STATEMENT FOR THE RECORD

ON BEHALF OF THE NATIONAL MULTIFAMILY HOUSING COUNCIL
AND THE
NATIONAL APARTMENT ASSOCIATION

BEFORE THE
HOUSE COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT AND INSURANCE

FOR A HEARING ENTITLED
"THE RENT IS STILL DUE: AMERICA'S RENTERS, COVID-19, AND AN UNPRECEDENTED EVICTION CRISIS"

JUNE 10, 2020

The National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) appreciate the opportunity to submit testimony for the record for the hearing entitled, "The Rent Is Still Due: America's Renters, COVID-19, and An Unprecedented Eviction Crisis." Your examination of the impacts of the COVID-19 pandemic on residents of rental housing and the owners and operators who provide that housing is critical as Congress continues its efforts to respond to the crisis.

For more than 25 years, NMHC and NAA have partnered on behalf of America's apartment industry. Drawing on the knowledge and policy expertise of staff in Washington, D.C., as well as the advocacy power of NAA's more than 150 state and local affiliated associations, NAA and NMHC lead as the voice for developers, owners and operators of multifamily rental housing. One-third of all Americans rent their housing, and 40 million of them live apartment homes.

NMHC and NAA appreciate the efforts to date by Congress to provide relief to American families and businesses negatively impacted by the COVID-19 pandemic, and we agree that further Congressional action is needed to ensure the financial viability and stability of the rental housing industry and its residents.

This testimony will provide the industry's perspective and make specific recommendations that Congress can take to solve the nation's current housing challenges. Importantly, a robust rental assistance program must be included in any future relief package as financial assistance is critically needed for renters and housing providers alike due to the crisis.

State of the Industry

As states around the nation begin phased reopening efforts, millions of Americans remain unemployed. These jobs may never return and, with unemployment benefits set to expire and savings becoming depleted, more Americans will find themselves unable to pay their everyday expenses—chief among them, rent. In fact, renters are expected to be particularly hard hit by the economic situation. The U.S. Census Bureau's Household Pulse Survey found that for the week of May 21 to May 26, 48.6 percent of renters surveyed reported being unemployed, compared to 45.7 percent of owners. Losses are particularly acute for lower-income and minority households.

Data from the U.S. Census Bureau's Household Pulse Survey, which covers all rental households, and data from the NMHC Rent Payment Tracker, which covers professionally managed apartments, both show that the majority of renters are paying their rent now. But the Census survey also shows that this may not be a continued phenomenon—fully one-third of renter respondents in the Census survey reported no or slight confidence in whether they can pay their rent the following month. Even if that rent is actually paid, it suggests financial instability for many rental households. The recovery rebates are depleted, and additional federal unemployment support ends in July. The University of Chicago estimates that 43% of all jobs lost to COVID will not return, so many individuals face continued unemployment or, at best, underemployment. They will struggle to make their rent payments and, as a result, housing providers will have less income and the cascade of negative impacts on housing communities, lenders and local governments will play out. Some current economic signs are good, however, the nation faces significant uncertainty that in the next six months, the benefits of that growth will be enough to buoy struggling renters. Congress should act now to mitigate that outcome.

All this underscores the need for continued support for the over 40 million residents in multifamily housing. The significant government financial support for those experiencing income disruption in the wake of the COVID-19 crisis is likely to be insufficient for an alarming number of renters impacted over the long haul. And if residents are unable to pay their rent, apartment firms will also be unable to pay their mortgage, property taxes or payroll. This cascading economic impact would be devastating for the housing industry, and the broader U.S. economy.

As an example, multifamily property owners have $1.6 trillion in outstanding mortgage debt. The federal government backs nearly half of those multifamily mortgages. Without rental payments, we will certainly see a wave of foreclosures that could surpass those during the Great Recession, creating a significant drag on the U.S. economy and the government's ability to intercede.

The effects of significant rental payment shortfalls would trickle down to state and local economies, which are already under tremendous revenue and budget pressures. Nationally, apartments contribute a total of $58 billion in property taxes. If that revenue dries up, cities and states will be forced to make cuts to essential services such as schools, emergency services and other important local needs.

Apartment Industry Priorities – Summary

NMHC and NAA strongly urge Congress to support critically needed policies to help multi-family residents remain in their homes, while ensuring the stability of the rental housing industry. These policies include:

- **Emergency Rental Assistance** – Create a temporary rental assistance program for those impacted by the COVID-19 emergency and who are struggling to pay their rent.

- **Limited Eviction Moratorium** – Defer to state and local eviction moratoria or predicate any extension of the federal eviction moratorium protections on it being short in duration, specifically benefit only those who are negatively impacted by COVID-19 and clarify the notice to vacate language to ensure property owners can effectively manage their properties during the crisis. Further, any extension should be contingent on the establishment of a federal emergency rental assistance program.

- **Expanded Mortgage Forbearance** – Provide mortgage forbearance protection to all multifamily properties and align the protections with local, state or federal eviction moratoria.

- **Credit Facilities** – Create credit and liquidity facilities for mortgage servicers and rental property owners under the Federal Reserve.

- **Access for Multifamily in Federal Lending Programs** – Ensure eligibility for all apartment owners and developers in the Small Business Administration's Paycheck Protection and the Federal Reserve's Mainstreet Lending Programs.

- **Enact Liability Protections** – Provide targeted liability protections from COVID-19-related litigation for apartment firms that work to follow applicable public health guidelines in reopening.

- **Provide Pandemic Risk Insurance/Recovery Funding** – Establish a federal economic business recovery fund and enact the Pandemic Risk Insurance Act to help apartment owners recover from this pandemic and prepare for the next.

Apartment Industry Priorities - Detail

Emergency Rental Assistance

Establishing an emergency rental assistance program is a top priority for NMHC and NAA. An emergency rental assistance program is an essential piece to the complicated puzzle of solving the nation's housing challenges and must be included in the next federal relief package. Eviction moratoria and mortgage forbearance are short-term solutions that will not prevent the immense challenges created by unpaid amounts becoming due. The apartment industry expects a significant number of residents will continue to be financially impacted by the crisis, inhibiting their ability to pay rent.

Housing providers are increasingly concerned about their ability to keep up with their financial responsibilities during an extended period of economic instability because of

COVID-19. According to [NAA's Breakdown of $1 of Rent][1], only 9 cents of every $1 go to housing providers—the rest passes through the provider to cover their operating costs and expenses, including employee payroll, utilities, insurance premiums, property maintenance costs, and importantly, property taxes. Rent feeds the economy. Significant shortfalls would have cascading effects on local governments' already strained budgets and their ability to pay for essential services, jobs, and pensions.

We appreciate the work done to create the $100 billion emergency rental assistance program in the HEROES Act. It is a critical economic lifeline to struggling renters. However, we continue to have concerns about the proposed program's delivery system through the U.S. Department of Housing and Urban Development's (HUD) Emergency Solutions Grants (ESG) program. The ESG program lacks the capacity to effectively and efficiently provide relief to the myriad renters across the income spectrum who are struggling to survive in the current environment. We look forward to continuing to work with members of the House and Senate to refine the proposal and ensure quick and efficient distribution of rental assistance directly to those in need due to COVID-19.

Limited Eviction Moratorium

Housing providers have a shared goal with their residents in preserving housing stability and minimizing displacement, especially during this crisis. Evictions are disruptive to families, the apartment community and housing providers which is why most providers, work with residents to avoid eviction.

Risking serious harm to the rental housing industry, the HEROES Act substantially expands the CARES Act moratorium to virtually all single family and multifamily homes, increases the moratorium period for 12 months and, like the CARES Act moratorium, is not tethered to those directly impacted by COVID-19. Additionally, ambiguity in the definitions and notice to vacate language has resulted in confusion among stakeholders and in the courts, and led to uneven application of the law across the country. We urge Congress to refine this language in the next phase of relief.

The HEROES Act moratorium would greatly prolong economic uncertainty for housing providers and undermines their ability to manage their cost and revenue expectations in a reasonable way. Additionally, plans for critical new development and rehabilitation of rental housing are endangered by this provision, seriously discouraging investment where risk cannot be effectively managed and community operations are compromised.

[1] National Apartment Association 2019 Survey of Operating Income & Expenses in Rental Apartment Communities; U.S. Census Bureau 2015 Rental Housing Finance Survey; Real Capital Analytics; Redstone Residential

Many renters and housing providers are working together to negotiate payment plans, waive late fees and take advantage of discounts to pay rent early. This ensures that even while some residents cannot fully make rental payments, housing providers continue to receive the income necessary to operate properties, including payment of employee salaries, property taxes, cleaning, maintenance and utilities. However, some residents refuse to communicate with their housing provider, meaning they are not benefitting from possible mitigation options and leaving property owners without critical information on the how best to address a particular hardship.

Housing providers also face the possibility of significant rental payment shortfalls during the federal eviction moratorium and related state and local prohibitions. This situation could create significant cash-flow issues for housing providers. Many owners often function on low margins and substantial losses of rental income for any period of time could result in a reduction of housing quality and services and ultimately imperil the solvency of the community. When renters become delinquent or miss rent payments, it also reduces owner's ability to extend help to residents who face financial challenges due to COVID-19.

We urge Congress to apply the moratorium to renters who notify their housing provider of financial impact due COVID-19 and clarify the notice to vacate language to ensure property owners can effectively manage their properties during the crisis. Any extension of the eviction moratorium should be tailored to reflect the hyper-localized eviction process and relevant state and local conditions. Congress ought to allow states and local governments to manage their own eviction moratoria as needs in their localities dictate.

Multifamily Mortgage Forbearance, Servicing & Credit Facilities

The HEROES Act includes critical protections for multifamily mortgage borrowers, servicers and rental property owners. Establishing credit facilities for mortgage servicers and rental property owners in addition to providing mortgage forbearance for all multifamily property owners and loan types are critical protections for the financial viability of rental properties and the multifamily housing finance system.

Multifamily mortgage forbearance in particular prevents a drop in rental income from forcing rental properties into financial distress and possible foreclosure. While the availability of forbearance protections is critical to multifamily borrowers, it is important to note that only 39 cents of every $1 of rent pays for the mortgage on the property. NMHC and NAA urge Congress to provide similar financial protections for property owners so that financial obligations outside of mortgages, such as property taxes, utility services, and other property-level expenses do not ultimately put the property and its residents at risk via tax liens, insurance coverage lapses, utility service disruptions or other negative legal actions taking place.

Direct Financial Assistance for Americans

The direct economic assistance to renters and their families provided in the HEROES Act can play an important role in ensuring they are able to meet their financial obligations, including rent. Continued, supplemental unemployment insurance benefits, recovery rebates and even hazard pay for frontline workers, many of whom call apartments home, is critical as the nation's economy slowly recovers from the COVID-19 emergency.

Additional Housing Program Support

We also applaud the inclusion of significant and necessary additional resources to a variety of HUD programs in the HEROES Act. Of special importance is the $75 billion for homeowners, including those housing providers who own 2 – 4-unit rental homes and are at greatest risk of foreclosure during the COVID-19 emergency. We also appreciate the additional $1 billion for Emergency Housing Choice Vouchers for those at risk of homelessness or survivors of domestic violence, as well as investments in Rural Rental Assistance, the Community Development Block Grant program and ESG.

Business Continuity, Recovery Fund & the Pandemic Risk Insurance Act

As the COVID-19 pandemic continues to challenge the U.S. economy, many rental property owners and businesses remain in uncertain territory as to whether traditional business interruption (BI) or other insurance policies cover losses as a result of a pandemic, including COVID-19. To address this, NMHC and NAA are calling on Congress to provide two additional economic recovery measures to lessen financial losses of property owners as a result of this pandemic and any future event of this nature.

To address revenue losses as a result of COVID-19, where current BI policies do not provide coverage, NMHC and NAA join a coalition of business groups to call for the creation of the COVID-19 Business and Employee Continuity and Recovery Fund. The proposed federal fund would provide rapid liquidity to small businesses and commercial sectors, that would be targeted to make up for revenue losses, help businesses retain and rehire employees, maintain worker benefits and resume or continue economic activity.

NMHC and NAA also join with a wide range of insurance and business groups in supporting the passage of the Pandemic Risk Insurance Act (PRIA), as introduced by Rep. Carolyn Maloney which increases private sector insurance coverage for future pandemic risk. Similar to the industry-supported Terrorism Risk Insurance Act (TRIA), PRIA would provide for a government backstop to drive private sector participation and better balance the risk-share between private and public sectors for economic loss as a result of a pandemic. PRIA would serve as a needed tool to better mitigate future risk and create economic stability across real estate post-pandemic.

COVID-19 Liability Protections for Housing Operators

While housing operators continue to grapple with reduced revenue, many are beginning to look at a phased reactivation of their workforces, reopening their leasing offices and relaxing restrictions on amenity spaces—like fitness facilities and business centers. While these efforts are encouraged by local and state government recommendations, mounting questions on liability and risk exposure for doing so remain. Like other Main Street businesses, NMHC and NAA members are concerned that despite their diligence in following applicable guidelines, they could face an onslaught of frivolous lawsuits; the cost to defend against these suits would drive up operating costs at a time of great financial stress in the industry.

NMHC and NAA urge lawmakers to enact targeted liability protections related to the COVID-19 pandemic for businesses that take appropriate measures in line with available public health information. NMHC and NAA also acknowledge the importance of businesses in ensuring the safety of the American public and affirm that liability protections should be limited in scope and preserve recourse for those harmed by truly bad actors who engage in egregious misconduct.

A Housing Affordability Crisis Coupled with the COVID-19 Pandemic – Places Our Economic System at Risk

The COVID-19 crisis coupled with the economic downturn will further intensify the Nation's housing affordability crisis. Even before the economy was closed, one in four renters already spent more than half their income on housing. Before the COVID-19 health emergency took hold, Americans were in the grips of a national housing affordability crisis, brought on by a housing supply shortage and crumbling infrastructure crisis. This ongoing crisis, paired with the economic downfall brought on by COVID-19, will further exacerbate this housing affordability crisis.

Enact Critical Infrastructure Programs to Support A National Economic Recovery

Once the outbreak is contained, the nation will need to turn its focus to the task of rebuilding the economy and putting Americans back to work. A major infrastructure package could help address severe apartment development and construction challenges created or exacerbated by this crisis, while furthering the nation's economic recovery.

Construction shutdowns, shortages of labor and materials, supply chain disruptions, financial uncertainty, shifting lending and transactional requirements and indefinite delays on land transactions and project entitlements are major obstacles for housing development and rehabilitation projects underway nationwide.

New mechanisms and federal incentives are immediately needed to avoid deepening of America's housing affordability crisis. The apartment industry can play a valuable role in this effort. As you consider infrastructure initiatives, we urge the inclusion of measures that support the interconnectivity between housing and infrastructure and promote housing development at all income levels, including:

- Investing in housing and infrastructure that includes solutions to address the nation's most pressing housing challenges;
- Incentivizing localities to reduce barriers and adopt policies to encourage private sector investment in housing;
- Enacting the Housing is Infrastructure Act which aims to make bold investments in our nation's housing stock and looks to remove barriers to the development of multifamily rental housing;
- Expanding and enhancing the Low-Income Housing Tax Credit to enable greater production of affordable housing;
- Enacting a Middle-Income Housing Tax Credit (MIHTC) to support workforce housing;
- Enacting HR 6175, the REHAB Act, designed to spur private investment in affordable housing and public infrastructure in the places where it's needed most: walkable, transit-connected places;
- Enhancing Opportunity Zones to incentivize rehabilitation of housing units;
- Enacting the *Build More Housing Near Transit Act* and better leverage federal transportation dollars to support housing development;

- Enacting the *Yes in My Backyard Act (YIMBY Act)* to help eliminate discriminatory land use policies and remove barriers that depress production of housing;

- Supporting affordable and practical efficiency incentives that enable developers to invest in engineering as well as construction and development costs required to build high-performing multifamily homes; and

- Reducing regulatory barriers and invest in programs that have proven to increase voluntary property owner participation in the Section 8 Housing Choice Voucher (HCV) Program.

Conclusion

The unique nature of the rental housing industry puts apartment operators and employees on the front lines of responding to the COVID-19 outbreak in communities across the nation. The enormity of the challenges we are facing as a nation and as an industry are evolving on a daily or even hourly basis. We remain committed to working with you on solutions to these complicated problems to ensure that the millions of Americans who live in apartments nationwide have a safe, secure place to call home; and we stand ready to work with you as you work to provide the assistance necessary to meet the challenges of the COVID-19 crisis.