

Summary of S. 566

The Cranston-Gonzalez National Affordable Housing Act

Title I -- State and Local Housing Strategies

The bill will build a new housing partnership among the private sector, including nonprofits, and government at the federal, state and local levels to provide more affordable housing.

To receive HUD assistance, a State or locality will have to develop a 5-year comprehensive housing affordability strategy (CHAS). Strategies will be action-oriented plans that identify local housing needs and set forth how each jurisdiction will use its own resources, improve its policies, invest federal assistance, and leverage private investment to expand the supply of affordable housing.

Housing strategies will be developed with citizen participation and approved according to procedures established in law. Each jurisdiction directly receiving HUD assistance will be required to submit an annual performance report on its use of the assistance. Supporting data will have to be kept available for public inspection for 5 years.

HUD will be required to conduct an annual review of State and local activities under this Act.

Housing strategies will replace less useful plans required under current law, such as CD Block Grant housing assistance plans (HAPs) and McKinney Act comprehensive homeless assistance plans (CHAPs).

The bill makes clear that its intent is to provide States and local governments with additional tools for expanding the supply of affordable housing and not to provide HUD with additional authority to intervene in local decision-making.

Title II -- HOME Investment Partnerships

The bill's centerpiece provides a sweeping reform of the way federal housing assistance is provided. HOME will distribute funds by formula and HUD will provide other federal housing assistance on a "one-stop" basis to help States and localities expand the supply of affordable housing.

In general. Participating State and local governments will be able to design flexible housing strategies tailored to the housing needs of their local markets. HOME will build partnerships for affordable housing among State and local government, private industry and nonprofit organizations. HOME funds can assist housing through loans, advances, equity investments, interest subsidies, and other forms of HUD-approved assistance.

Uses. HOME funds can be used for rehabilitation, substantial rehabilitation, new construction or acquisition of affordable housing or for tenant-based rental assistance. Rehabilitation will be preferred. HUD will establish criteria to permit new construction, solely at local option, in 30% of the jurisdictions. New construction will also be permitted where it is justified by neighborhood conditions or to meet special housing needs.

Model Programs. HUD will develop and refine a selection of model programs incorporating the most effective methods for achieving different housing objectives under a variety of market conditions. States and localities will be able to adopt the model programs, adapt them to their own circumstances, or develop their own programs. Several model programs are specified in law: rental housing production advances, rehabilitation loans, rental rehabilitation, and several others. Development of this "shelf" of model programs will stimulate innovation and help introduce the best methods more quickly across the country as appropriate.

Basic formula. Funds will be allocated 60% to localities, 40% to States. HUD will develop the formula in consultation with Congress and representatives of States and localities -- regional fairness will be required. The smallest formula allocation to localities will be \$500,000. Each State will receive at least \$3 million -- plus \$500,000 if no locality within the State is eligible to become a participating jurisdiction.

Rental production formula. A portion of HOME funds will be set-aside for use only in new construction: 10% in fiscal 1991 and 15% in 1992. Set-aside will be allocated by special formula among the 30% of jurisdictions with market conditions requiring new construction. This allocation will be deducted from the amount the jurisdiction would receive if the basic formula were used alone. Set-aside funds can be used only for new construction for 24 months, thereafter they can be used for other uses.

Participating jurisdictions. A locality can become a participating jurisdiction if its allocation is at least \$750,000 or if it supplements its allocation to reach \$750,000. Smaller communities can join in consortia to become eligible for an allocation large enough to participate. States and localities will have to (1) notify HUD of their desire to participate, (2) submit an approved housing strategy, and (3) take other actions necessary to demonstrate a readiness to make effective use of HOME funds.

Matching funds. HOME funds will have to be matched with State or local resources -- 2:1 federal/nonfederal for new construction, 3:1 for substantial rehabilitation, 4:1 for rehabilitation or tenant-based rental assistance. Eligible as a match will be cash contributions, administrative costs up to 7% of the HOME funds, forgone fees or taxes, or contributions of land or infrastructure. Contributions will be counted toward the match if they go to affordable housing or to a project that includes not less than 50% of units that qualify as affordable housing. This latter provision is designed to permit State and local matching funds to be used to provide mixed-income housing.

Income targeting. 90% of a jurisdiction's HOME funds will have to go to housing occupied by families with incomes at or below 60% of median. All HOME funds will have to be used for units that qualify as affordable housing.

Qualification as affordable housing. Rental projects assisted with HOME funds will have to have not less than 20% of its units occupied by very low-income persons who are paying 30% of their income toward rent. Rents on the affordable units cannot exceed the existing fair market rent, making all HOME-assisted units available to holders of rental assistance. Mixed-income housing will be encouraged. Housing for home ownership will have to meet income and other targeting requirements that Congress adopted for Nehemiah Housing Opportunity Grants.

HOME Investment Trust Funds. A revolving HOME investment trust fund will be established for each participating jurisdiction, with a line of credit that the jurisdiction can draw down for investment in affordable housing. Any repayments will return to the jurisdiction's trust fund for its reuse in eligible activities.

Community Housing Partnerships. Each jurisdiction will be required to set-aside 15% of its funds for nonprofit community housing development organizations. These funds can be used for activities that are eligible generally under HOME. 10% of the nonprofit set-aside can be used for project-specific technical assistance and seed money loans. Additional funds are authorized for technical assistance to develop the capacity of nonprofit housing development organizations.

Other capacity development. The bill helps develop State and local capacity to finance and produce affordable housing.

Title III -- Homeownership

The bill establishes a National Homeownership Trust and strengthens FHA to expand homeownership opportunity for more families.

National Homeownership Trust. The bill establishes a National Homeownership Trust in HUD to help moderate income families purchase their first home. Participation is limited to potential home buyers whose incomes do not exceed 95% of the area median income for a family of four or 115% in FHA designated high cost areas. In general, the Trust will provide assistance through payments to lower interest rates to no more than 6% and payments to provide downpayment assistance including closing costs.

Actuarial soundness of FHA Fund. The FHA up-front premium will be phased down from the current 3.8% to 2.25% over a 5-year period. FHA will also charge an annual premium on all mortgages based upon the loan-to-value ratio of the mortgage. A borrower making a downpayment of 5% or less will pay an annual premium of 0.55% for 30 years; a downpayment between 5-10% will require an annual premium of 0.50% for 30 years; a downpayment of 10% or greater will require an annual premium of 0.50% for 11 years. The annual premium requirement will be phased in over the next 4 years.

The FHA Mutual Mortgage Insurance Fund (MMI) will have to meet capital requirements of 1.25% within 2 years, moving to a 2% capital ratio within 10 years. HUD will be authorized to adjust the premium structure upon a finding by an independent actuarial study that such an adjustment is necessary to ensure the maintenance of the minimum capital requirements.

The bill establishes a minimum equity for each FHA insured mortgage of 1.25% for mortgages under \$50,000 and 2.25% for mortgages over \$50,000. The minimum mortgage equity excludes the up-front mortgage premium.

FHA will be prohibited from paying distributive shares until the FHA MMI fund is found to be actuarially sound.

Other FHA Amendments. The bill makes permanent the FHA maximum mortgage limits of 185% of area median (\$124,875).

FHA will be prohibited from insuring mortgages on vacation homes. The MMI funds can be used to provide mortgage counseling to delinquent mortgagors. FHA will be required to publish annually a report on FHA defaults.

The Secretary will be required to establish a delegated multifamily insured mortgage processing system.

Mortgage lenders and servicers will have to provide annual disclosure of possible interest liability upon mortgage prepayment. Mortgage lenders will be limited to no more than a 2% variation for fees and discount points on mortgages and prohibited from varying mortgage interest rates based on the size of the mortgage. Mortgage lenders will be required to disclose information on the likelihood of the sale of mortgage servicing.

The bill expands the Home Equity Conversion Mortgages program to 25,000 mortgages and continues the program through fiscal year 1995.

Title IV -- HOPE Programs

The bill establishes the HOPE programs to help low-income families buy public housing and other foreclosed property owned by HUD.

HOPE funds will enable tenants to acquire and rehabilitate government-owned housing.

HOPE I will transfer ownership of public and Indian housing units through grants to resident management corporations, resident councils, cooperatives, nonprofit organizations, and PHAs and Indian Housing Authorities.

HOPE II will transfer ownership of HUD multifamily units through grants to help residents in FHA distressed and foreclosed multifamily buildings to purchase and maintain their properties.

HOPE III will transfer ownership of single family homes through grants to enable low-income families to become owners of properties held by Federal, State and local public agencies.

The bill requires replacement on a one-to-one basis of low-income public housing sold under HOPE, in conformance with policy set in the 1987 Housing Act -- except that 5-year vouchers provided from a separate replacement account can be counted.

The bill also limits borrowing on the collateral of public housing sold under HOPE (1) to avoid burdening tenants with excessive debt burdens, and (2) to insure that proceeds are used only to improve the residential quality of the property. GAO is given access to relevant books and records.

Finally, HOPE funds will have to be matched with State, local or private funds: 4:1 federal/nonfederal in HOPE I, and 3:1 in HOPE II and HOPE III. Such matching funds can include the value of taxes, fees or other charges waived, and the value of the land (except for HOPE III) and infrastructure. Matching funds cannot include CDBG funds allocated by the Federal Government to States and localities.

Title V (A) -- Public and Indian Housing

The bill will improve public and Indian housing by enhancing HUD's authority to reform the management of troubled housing authorities and establishing special initiatives to reduce the number of vacancies in public housing and redesign public housing projects to accommodate supportive services for families with children.

Reauthorization. The bill reauthorizes key elements of support for public and indian housing: CIAP modernization, Operating Subsidies, and New Development/Major Reconstruction.

Management Reform. The bill directs HUD to establish indicators to evaluate the management performance of public housing agencies. HUD will be required to establish procedures for designating troubled public housing agencies, based largely upon an agency's performance under the indicators. HUD will then be directed to enter into agreements with each troubled agency, setting targets to achieve improved management of these agencies, strategies for meeting such targets and incentives or sanctions for effective implementation of those strategies.

The bill requires PHAs to establish a project-based accounting system by January 1, 1993.

Modernization. The bill authorizes HUD to establish an allocation formula (in accordance with statutory criteria) for the distribution of CIAP funds. The bill delays implementation of the new formula-based CIAP program until fiscal year 1992 to give HUD sufficient time to develop regulations and devise the formula. The bill also limits the amount of CIAP funds that can be distributed to troubled public housing authorities.

Vacancy Reduction. The bill sets aside a portion of CIAP funds for a special initiative to reduce vacancies in public housing units.

Public housing agencies that fail certain vacancy tests will be required to develop vacancy reduction plans that identify vacant public housing units within the agency's inventory, explain the reasons for such vacancies and outline the agency's agenda for addressing such vacancies within the next 5 years. Funds will be made available for management improvements as well as rehabilitation and repair of certain vacant units.

Family Investment Centers. A new program will help public housing residents gain greater access to employment, day care, educational and other services needed for economic opportunity. The program will operate on an incentive basis, providing new forms of HUD assistance only to projects that receive the bulk of funding for supportive services from non-HUD sources.

Preference Rules. The bill revises the preference rules governing tenant selection in public housing. PHAs will be given greater flexibility to serve families that meet local (rather than Federal) preferences. PHAs establish such local preferences in writing and after public hearing to respond to local needs and priorities.

Resident Management. The bill reauthorizes funding for resident management technical assistance and training.

Title V (B) -- Section 8 Rental Assistance

The bill will address the major deficiencies that have undermined the efficacy of the voucher and certificate programs.

The bill amends the voucher program to reduce the incidence of voucher recipients paying excessive rents. The bill amends the voucher program to require that (1) PHAs ensure the reasonableness of rents charged for units under consideration by voucher recipients; and (2) HUD annually report to Congress on the incidence of voucher recipients paying more than 30% of their income for rent.

The bill also amends the certificate program to give families greater ability to find housing in neighborhoods of their choice. Tenants will be allowed to lease apartments with rents above the fair market rents (and to pay a higher share of income for rent) if the PHA finds that the rent charged and the family's rental payments are reasonable.

Title V (C) -- Other Housing Programs

Expands the coverage of the Public Housing Drug Elimination Act of 1988 to other federally-assisted housing.

Establishes HOPE for Family Self-Sufficiency that requires PHAs to link section 8 rental assistance and supportive services, beginning in fiscal year 1993.

Title VI -- Preservation of Affordable Rental Housing

The bill establishes a permanent solution to the problem of prepayments in the older subsidized inventory. The solution will place primary emphasis on retaining the affordability of this vital housing resource.

The permanent solution has five major components.

- 1. Fair market return for owners.** The bill will provide owners with a fair market return on their property. If, within cost limits noted below, HUD is able to offer the owner that fair market return, the owner will be required either to maintain the housing as affordable for its remaining useful life or to transfer the housing to a qualified purchaser (e.g. nonprofit) that will. Owners who sell will receive the appraised "highest and best use" value of their housing. Owners who voluntarily remain as the housing's owners will receive a market return on their equity in the housing -- based on the highest residential rental value.
- 2. Federal cost limits.** The bill will establish cost limits to control how much the federal government will spend to preserve individual housing projects. If a property's value requires incentives above the federal limits, qualified purchasers (tenants, nonprofits, and others) will have the opportunity to supplement the HUD subsidy and purchase the property at the appraised "highest and best use" value. A special set-aside of capital grant funds will be available to help purchasers make up the difference.
- 3. Prepayment permitted under certain conditions.** The bill will permit prepayment (1) where HUD finds that prepayment will not materially harm long-established policy objectives, such as avoiding economic hardship for current tenants and maintaining the availability of affordable housing for low-income families and minorities near job opportunities, (2) where there is no willing buyer that will retain the housing's low-income affordability or (3) where HUD is unable to fund preservation subsidies within 15 months (or a shorter period in the case of owners who attempt to sell their properties).
- 4. Tenant protections.** The bill will provide strong tenant protections and relocation requirements. Most importantly, section 8 certificates or vouchers will be provided to all displaced low income families.
- 5. Preemption of certain State and local laws.** The bill recognize that a fair Federal preservation policy must apply uniformly to all affected properties regardless of location. For that reason, the solution will preempt State and local laws that are not of general applicability.

Title VII -- Rural Housing

The bill strengthens Farmers Home assistance by authorizing increased funding for rural housing, making some mortgages more flexible, allocating assistance to underserved areas and helping certain non-profit organizations prepare housing plans.

The bill reauthorizes Farmers Home programs and permits Farmers Home to help very-low income homeowners with deferred-payment mortgages under certain conditions.

The bill provides a set aside of Farmers Home loans for "targeted underserved areas" -- communities that have a high concentration of poverty and substandard housing and that have not received their share of Farmers Home assistance. Project preparation grants will help nonprofits in underserved rural areas prepare solid applications for Farmers Home housing assistance.

The bill provides a nonprofit set aside of 7%, 8%, 10% in the next three years out of the major rural housing development program for low income renters.

The bill provides security for loans in remote rural areas. The bill provides housing for migrant farm workers and rural homeless.

The bill allows communities to continue to qualify for rural housing assistance if they currently have populations less than 20,000 but, according to the 1990 census, will have populations between 20,000 and 25,000, and if they have a demonstrated shortage of mortgage credit in their community.

Title VIII -- Supportive Housing

The bill will help people with special needs -- the elderly, persons with disabilities, the homeless and persons with AIDS -- live in dignity and independence. It will expand "supportive housing" -- housing that combines both a properly designed building and services tailored to the needs of tenants.

For the Elderly. The bill contains a series of initiatives to meet the housing needs of elderly persons with very low incomes.

First, the bill restructures the existing Section 202 program by -- beginning in fiscal year 1992 -- creating a new funding system that requires much less budget authority per unit.

Future Section 202 housing will be designed to (1) meet the special physical needs of elderly and frail elderly persons and (2) accommodate supportive services needed by elderly and frail elderly persons.

Funding for Section 202 housing will be provided through a combination of interest-free advances and project rental assistance. Development costs will be based on local construction costs rather than on "fair market rents", which have created serious delays in the current program. Sponsors of the units currently in the pipeline can take advantage of the program changes to expedite construction.

Second, the bill authorizes a revised Congregate Housing Services Program. The revised program will fund -- within eligible public and assisted housing -- the retrofitting of apartments to meet the physical needs of frail elderly persons as well as the renovation of congregate space to meet the service needs of such persons. The program will also fund a portion of the cost of congregate services.

Finally, the bill contains a demonstration program -- HOPE for Elderly Independence -- to test the effectiveness of combining rental assistance with supportive services to help frail elderly persons continue living independently. The costs of supportive services will be shared among participating PHAs (50%), HUD (40%) and frail elderly recipients (10%).

For Persons with Disabilities. The bill creates a separate supportive housing program for persons with disabilities. Like the revised Section 202 elderly program, this separate program will fund the development of supportive housing through a combination of interest-free capital advances and project rental assistance.

This separate program will concentrate on helping persons with disabilities integrate into their communities. Emphasis will be placed upon the production, rehabilitation and acquisition of small group and independent living homes for such persons.

For the Homeless. The bill reauthorizes the existing McKinney Homeless housing programs -- Emergency Shelter Grants, Supportive Housing, Supplemental Assistance for Facilities to Assist the Homeless, Section 8 SRO Housing -- for fiscal years 1991 and 1992.

The bill also includes the Senate provisions consolidating the existing McKinney programs (except Section 8 SRO) into one formula-based program. The bill delays implementation of the consolidated program until (1) HUD has examined the feasibility of establishing an allocation formula based on the relative incidence of homelessness; (2) HUD has presented a series of alternative formulas to Congress; and (3) legislation has been enacted which adopts a specific allocation formula.

The bill also authorizes the Shelter Plus Care program, which provides rental assistance to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic alcohol or drug problems or have AIDS or related diseases).

For Persons with AIDS. The bill creates a formula grant program to give States and localities the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with AIDS.

The bill will distribute 90% of the funding for the program by formula to eligible States and localities that have approved AIDS-related housing strategies. Eligible States and localities can use their grant funds to carry out "approved activities" including: the development of community residences for eligible persons with AIDS; the provision of short-term rental assistance to such persons; the moderate rehabilitation of single room occupancy dwellings (SROs) that will be made available only to such persons; the implementation of strategies to prevent homelessness among such persons; the development and operation of short-term shelter and services for such persons; and the provision of housing information to such persons.

HUD will retain 10% of the funding for two purposes: (1) to fund individual projects that meet the housing needs of persons with AIDS in non-eligible (or nonparticipating) States or localities; and (2) to fund "special projects of a national significance".

Title IX -- Community Development & Miscellaneous

CD Block Grants. The bill reauthorizes the Community Development Block Grant program for \$3.137 billion in fiscal year 1991 and \$3.272 billion in fiscal year 1992. It raises the CDBG low and moderate income targeting requirement to 70%. Lump sum drawdowns will be reinstated.

Entitlement and non-entitlement communities will have access to the Section 108 Loan Guarantee program. Communities will be allowed to borrow up to 5 times their CDBG allotment and have up to 20 years to repay the amounts borrowed.

Other CD Programs. The Neighborhood Reinvestment Corporation and the Neighborhood Development Demonstration program are reauthorized.

Manufactured Housing. The bill charts a commission to develop recommendations for modernizing the Manufactured Housing Construction and Safety Standards Act. The commission will consult with industry, consumers, state and local government representatives and HUD and develop an action plan to form the basis for legislation next year.