NATIONAL LOW INCOME HOUSING COALITION

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Before the U.S. Senate Committee on the Judiciary
Subcommittee on Competition Policy, Antitrust, and Consumer Rights
"Examining Competition and Consumer Rights in Housing Markets"
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Chair Klobuchar, Ranking Member Lee, and members of the Subcommittee, thank you for the opportunity to testify before this committee on how renters and communities are impacted by today's uncompetitive housing market.

The National Low Income Housing Coalition (NLIHC) is dedicated to achieving racially and socially equitable public policy that ensures people with the lowest incomes have quality homes that are accessible and affordable in communities of their choice. NLIHC's members include residents of public and assisted housing, people experiencing homelessness and other low-income people in need of affordable homes, housing providers, homeless services providers, fair housing organizations, state and local housing coalitions, public housing agencies, faith-based organizations, concerned citizens, and others. While our members include a spectrum of housing interests, we do not represent any one segment of the housing field. Rather, NLIHC works on behalf of and with low-income people who receive or need federal housing assistance, especially people with extremely low incomes and people who are homeless.

Across the nation, America's lowest-income renters face a severe shortage of affordable and available homes and a significant gap between incomes and housing costs. There is a national shortage of 7.3 million homes that are affordable and available to America's lowest-income renters – those earning less than either the federal poverty rate or 30% of their area median income (AMI). The severe shortage of affordable and available homes for extremely low-income renters is a structural feature of the country's housing system, consistently impacting every state and nearly every community.[1]

Housing costs are out of reach for too many of the lowest-income renters.[2] Rents are far higher than what the lowest-income and most marginalized renters, including seniors, people with disabilities, and working families, can spend on housing. Despite the clear and urgent need, Congress only provides housing assistance to one in four eligible households.[3]

Without affordable housing options, more than 10 million extremely low-income and very low-income renter households, disproportionately people of color, pay at least half their income on rent, leaving them without the resources they need to put food on the table, purchase needed medications, or otherwise make ends meet.[4] Paying so much of their limited income on rent leaves the lowest-income families always one financial shock – an emergency or unexpected expense – from facing eviction and, in the worst cases, homelessness. On any given night, more than half a million people experience homelessness, and millions more are at risk.[5]

During the COVID-19 pandemic, federal, state, and local lawmakers responded to the growing threat of housing insecurity by providing unprecedented resources and protections to keep renters housed, including $46.6 billion in emergency rental assistance (ERA) and a national moratorium on evictions for nonpayment of rent. These protections and resources cut evictions in half,[6] lowered eviction filing rates to the lowest on record,[7] and kept millions of people who otherwise would have lost their homes during the pandemic stably housed.[8]

Just as these emergency resources were depleted and pandemic-era renter protections expired, however, renters reentered a brutal housing market, with skyrocketing rents and high inflation. Eviction filing rates have now reached or surpassed pre-pandemic averages in many communities, resulting in increased homelessness.[9]

Even with the recent stabilization of rental prices, the rapid inflation we saw during 2021 and the first half of 2022 has done significant damage to affordability, especially for the lowest-income renters. Median rent of new leases in September 2023 was 24% higher than at the beginning of 2021.[10] Historically, rent inflation is typically even higher for lower-priced units.[11]

Rent increases are driven by several factors, including a growing demand for rental housing and limited supply. Rent increases can also be attributed to a mostly unregulated rental market that – especially in markets where demand far outstrips supply – permits landlords to raise rents as high as the market will allow, without regard to the impact on tenants with low incomes. Collusion may also increase rent prices. RealPage, a private equity-owned real estate tech company, is currently under investigation by the Department of Justice for possible collusion with landlords to inflate rent prices, in violation of federal antitrust laws.[12] Further, real estate investors have been purchasing low-cost homes at a high rate, leading to further increases in rental prices and putting low-income renters at greater risk of eviction.[13] In addition to rent, landlords are increasingly imposing junk fees and other predatory fees, further increasing costs for low-income renters.[14]

Renters – particularly those with the lowest incomes – have severely limited options in the housing market. The lack of national renter protections leaves tenants vulnerable to unjust treatment, housing instability, and evictions. Landlords can engage in abusive and predatory behavior with few consequences. Renters facing exorbitant rent increases or excessive fees have little to no ability to move to a new home. Instead, renters can face retaliation for reporting unsafe housing conditions or illegal actions by landlords, and because so few renters have access to legal representation, many are unable to assert their legal rights.

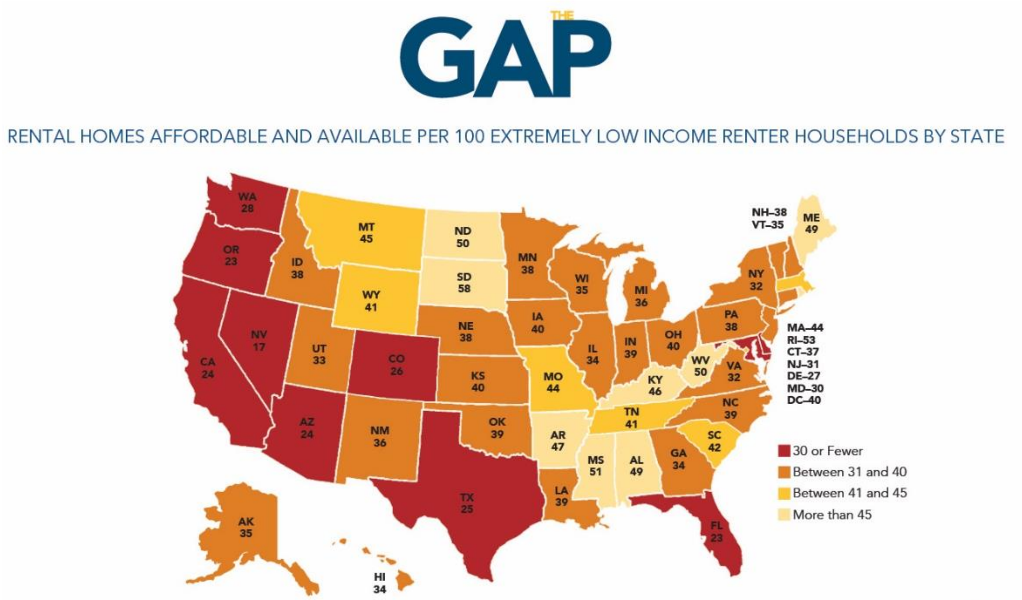
Strengthening and enforcing federal renter protections is a critically needed solution to America’s housing crisis, along with eliminating restrictive local zoning laws to increase supply, increasing investments in solutions to address the underlying shortage of affordable, accessible homes for people with the lowest-incomes, and preventing evictions and homelessness.

As Congress works towards these long-term solutions, the Biden administration must continue to take action to strengthen and enforce tenant protections and incentivize or require communities to reduce restrictive local zoning practices that inhibit the supply of rental housing.

Underlying Causes of the Housing Crisis

Shortage of Affordable Housing for the Lowest-Income Renters

An underlying cause of America's housing crisis is the severe shortage of rental homes affordable and available to people with the lowest incomes. Nationwide, there is a shortage of 7.3 million homes affordable and available to extremely low-income renters, whose household incomes are at or below either the poverty guideline or 30% of their area median income (whichever is greater). For every 10 of the lowest-income renter households, there are fewer than four homes affordable and available to them.[15]

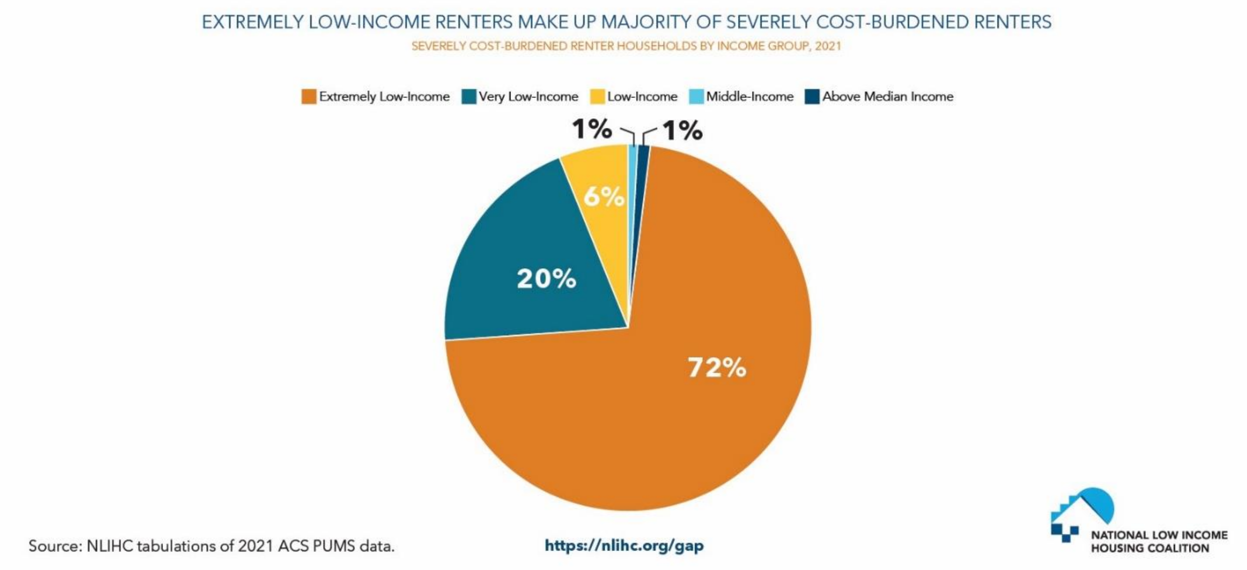


The shortage of affordable and available homes for the lowest-income renters ranges from most severe to least severe, but there is no state or congressional district with enough affordable homes for its lowest-income renters. For example, in both Chair Klobuchar's state of Minnesota and Ranking Member Lee's state of Utah, there are fewer than four affordable homes available for every 10 of the lowest-income renter households. Not one of the states represented by Senators on this Subcommittee has an adequate supply of homes affordable to its lowest-income residents; the shortage ranges from fewer than three homes for every 10 extremely low-income households in Delaware to fewer than five homes for every 10 extremely low-income households in Arkansas.[16]

Systemic racism, past and present, has led to significant racial disparities in both renter demographics and adverse outcomes experienced by renters, such as cost burdens, evictions, and homelessness. The unaffordability of the rental market disproportionately harms Black and Latino households because they are more likely at all income levels to be renters: 27% of white households are renters, compared with 57% of Black households and 52% of Latino households.[17]

Moreover, renters of color are much more likely than white households to be extremely low-income renters. Nineteen percent of Black households, 17% of American Indian or Alaska Native (AIAN) households, 14% of Latino households, and 9% of Asian households are extremely low-income renters, compared to 6% of white non-Latino households. Renters of color are also more likely to experience housing cost burdens than white, non-Latino renters. Forty-four percent of white renters are cost-burdened, while 52% of Latino renters and 55% of Black, non-Latino renters are cost-burdened. Nearly one-third of Black, non-Latino renters and 28% of Latino renters are severely cost-burdened, compared to 23% of white, non-Latino renters.[18]

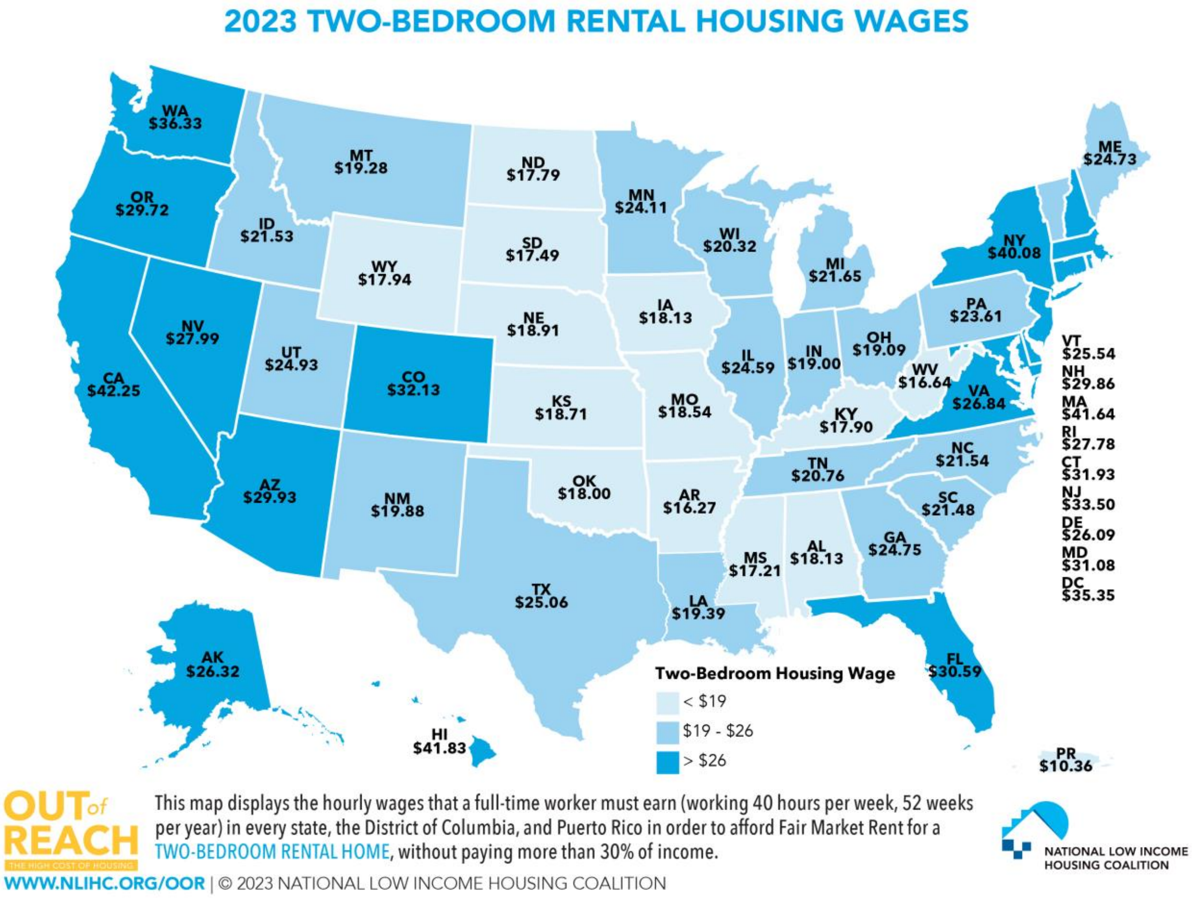
Nationwide, more than 10 million extremely low-income and very low-income renters pay at least half their income on rent, leaving them without the resources they need to make ends meet. Housing cost burdens are concentrated among the lowest-income renters. Of the 11.3 million severely cost burdened renter households, 8.1 million (72%) have extremely low incomes and 2.3 million (20%) have very low incomes.[19] Research indicates that the lowest-income households spend significantly less on other necessities – such as food, clothing, transportation, and healthcare – when they are forced to spend more than half their income on rent and utilities.[20]



Making matters worse, the existing affordable housing stock is often in poor condition, due to decades of underfunding by the federal government, or with affordability requirements set to expire soon.[21] Based on past trends, more than 176,000 federally assisted rental homes with expiring affordability restrictions over the next five years could be lost from the affordable housing stock if preservation efforts are not expanded. The failure to preserve federally subsidized housing can lead to unaffordable rents, a loss of habitability, or evictions for current tenants. Given the current shortage of affordable homes and chronic underfunding for federal programs, preventing the loss of the already limited supply is essential.

The Gap between Incomes and Housing Costs

A major cause of housing instability is the fundamental mismatch between growing housing costs and stagnant incomes for people with the lowest incomes. NLIHC's *Out of Reach: The High Cost of Housing* annual report estimates each locality's "Housing Wage" – the hourly wage a full-time worker must earn to afford a modest apartment without spending more than 30% of their income on housing.[22] In 2023, the national Housing Wage is $28.58 per hour for a modest two-bedroom rental home and $23.67 per hour for a modest one-bedroom rental home.



Thirteen of the nation’s 20 most common occupations pay a lower median hourly wage than the wage a full-time worker needs to earn to afford a modest two-bedroom apartment at the national average fair market rent. Ten of these occupations, which account for more than 49 million workers, pay median wages less than the wage a full-time worker needs to earn to afford a modest one-bedroom apartment. Over 25 million people work in the five lowest-paying occupations – retail sales, food and beverage services, food preparation, home health and personal care services, and building cleaning. Workers in these occupations earn median wages that fall more than $7.80 short of what a full-time worker needs for a one-bedroom apartment.[23]

Lack of Federal Resources

The shortage of rental homes affordable to the lowest-income people is caused by market failure and the chronic underfunding of solutions. Government intervention, in the form of subsidies, is necessary to fill the gap between what the lowest-income people can afford to pay and the costs of developing and operating rental homes. Congress has consistently underfunded housing subsidies such that only one in four households eligible for housing assistance receives any.[24] Millions of families are placed on waitlists for housing assistance, many of them facing homelessness or overcrowding while they wait.[25]

Congress has also divested from public housing for decades, resulting in over $70 billion in unmet capital backlog needs.[26] As a result, our nation loses 10,000 to 15,000 units of public housing every year to obsolescence or decay, while other units fall into deep disrepair. This leaves public housing residents routinely exposed to hazardous and unhealthy living conditions, including lead, carbon monoxide, mold, asbestos, radon, and pests.[27]

Current State of the Housing Market

COVID-19 Pandemic Housing Resources

In response to the urgent housing needs of renters impacted by the pandemic, the Trump administration implemented (and Congress and the Biden administration extended) a national eviction moratorium, and Congress allocated $46.6 billion in Emergency Rental Assistance (ERA) to states and localities to keep renters stably housed. Research conducted on the efficacy of local, state, and federal eviction moratoriums provides evidence that such moratoriums were effective at reducing COVID-19 transmission and fatalities as well as eviction filings.[28,29] Similarly, ERA helped keep millions of renter households stably housed over the course of the pandemic. State and local grantees have so far disbursed over $39 billion for rental assistance and other housing services to renters facing housing instability.[30] The ERA program has made nearly 12 million payments, mostly to very low- and extremely low-income renters.[31]

While ERA has been impactful for millions of households, the program was designed to provide short-term financial assistance during the pandemic and cannot address the long-standing gaps in our housing safety net, including the lack of federal renter protections. State and local ERA programs have run out of funding, and the last eviction protections have expired, just as rents and other costs have increased across the country, worsening housing affordability for people with the lowest incomes. Evictions have increased, with eviction filing rates in some cities reaching or surpassing their pre-pandemic levels.[32] As a result, homelessness has increased in many communities across the country.

High Rents and Increased Housing Instability and Homelessness

Rising rental prices are associated with an increase in homelessness. A study by the Government Accountability Office (GAO) found that changes in median rental prices and homelessness rate estimates were statistically significantly related. A $100 increase in median monthly rental price was associated with an approximately 9% increase in the estimated homelessness rate in that community, even after accounting for other relevant factors.[33] In 2021 and 2022, renters experienced a nearly $200 median monthly increase.

ANNUAL CHANGE IN FIRST QUARTER MEDIAN RENTAL PRICES

Recent rent increases were driven by several factors, including a growing demand for rental housing and limited supply. Between 2020 and 2022, 1.9 million renters entered the rental market. Many households entering the market were higher-income renters who may have been priced out of the increasingly competitive home-buying market. The rent increases can also be attributed to a largely unregulated rental market that permits landlords to raise rents as high as the market will allow, without regard to the impact on tenants with low incomes.

Investor Purchases

Rising rental prices are also impacted by purchases of single-family and multi-family properties by real estate investors. Despite a significant drop in investor purchases since the middle of 2022, they continue to represent a sizable share of sales. In the first half of 2023, investors purchased more than 90,000 homes.[34] Increased institutional investor ownership in the rental market can have negative impacts on renters and has been associated with decreased affordability, increased fees, lack of upkeep, higher rates of eviction, and worsening displacement, particularly in Black neighborhoods.[35] Limited affordable options for renters with low incomes, coupled with a lack of federal tenant protections, allows some corporate landlords to engage in abusive practices in pursuit of profit.

Ownership of multifamily buildings is becoming more consolidated in the hands of corporate landlords, with the number of apartment units owned by the largest 50 companies increasing from under 2 million in 2017 to 2.5 million in 2022.[36] These 2.5 million units represent approximately one-tenth of the country's multi-family apartment stock.[37] This is likely an underestimate because two of the largest firms – Blackstone and Lone Star Funds – do not participate in the survey that collects this data. Investor purchases have historically been made in low-cost Black and brown neighborhoods, and this trend continued during the pandemic.[38]

Investors' accumulation of subsidized properties could further threaten housing affordability in the future. Two large investors – Blackstone and Starwood Capital – now own over 138,000 federally subsidized units, including many units backed by the Low-Income Housing Tax Credit

(LIHTC).[39] Given the time-limited affordability period of LIHTC properties and the stated strategy of investors to purchase below market rental properties and later increase their prices, it is unlikely that these apartments will remain affordable.

The accumulation of rental properties in the hands of larger investors could threaten affordability in other ways as well. Many larger investors rely on rent-setting software to determine rents, for example. Yet the nation's top provider of rent-setting software, RealPage, is under investigation by the Department of Justice for alleged collusion with landlords to inflate rents. Legal experts have raised concerns that RealPage uses private rental data to encourage landlords to increase profits by raising rent prices even if it results in a lower occupancy rate, thereby reducing the supply of affordable housing. If the allegations are true, the impact on rent prices and housing instability could be significant, given that many of our nation's largest housing providers use RealPage to set prices.

In addition to raising rents, corporate landlords have been shown to use additional fees to generate profit. Data collected by the House Financial Services Committee (HFSC) found that surveyed institutional investors increased lease fees 40% over the survey period, from an average of $147 per lease per year in 2018 to an average of $205 in 2021.[40] Some investors may use this strategy more than others. While lease fees for several of the companies surveyed remained steady over the four-year period, average annual lease fees for Invitation Homes' properties increased from $201 in 2018 to $449 in 2021.[41] Investors have acknowledged that fee collection is part of their revenue generation strategy. Tricon, whose profits increased from $113 million to $517 million between 2020 and 2021, noted that this significant increase in profits was due in part to fees and other costs and upkeep responsibilities that were transferred to tenants.[42]

Research suggests that corporate landlords are more likely to file for eviction than small landlords. A study of single-family rentals in Atlanta found that corporate owners were 8% more likely than small landlords to file for eviction, even after controlling for neighborhood characteristics.[43] The study also found that some investors are far more likely to pursue evictions than others. One institutional investor filed evictions against one-third of its tenants, while two other institutional investors filed evictions against one-quarter of their tenants.

Large landlords are also more likely to be serial eviction filers, filing for evictions repeatedly when households fall behind on their rents.[44] Serial eviction filings can significantly increase housing costs for renters beyond their monthly rent payments since filings often result in late fees and court fines.[45] One estimate finds that each eviction filing results in a 20% monthly increase in housing costs.[46] Moreover, eviction filings can make it more difficult for renters to find other landlords willing to rent to them, pushing households deeper into poverty.

Institutional investors' practices have a disproportionate impact on Black communities. Data collected by the HFSC indicate single-family rental investors purchase properties in ZIP codes whose populations are on average 40% Black, which is over three times the Black population in the U.S.[47] Research on investor purchases in southeastern cities during the COVID-19 pandemic also found that purchases were concentrated in Black and Latino neighborhoods.[48] The higher rates of investor purchases in Black neighborhoods have resulted in displacement of residents. Statistical models estimate that on average, neighborhoods in Atlanta with an investor-purchased property had 166 fewer Black residents and 109 additional white residents as a result, compared to nearby neighborhoods without an investor-purchased property.[49]

Institutional investors wield significant political power and have used this power to advocate against renter protections. Five prominent rental home investment companies – American Homes 4 Rent, FirstKey Homes, Invitation Homes, Progress Residential, and Tricon Residential – have formed the National Rental Home Council, a trade association that advocates against state rent regulation policies. In 2018, Invitation Homes and Blackstone spent $1 million and $6 million, respectively, opposing a ballot initiative that would have allowed rent regulation in California cities.[50,51] Institutional investors also lobbied to reverse the federal eviction moratorium during the COVID-19 pandemic, with some of these owners continuing to evict tenants unscrupulously and unlawfully during the protected period.[52,53]

Lack of Federal Tenant Protections

The lack of competition in the housing market contributes to a power imbalance between renters and landlords that puts renters at greater risk of housing instability, harassment, and homelessness, while also fueling racial inequity. Broad and robust tenant protections – including laws ensuring legal representation in eviction court and prohibiting source-of-income discrimination, as well as "just cause" eviction laws – are needed to rebalance the power that currently tilts heavily in favor of landlords at the expense of low-income and marginalized tenants.

In many states, there are no federal protections against arbitrary, retaliatory, or discriminatory evictions, or other abusive practices by landlords. Many low-income tenants who use housing subsidies like housing vouchers, emergency rental assistance, and other forms of public assistance struggle to find or maintain safe, quality, affordable housing due to source-of-income discrimination – the practice of denying an individual full and equal access to housing based on their lawful source of income. Discrimination by landlords against renters can prevent households from effectively using federal, state, or local rental assistance and is often a pretext for illegal discrimination against renters of color, women, and people with disabilities.[54]

In most states and localities across the country, landlords are not required to provide a reason for evicting a tenant at the end of the lease term or for evicting a tenant without a lease. Landlords who are unable to evict a tenant during their lease term may choose not to renew the tenant's lease and use the lease holdover as grounds for eviction. A tenant at the end of their lease is also at risk of unreasonable rental increases.[55] When a tenant receives an eviction notice, faces rent hikes, or fears displacement, they may choose to leave their unit – or "self-evict" – rather than go to court. Those who pursue legal action often find that no laws exist to protect them from eviction at the end of a lease term and that having an eviction judgment on their record creates further barriers to obtaining and maintaining future housing.[56]

Despite the broad and lasting consequences of evictions, only 10% of renters in eviction court receive legal representation, compared to 90% of landlords.[57] When tenants have legal representation during the eviction process, they are more likely to avoid eviction and remain in their homes.[58]

Immediate Actions Needed

FY 2024 Housing Investments

To invest in affordable housing at the scale needed, Congress must reject any proposal to impose arbitrary and austere caps on domestic spending, such as those currently proposed by

House Republicans, or those that were established under similar circumstances in the “Budget Control Act of 2011” (BCA). The BCA, enacted as a “compromise” to lift the debt ceiling, created arbitrarily low spending caps that led to disinvestment in key affordable housing and homelessness programs for a decade, preventing our nation from making the investments needed to address America’s housing and homelessness crisis.

Administrative Action

In the absence of quick Congressional action, the Biden-Harris administration must continue to take critical steps to protect America’s lowest-income and most marginalized renters from the harmful impacts of inflation and rents outpacing wages, high rates of eviction fillings, and increasing homelessness.

Federal Housing Finance Agency (FHFA)

This summer, FHFA released a Request for Information about how the agency can create and enforce renter protections for households living in rental properties with federally backed mortgages. Given the significant need for bold action, FHFA should establish, implement, and enforce the renter protections recommended by NLIHC and endorsed by more than 350 local, state, and national organizations, as well as those submitted by NLIHC’s 2022-2023 Tenant Leader Cohort of people with lived experience. At minimum, FHFA should establish racial and social equity as an explicit goal of new renter protections, create mandatory and enforceable habitability requirements for all rental properties with federally backed mortgages, and pair any new renter protections with strong enforcement mechanisms.

FHFA should also tie all federally backed mortgages to meaningful new tenant protections, including:

- Source-of-income protections to prohibit landlords of properties with federally backed mortgages from discriminating against households utilizing rental assistance, such as Housing Choice Vouchers (HCVs), Supplemental Security Income (SSI), or local rental assistance, to pay the rent.
- “Just cause” eviction standards to provide housing stability for tenants by limiting the causes for which a landlord can evict a tenant or refuse to renew a tenant’s lease when the tenant is not at fault or in violation of any law.
- Prohibitions on rent gouging to prevent landlords from dramatically and unreasonably raising rents.
- Requirements to ensure housing is safe, decent, accessible, and healthy for renters and their families.

Long-Term Solutions to the Housing Crisis

A stronger housing safety net is needed to prevent evictions and homelessness and to reduce housing instability among the lowest-income renters. Addressing the root causes of the housing affordability problem requires a sustained commitment to establishing and enforcing strong renter protections.

Congress must also bridge the gap between incomes and rent through universal rental assistance, invest in new affordable housing and preserving affordable rental homes that already exist for America's lowest-income and most marginalized renters, and provide emergency assistance to stabilize renters when they experience financial shocks.

Strengthen and Enforce Renter Protections

During the pandemic, state and local jurisdictions across the country recognized the crucial role tenant protections play in preventing evictions and ensuring housing stability for the most marginalized households. Since 2021 alone, states and localities have passed or implemented over 200 new laws or policies to protect tenants from eviction and keep them stably housed.[59] Jurisdictions passed short-term protections to support renters during the pandemic, including eviction moratoriums, pauses on evictions while ERA applications were under review, and efforts to coordinate the eviction process with ERA. State and local governments also enacted long-term protections, such as right-to-counsel legislation, source-of-income discrimination laws, legal defense appropriations, and eviction record sealing legislation.[60]

To ensure the safety and just treatment of renter households across all jurisdictions, Congress should enact similar legislation to establish vital national protections for renters. Such protections should include source-of-income laws to prevent landlords from discriminating against voucher holders, "just cause" eviction standards, guaranteed access to legal counsel to put renters on more equal footing with landlords, eviction record sealing and expungement requirements, and limits on excessive rent increases.

Bridge the Gap between Incomes and Housing Costs

Congress should expand rental assistance to make it universally available to all eligible households in need. Making rental assistance available to all eligible households is central to any successful strategy for solving the housing crisis. Rental assistance is a critical tool for helping the lowest-income people afford decent, stable, accessible housing, and the program has a proven record of reducing homelessness and housing poverty.[61] A growing body of research finds that rental assistance can improve health and educational outcomes, increase children's chances of long-term success, and advance racial equity.[62]

Expand and Preserve the Supply of Affordable Rental Homes

Addressing the shortage of affordable and available housing for the lowest-income households requires both preserving existing affordable housing stock and increasing the supply of affordable housing.

Congress must provide robust resources to preserve the roughly 900,000 public housing units that are currently home to over 2 million residents, the majority of whom are people of color. Public housing is critical to ensuring people with the greatest needs have an affordable and accessible place to call home, and the preservation of this community asset is key to any strategy to address America's housing crisis.

To increase the supply of deeply affordable and accessible housing, Congress should expand funding for the national Housing Trust Fund (HTF) to at least $40 billion annually. The HTF is the only federal housing program exclusively focused on serving households with the lowest incomes and most acute housing needs.

In addition, the federal government should incentivize or require state and local governments that receive federal transportation and infrastructure funding to eliminate restrictive zoning rules that increase the cost of development, limit housing supply for all renters, and reinforce segregation and structural racism in housing and other systems.

Provide Emergency Rental Assistance to Stabilize Families and Prevent Evictions

Permanent solutions are needed to combat the evictions and homelessness that can occur when low-income renters experience income loss or unexpected financial shocks. Congress should build on the lessons learned and successes of Treasury's ERA program by enacting a permanent program to help stabilize families before they face eviction, displacement, and, in the worst cases, homelessness. Providing temporary assistance for households would help prevent the many negative consequences associated with evictions and homelessness, including physical and mental health challenges, loss of possessions, instability for children, and increased difficulty finding a new home.[63]

Conclusion

Significant and sustained federal investments, coupled with strengthened and enforced renter protections, are needed to ensure that people with the lowest incomes and those who are most marginalized have stable, accessible, and affordable homes. NLIHC looks forward to a continued partnership with members of Congress and the administration in advancing the large-scale investments and anti-racist reforms needed to repair the gaping holes in our country's social safety net and ensure that every renter has an affordable place to call home.

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