacts from the insurance crisis:
 - Direct FEMA to undertake further actuarial work and issue additional alternative mitigation guidance and technical assistance to multifamily communities, which is realistic, cost effective and would result in premium reductions under the NFIP and private sector insurance solutions.
 - Expressly authorize small businesses and apartment companies to be eligible for existing mitigation programs or consider establishing a multifamily and commercial property

specific mitigation grant program to address the unique challenges faced by these property owners.

- Raise the amount of the Increased Cost of Compliance (ICC) coverage under NFIP for commercial and multifamily properties to \$500,000 and make such threshold a separate and optional limit that is not part of the current \$500,000 maximum building coverage limit.
- Technical Assistance: Several federal government programs provide funding for technical assistance. Congress should consider directing applicable federal agencies like FEMA to prioritize or reallocate such funding toward incentives and educational outreach for sustainability/resiliency-oriented technical assistance related to loss mitigation best practices, insurance procurement strategies, risk modeling and other business operational strategies that may assist owners in better competing in the insurance marketplace and/or reducing the risk profile of their assets.

Expand the Liability Risk Retention Act (LRRA)

The LRRA should be revised and expanded to allow Risk Retention Groups (RRGs) to appropriately insure the property of affordable housing providers by offering coverage not presently available or affordable in the commercial market. This is a targeted approach – at no cost to the government – to help a segment of the market facing instability in the provision of its property/casualty needs.

The Nonprofit Property Protection Act (NPPA) has been introduced previously on a bipartisan basis and would allow 501(c)(3) nonprofits that acquire their insurance from their own RRGs to get the property coverage that fits their needs and would expand insurance capacity and risk management for nonprofits. Congress should consider expanding the availability of RRGs to affordable housing providers regardless of their tax-exempt status. In fact, RRGs already provide liability coverage options for Public Housing Authorities (PHAs) and Indian Housing Agencies (IHAs) and are utilized by many state PHAs across the country.²⁷

Establish Federal Support for Community Based Insurance

Community-based catastrophe insurance (CBCI) is defined as disaster insurance arranged by a local governmental or quasi-governmental body or community group covering a group of properties within the community. There are two key features of CBCI:

- One, that it is purchased or facilitated by some type of community entity.
- Two, that it covers multiple properties.

Beyond these two features, there can be enormous flexibility in the structure and design of CBCI.²⁸ A CBCI policy could either replace or better still supplement insurance policies available in the private market where there is limited competition or protection gaps.

The Administration and Congress should take steps to allow federal agencies, like HUD, USDA, VA, FHFA, and the GSEs to help finance CBCI policies. Additionally, FEMA should be encouraged to exercise its existing authority that could help incentivize communities to take action on the risk they face. Specifically, Section 406(b)(3)(A) of the Stafford Act provides FEMA with the authority to increase

²⁷ 26 U.S.C. § 965.205

²⁸ [https://www.marshmcclennan.com/content/dam/mmc-web/insights/publications/2021/february/Community--Based--Catastrophe--Insurance--\(Final\).pdf](https://www.marshmcclennan.com/content/dam/mmc-web/insights/publications/2021/february/Community--Based--Catastrophe--Insurance--(Final).pdf)

the minimum Federal share for Public Assistance on a sliding scale from 75% to 85% if a state has invested in resilience measures prior to a disaster.

By increasing the federal cost share for FEMA Public Assistance, communities that proactively implement resilience measures would be rewarded for the investments they make. These measures include tying risk transfer to risk mitigation. Pairing these federal and/or state grants with risk transfer solutions, such as a CBCI programs, can be a force multiplier. Additionally, applicants for Building Resilient Infrastructure and Communities (BRIC) should have the ability to use BRIC funding for insurance premiums to fund and pilot CBCI transactions that promote community-wide financial resilience.

Further study should be conducted to learn if federal entities can serve as community aggregators buying bulk insurance, which it can pass through to affordable housing borrowers (new or existing). The coverage could be mandatory or optional. The bulk coverage can target particular markets, particular types of insurance policies or tranches of risk within policies, ideally targeting types of coverage that are challenging/costly to obtain. Premiums can be passed through to borrowers via fees. These federal entities can potentially leverage their balance sheet or guarantee authority to lower the cost to the borrower and/or serve as reinsurance. Additionally, community participants could be required to undertake loss-mitigation training/technical assistance, resiliency scope of work, etc. The CBCI model could be tied to specific federal loan products (e.g., green loans, LIHTC investments, etc.), asset types (e.g., affordable housing broadly, affordable properties located in defined geographies, etc.) or leveraged across the federal government's entire affordable housing portfolio.

Support Affordable Housing through the Federal Home Loan Bank System

A recent report issued by the Federal Housing Finance Agency (FHFA) titled “FHLBank System at 100: Focusing on the Future” conducted a comprehensive review of the Federal Home Loan Bank (FHLB or FHLBanks) System and made several recommendations to bolster and improve the system. One key finding of the report was that “The FHLBanks should find innovative ways to increase the production, rehabilitation, and preservation of multifamily housing, particularly smaller multifamily properties.” As recently as April 18 in a Senate Banking Committee Oversight Hearing FHFA Director Sandra Thompson called on the FHLB to double financing for affordable housing.

Insurance companies have been members of the FHLB system since its inception and over the past 20 years have become an increasingly large segment of its membership. FHLBanks offer insurance companies extremely competitive interest rates compared to commercial lenders, and recognition of this membership benefit continues to grow among insurers. Year-over-year growth of insurer membership in the FHLB system has been continually positive over the past 25 years. As of 2022 there were more than 565 insurance company members of the Federal Home Loan Bank (FHLB) System (up from roughly 50 in 2000). Over the past ten years an average of 27 new insurance companies have become members of the FHLB System annually.²⁹

Insurance company members access low cost, flexible wholesale funding from the FHLBs as well as multiple forms of liquidity (back-up liquidity, emergency liquidity when needed or creating liquidity from illiquid assets).³⁰ Insurance companies have assumed an increasing role in the FHLBank system, with the share of advances held by insurance companies growing from 12.3 percent (as of 12/31/13) to 20.6 percent (as of 9/30/22) of total FHLBank System advances. In 2022, insurance companies took

²⁹ <https://www.wellington.com/en-us/institutional/insights/federal-home-loan-banks-opportunity>

³⁰ <https://www.westernsouthern.com/-/media/files/fortwashington/fhlbspreadbasedborrowingprogram.pdf?rev=5bb59cf0007c4825874803cod763b997>

\$137 billion in advances. FHLBanks do not restrict how their members use advances and as a result many of these insurance companies do little to support the affordable housing mission.

At the April 18 Senate Banking Committee hearing, FHFA Director Thompson shared that “We are going to promulgate rulemaking sometime this year to talk about membership [in the FHLBs], one, to define what the role is of membership and to also ask questions about what that threshold should be.” We believe this rulemaking is an excellent opportunity for FHFA to consider new requirements, incentives and/or mission goals insurance company FHLB members to directly serve affordable housing stakeholders. Critics of the current system say that other FHLB members such as depositories and CDFI’s have regulatory or mission driven reasons to support affordable housing but that insurance company members carry no such requirement. This presents an opportunity to have the insurance industry play a more prominent role in supporting affordable housing.

There is an opportunity to require property and casualty (P&C) members to provide a minimum level of flexible and/or subsidized coverage for affordable rental housing. Additionally, insurance FHLB members could be required to invest in and/or lend to affordable housing properties. This could mirror other federal government regulatory structures like the Community Reinvestment Act and/or the GSEs affordable goals. These incentives and requirements could be geographically or socially targeted either to underserved areas or communities and/or to the FHLBs’ geographic footprints.

Consider Expanding Fair Access to Insurance Requirements (FAIR) Plans

The Urban Property Insurance Protection and Reinsurance Act of 1968 established Fair Access FAIR plans (FAIR Plans) for states to adopt to provide more insurance options to homeowners and mitigate the costs of urban riots.³¹ The plans were implemented in 26 states, Washington, DC, and Puerto Rico and have expanded to additional states. FAIR Plans are generally backed by all private insurers in a given state, and each insurer shares profits and losses proportional to its market in the state. Over recent decades, FAIR Plans have served as a source of insurance for homeowners who live in high-risk areas and own high-risk properties, often located along the ocean or near frequent wildfire areas. As a last-resort option for most individuals, the plans tend to be expensive and offer limited protections compared to the open market.

The specifics of FAIR Plans vary across states, as some states have only one state-run plan, and others have multiple plans run by private insurance companies. According to FIO’s 2023 report entitled, “Insurance Supervision and Regulation of Climate-Related Risks”, “States that have both residential and commercial FAIR plans include: Arkansas, California, Connecticut, Delaware, D.C., Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Virginia, and Washington. Florida’s Citizens Property Insurance Corporation and Louisiana’s Citizens Property Insurance Corporation combine the FAIR and Beach plans. The Mississippi and Texas FAIR plans do not offer a commercial policy.”³² Further, within the report, FIO recommended that “All state insurance regulators and the NAIC should monitor the growth and other trends in residual and surplus lines markets, and publicly report on how climate-related risks are currently affecting, and in the future may affect, these markets.”

³¹ <https://www.govinfo.gov/content/pkg/COMPS-10381/pdf/COMPS-10381.pdf>

³² Insurance Supervision and Regulation of Climate-Related Risks, Federal Insurance Office, U.S. Department of the Treasury, June 2023 <https://home.treasury.gov/system/files/136/FIO-June-2023-Insurance-Supervision-and-Regulation-of-Climate-Related-Risks.pdf>.

State trends indicate that as certain private insurers have left certain states, stakeholders in such states have increasingly relied on FAIR Plans for applicable insurance coverage. Given the increasing reliance on FAIR plans in certain states, we urge the Administration and Congress to investigate the potential for expanding FAIR plans that may serve as a compliment to the private insurance market and, in doing so, help alleviate the pressures of rising costs associated with insurance premiums, particularly in jurisdictions that are prone to natural disasters.

Leverage Federal Resources to Incentivize State and Local Relief

Legal Considerations. A significant challenge for housing providers, especially in the affordable and middle-income spaces, is the soaring cost of liability insurance and the often absence of policy options altogether. In particular, we urge the Administration and Congress to explore the relationship between insurance costs and the legal system and consider improvements in the legal landscape that protect parties from undue burdens.

Several states have attempted to address insurance-related challenges through legal reforms. For example, in 2023, Florida passed HB 837 in light of the insurance crisis in that state.³³ Other states, like Georgia, are considering more targeted measures that aim to protect claimants while reining in excesses that have driven liability insurance premiums to record levels or in some cases led insurance carriers to walk away from entire markets or market segments like affordable housing.

Previous efforts examining the impacts of legal reforms have found a correlation between certain policy changes and insurance costs. In 2004, the Congressional Budget Office found that “caps on damage awards reduced the number of lawsuits filed, the value of awards, and insurance costs.”³⁴ Additionally, a 2009 study from the National Bureau of Economic Research (NBER) found that “caps on non-economic damages, collateral source reform and joint and several liability reform reduce premiums by 1 to 2 percent each.”³⁵ Given the impact that legal system changes has had on other aspects within the insurance sector, the Administration and Congress should review solutions that can positively influence insurance premiums in the property insurance market and offer support for state and local consideration of such policies.

Property Tax Relief. The current insurance affordability and capacity challenges are being felt across the nation—in communities of all types. These same communities are confronting housing affordability and housing supply shortages decades in the making. Understanding the direct link between increasing property operations costs, like insurance expenses, and worsening housing affordability is important for policymakers. Industry data show an average expense increase of 9.3% for the 12 months ending June 30, 2023, with insurance, state, and local taxes, repairs/maintenance, administrative and payroll costs taking the lead.³⁶ Other cost drivers seeing significant increases, especially in urban markets, are utilities and the provision of security.

While particularly acute, insurance is not the only area of property operations seeing a significant increase in costs. Based on data from NAA’s Income/Expense IQ, property taxes have surged by an average of 6.5% from 2021 to 2022. Notably, cities like Orlando, Norfolk, Va., Minneapolis, Riverside, Calif., and Salt Lake City have experienced double-digit increases.

³³ <https://www.flsenate.gov/Session/Bill/2023/837/BillText/er/PDF>.

³⁴ The Effects of Tort Reform: Evidence from the States, Congressional Budget Office, June 2004, https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/reports/report_2.pdf.

³⁵ The Impact of Tort Reform on Employer-Sponsored Health Insurance Premiums, National Bureau of Economic Research, September 2009, <https://www.nber.org/papers/w15371>.

³⁶ <https://www.yardimatrix.com/Publications/Download/File/4486-MatrixResearchBulletin-Expenses-September2023>

It is critical that policymakers at the state and local government level seek ways to ease the operational cost burdens that are negatively impacting housing affordability and preventing needed investment in new housing supply. One such example is from Harris County, Texas, which is home to the City of Houston. In August 2023, Harris County launched a new program that will reduce the county-related portions of property tax obligations for some affordable housing communities by half.³⁷ This type of effort has the potential to alleviate operating cost pressures and free capital that can be invested in property maintenance, resident services, and expanding affordable housing supply. The Administration and Congress should explore ways to support, incentivize, and replicate these efforts.

³⁷ <https://www.houstonchronicle.com/news/houston-texas/housing/article/harris-county-cut-taxes-affordable-apartments-18438646.php>