

House Readies \$1.5 Trillion Infrastructure Plan Including Education, Broadband, Housing *By: Kathryn A. Wolfe*

Issue Overview

Changing demographics, economic factors, and lifestyle preferences are spurring historic demand for apartment homes and uprooting the housing development patterns of the past 50 years. At the same time, research has consistently shown infrastructure to be underfunded, which has serious economic consequences. According to National Apartment Association (NAA) research, the U.S. requires 4.6 million new apartments by 2030 to meet future housing needs. Smart infrastructure investment will be required to fund the many inputs of new housing construction, as well as counter the detrimental impact of adverse zoning policy.



Current Legislation Being Introduced

The House is preparing to merge several typically unrelated bills into one massive "infrastructure" package, doling out more than \$1.5 trillion for everything from roads to education, housing, clean water, broadband and more.

Speaking with reporters last Thursday, Speaker Nancy Pelosi gathered the heads of some of the largest House committees to discuss their pieces of the legislation, which she called "Moving America Forward." She said she intends for the legislation, which contains a significant focus on green initiatives and climate resiliency, to pass the House before the July 4th recess.

It's unclear, however, how — if at all — the bill will be paid for. House Ways and Means Chair Richard Neal (D-Mass.) implied that it would lean on bonding and deficit spending, at one point calling out President Donald Trump's own call for a \$2 trillion infrastructure investment.

"We propose Build America bonds, private activity bonds," said Neal. "The President, as you know, has said \$2 trillion of borrowed money — he staked out that position. We're open to some discussions, negotiations. We think that by putting out our plan here, [there's] time to have the conversation, time to negotiate."

Beyond the spending issue, Republicans have already been highly critical of the surface transportation piece of the bill and its heavy emphasis on green infrastructure and climate resiliency, deriding it as just another fanciful iteration of a Green New Deal and complaining of being shut out of the process.

Pelosi acknowledged some of the partisan atmosphere, especially the challenge of bringing Senate Republicans on board.

"As you know, the Grim Reaper has said nothing is ever going through in the Senate," said Pelosi, referring to Senate Majority Leader Mitch McConnell. But she said improving infrastructure is of "tremendous interest" across the political spectrum.

House Readies \$1.5 Trillion Infrastructure Plan Including Education, Broadband, Housing (Cont'd)

"When people see the legislation, and people see how it does affect their areas — this is not just a matter of transportation, it's a matter of clean air, clean water," said Pelosi. "So, we think that this will be nonpartisan, very bipartisan, and we look forward to working together — House and Senate, Democrats and Republicans, and the White House."

She also suggested that, although previous coronavirus relief measures have focused on "mitigation," this package will help the country with "recovery," including by generating good-paying jobs and facilitating commerce.

A surface transportation bill, currently working its way through the House, appears to be the base of the legislation. It would authorize \$494 billion over five years for roads, bridges and transit programs. That bill had been expected on the House floor around June 30.

The new legislative package also will contain what House Energy and Commerce Chair Frank Pallone (D-N.J.) characterized as \$70 billion for "clean energy." Pallone specifically mentioned upgrading the electric grid and making it more resilient, among other items.

He also said the legislation will contain \$25 billion for drinking water programs, \$35 billion for health care infrastructure and \$100 billion for broadband, "which will get us to 100 percent coverage."

The legislation is also expected to contain funding to upgrade schools, as well as for public housing— including \$70 billion to address a capital backlog for public housing, \$1 billion for climate resiliency upgrades to public housing and \$5 billion for a housing trust fund that would support the creation of 60,000 new affordable housing units.

How Does the Affect My Business?

A federal infrastructure package should recognize the relationship between housing demand and the reliable infrastructure needed to support the requisite level of growth. Major infrastructure investments promote efficiencies in transportation, land use, and public works that spur investment, ease regulatory barriers to construction, reduce costs for owners and operators, and support a healthy housing market. Such investments will relieve stress on the housing market, open up new development opportunities, and promote housing affordability across the income spectrum.

Security Deposits See Renewed Legislative Focus *By: Alex Rossello*

The fallout from the nationwide shutdown has been severe, with economic stagnation expected for the foreseeable future. As tens of millions now file for unemployment, many Americans are asking their elected officials what government will do to ease their heavy financial burden. Policymakers have responded by enacting measures that allow renters to apply their security deposit to rent and give them broad flexibility in paying these upfront costs. While well-intentioned, these approaches could leave rental housing providers with less protection against damage and default.

Security deposits and other upfront costs have long been seen as barriers to prospective renters' housing choice and access. Thus, it is no surprise that supporters have been advocating for changes to security deposit laws through the lens of "renters' choice" legislation. Cincinnati was the first to require housing providers to accept security deposit insurance at the request of an applicant or maintain flexibility in payment amounts in lieu of a traditional security deposit or surety bond.

Security Deposits See Renewed Legislative Focus (Cont'd)



SECURITY DEPOSIT

Since the COVID-19 pandemic began, renters' choice policies have seen renewed fervor. Gov. Andrew Cuomo of New York and Gov. Phil Murphy of New Jersey have issued executive orders providing renters security deposit flexibility during the pandemic, while similar legislation was introduced in the Pennsylvania State Assembly recently via House Bill 2427. Policymakers see relaxing security deposit requirements as a way to quickly open up financial resources for struggling communities. This takes the onus off of diminishing state and local coffers. Additionally, security deposit insurance has been framed as a housing affordability solution that streamlines costs for renters and requirements for operators. While we agree there may be benefits to new approaches, it remains critical that lawmakers balance the interests of all stakeholders and consider some of the potential unintended consequences.

For renters, they are charged a monthly insurance premium which could exceed the cost of a traditional security deposit if the renter remains in the unit for more than one year, and unlike traditional deposits, insurance fees are nonrefundable. Renters may also be unaware that they remain liable for repairs or damages that exceed the policy's coverage and could be taken to collections for unpaid balances, which could have lasting effects on their credit.

For housing providers, laws that require owners and operators to accept insurance products are concerning because the market for these products is relatively new and not yet widely accepted. Some of the products remain unproven and would benefit from market testing. For example, if a renter fails to make a payment, it could leave an owner without protection from financial loss. Additionally, some insurance providers pool renters' policies together at the property level, which could result in an imbalance between the level of coverage applied to participating renters and funds allocated to cover claims. In this scenario, a housing provider could be left to recover outstanding amounts from the renter. Policymakers should allow for more widespread adoption of these products before they mandate that housing providers participate.

In addition to policies that require housing providers to accept insurance products, lawmakers are expanding security deposit laws to allow flexibility in payments. In Minneapolis, the city council mandated strict limitations on security deposits (which became effective on June 1). The city's sweeping renter protections ordinance allows a maximum security deposit of one month's rent, or half a month's rent if a deposit is required by the end of the first month of tenancy. The law also requires owners to accept the security deposit in installments of up to three months upon request of the renter.

These expansions of security deposit law may end up hurting the populations they were intended to help. If owners and operators cannot properly manage their risk, they are less likely to accept applicants with adverse credit history or current financial challenges. Capping security deposits could negatively affect renters who are credit invisible, have bad credit or live on a fixed income and might elect to pay a larger security deposit. This flexibility allows housing providers to balance their exposure to risk and expand housing access to renters who would not otherwise qualify.

Especially in times of crisis, rental housing providers must maintain the ability to manage risk; it is critical to ensure the viability of the rental housing industry. The apartment industry supports innovation and legislative changes that streamline requirements and lower costs for owners and renters. However, strict limitations on the size of the security deposits and mandated insurance alternatives could create more problems than they would solve. Legislators must avoid changes to security deposit laws that fail to adequately balance the responsibilities of both parties.

New Federal Multifamily Forbearance and Renter Protections Announced

By: Bob Pinnegar, NAA President & CEO

On June 29th, the Federal Housing Finance Agency (FHFA) announced that Fannie Mae and Freddie Mac (the Enterprises) are allowing multifamily loan borrowers with existing forbearance agreements to extend the total forbearance period for up to six months total. The forbearance extension is available for property owners of qualified properties with an Enterprise-backed multifamily mortgage experiencing a financial hardship due to the coronavirus national emergency.

As before, property owners are prohibited from evicting residents in covered properties due to nonpayment of rent during the forbearance period. Unlike borrowers, residents are not required to show COVID-19 related financial hardship.

The FHFA's announcement also adds new owner and renter protections that apply during the repayment period. Once forbearance concludes, owners of properties with forbearance agreement extensions may qualify for up to 24 months to repay missed payments. Forbearance extensions, repayment schedule modifications and new forbearance agreements result in the following requirements during the repayment period:

- Residents must be given at least a 30-day notice to vacate;
- Borrowers must suspend late fees or penalties for nonpayment of rent; and
- Borrowers must allow residents the option to repay outstanding balances over time & not in a lump sum.

More details can be found on Fannie Mae and Freddie Mac's websites. To learn more about qualification standards and the new renter protection requirements, contact your lender or mortgage servicer.

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