

July 17, 1978

HOUSING AND COMMUNITY DEVELOPMENT

Amendments of 1978

(S. 3084 - H.R. 12433)

STATUS

The Housing and Community Development Amendments of 1978 were reported out of the Senate Committee on Banking, Housing and Urban Affairs on May 15, 1978. The Subcommittee on Housing and Urban Affairs, which held hearings for 11 days (January-April 1978), approved the bill following three days of markup. Testimony was dominated by Members of Congress, representatives of the Department of Housing and Urban Development (HUD), and local governmental officials.

S. 3084 is a compilation of three major bills. They are:

S. 2637--submitted by Senator Proxmire (D-Wisconsin) on behalf of HUD to amend and extend their programs for housing and community development;

S. 2708, S. 2709--submitted by Senator Morgan (D-North Carolina) on behalf of the Farmers Home Administration (FmHA) to ameliorate rural housing deficiencies by extending the Rural Housing Act and Title III, respectively. Having passed from committee, the bill is now pending on the Senate calendar. Floor action is expected sometime in late July.

The concurrent House bill, H.R. 12433, was given consideration on the floor June 26-29, 1978, and is expected to start receiving final consideration the week of July 17. Except for minor modifications, it embodies exactly the same provisions as S. 3084. However, H.R. 12433 has been subjected to numerous revisions on the floor.

AMENDMENTS

The major amendment which passed (244-140) on June 29, grapples with the allegation that HUD repeatedly changes the legislative intent of Congress by means of regulation. For example, Representative Stanton (R-Ohio) cites the subversion of the Community Block grant by regulations which target and thus restrict funds. These regulations, he charges, effectively eliminate the ability of the local governments to deal with their specific needs. More importantly, these regulations ignore the original congressional intent and allow bureaucrats at HUD to make the laws as they see fit. In the words of Representative Garry Brown (R-Michigan), "We should not be placed in a position where non-elected bureaucrats change the meaning of our words." As approved by the House, this veto amendment requires HUD to submit all housing and community development regulations to Congress, allowing either house 90 days to disapprove them (one house veto). This amendment may be seen as either retaliatory or defensive by the House. That is, either the House is striking at the autonomy of HUD, or their action may be viewed as trying to regain control of HUD which, by employment of extensive regulatory activity, managed to elude the legislative intent of Congress. In either case, the passage of this amendment may only be construed as a victory for the House.

Other adopted amendments include:

- * the guarantee that requirements for the allocation of Community Development monies not restrict the access of smaller communities to these funds (Grassley, R-Iowa & Watkins D-Okla-homa).

- * the prohibition of directly awarding Technical Assistance grants by HUD to community organizations. The intent here is to return control to the ranks of local government. By this amendment, grants may be received by community organizations only if they have passed through the local government (Brown, R-Michigan).

- * delaying for one year federal housing assistance to uninsured states and low-income housing programs (Ashley, D-Ohio).

- * earmarking \$12 million of Section 202 (elderly housing) funds to develop security measures for elderly public housing. Inadequate security measures have frequently been major shortcomings in public housing, sometimes severe enough to warrant a resident moving out of public housing into a safer neighborhood (Pepper, D-Florida).

* establishing a special Section 8 demonstration to determine how to get more owners to participate in the rental subsidy program (Panetta, D-California).

* raising the mortgage ceilings for the Section 227 (d) 3 program (mortgage insurance to finance rental or cooperative multifamily houses built by public, non-profit sponsors for low- and moderate-income households). The amendment would increase the amount of a mortgage which HUD could insure to between \$18,450 and \$41,494, depending upon the number of units. These new ceilings would be in line with the current mortgage ceilings for the profit motivated builder in Section 221 (d) 4 housing.

BACKGROUND

The first federal efforts at public housing date back to the Depression. However, there was no meaningful legislation until the Housing Act of 1949 which embraced the goal of "a decent home and suitable living environment for every American family."¹ Further, the Act mandated the elimination of sub-standard housing by slum clearance (demolition) as well as the stimulation of housing production and community development to alleviate the housing shortage.

The construction following this legislation remained at a relatively low level through the 1950's and early 1960's. From 1949-1963 cumulative completed projects reached only 118 at which time planning begun numbered almost 12 times as much.² Briefly, the federal government operated in this era as a planner, not a doer. By 1965, HUD, having entered the scene, cranked up the federal home building machinery. HUD's share of total U.S. market starts rose from 15.4 percent in 1965 and peaked at fully 36.7 percent in 1970. Since that time, and the federal housing moratorium of January, 1973, the government has fallen back to about 10 percent of total market starts.³

Unfortunately, accompanying this construction record are the demolitions:

1. PL 81-338, Sec. 2.

2. John C. Weicher, Urban Renewal: National Program for Local Problems (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1972), p. 2.

3. HUD share of total market starts, unpublished statistics.

ESTIMATE OF HOUSING DEMOLITION IN THE U.S.
UNDER GOVERNMENTAL PROGRAMS, THROUGH 1967

Program

Urban Renewal		404,000
Highway		330,000
Public Housing		320,000
Sites	177,000	
Equivalent Demolitions	143,000	
Local Code Enforcement		N.A.
Total		1,054,000

Source: National Commission on Urban Problems, Building the American City (Washington, D.C.: Government Printing Office, 1969), Table 6, p. 82.

These depressing statistics, coupled with the outbreaks of violence in the nation's urban areas, led to the replacement of urban renewal by federal programs of rehabilitation. In spite of this, removal from the inventory in the 1960's was projected at a higher rate than in the 1950's--5.9 million units compared with 4.5 million.⁴ These programs generally tended to be project oriented, without taking into consideration outside forces that may affect the housing that is built or renovated. The section 236 program (rent subsidy) for example, had a strong project focus and tended to be applied in a similar fashion in both slums and stable neighborhoods and in urban and rural neighborhoods.⁵ In the early 1970's these programatic rejoinders of the federal government to the nation's urban crisis gave way to a plethora of new, flexible programs known as neighborhood preservation. The flexibility they provide is important. Anthony Downs (a Senior Fellow at the Brookings Institution) writes:

Urban conditions in American cities appear in an immense diversity of forms and combinations; so it is important for national urban policy to allow diversified responses to those conditions largely determined at the local level. Hence each city, and in some cases each neighborhood should choose its own strategy for coping with its problems.⁶

4. Frank S. Kristof, Urban Housing Needs Through the 1980's: An Analysis and Projection, (Washington, D.C.: National Committee on Urban Problems, 1968), p. 18.

5. Alexander Greendale & Stanley F. Knock, Jr., Housing Costs and Housing Needs, (New York: Praeger Publishers, Inc., 1978).

6. Anthony Downs "Housing Markets and Big-City Population Losses," Testimony presented before the House Select Committee on Population, June 6, 1978.

Further, the programs of the 1970's differ from those of the 1950's and 1960's in that the early programs often assumed that a one-time infusion of aid would be sufficient to stabilize a neighborhood and spur further public and private redevelopment. This belief proved unfounded, as the 235 (Home Ownership) Program demonstrated.⁷

PROVISIONS OF THE BILL

S. 3084 is a compilation of several bills, as mentioned above, but includes other major legislation as well. In all there are seven titles in the Housing and Community Development Amendments of 1978 which cover rural housing programs, housing goals, building codes for rehabilitated housing, congregate public housing services, housing rehabilitation, urban homesteading, and the problems of financially troubled HUD multi-family projects.

In summary, the function of each of the titles is:

Title I, Community and Neighborhood Development and Conservation--would authorize an expansion of the Section 312 Rehabilitation Loan and Urban Homesteading Programs, and amend the Community Development Program.

Section 312 has been in effect since 1964, providing loans for neighborhoods with concentrated community development efforts.

Eligibility is based on 80 percent of an area's median income and the bill proposes a sliding scale on interest rates as determined by need. At present, there is no income eligibility provision and all loans bear a statutorially-set interest rate of 3 percent. One drawback to the median income formula is that, for example, a person earning \$14,000 in Montgomery County, Maryland is eligible for aid.

Title II, Housing Assistance Program--would authorize funding for the Housing Assistance Programs, including programs of assistance to benefit the handicapped, to improve security in publicly-assisted projects, and new guidelines for managing federally-assisted projects.

This title is an extension of the U.S. Housing Act of 1937 and provides contract outlays for approximately 100,000 units of housing above the Administration's requested level of 400,000 units for the low-income families under the Section 8 assistance payments and conventional public housing programs.

7. Greendale and Knock, op. cit., p. 30.

This title also attempts to minimize eviction and demolition of HUD owned multifamily housing projects.

Title III, Program Extensions--would extend the basic mortgage insurance authority of the Federal Housing Administration (FHA) and other housing-related programs.

Simply, Section 302 of the bill extends the authority of the secretary of HUD to administratively set interest rates for FHA-insured mortgage loans to meet the market at rates above the statutory maximum.

Title IV, Congregate Services--would create a new program to provide certain services for frail elderly persons who reside in publicly-assisted housing.

Title IV would establish a new program of funding for congregate public housing services within the Department of Housing and Urban Development as a step toward full implementation of the congregate housing provisions of the 1970 Housing Act.

The intent of this title is the prevention of unnecessary institutionalization of functionally impaired persons and "allow elderly people to remain in the community enjoying the independence, autonomy, privacy, and relationships that constitute the very essence of a meaningful life."⁸

Formerly, congregate services covered only low-income housing in which some or all units lack kitchens, and in which central dining facilities exist for the preparation of meals. In 1970 Congress appended to this congregate services for nonelderly handicapped and frail elderly persons.

In order to provide more comprehensive services, S. 3084 moves to expand the definition of congregate housing to include homemaker services, assistance with personal care and grooming, nutritionally balanced meal services, and other nonmedical services provided in a residential setting.

Title V, Rural Housing--extends and authorizes funding for rural housing programs, and initiates a new program to assist very low-income rural families to purchase and maintain their homes.

Little attention is given to rural housing problems, yet in fact rural areas experience severe housing deficiencies.

8. Senator John Heinz, III, Congressional Record, June 19, 1978, p. S9373.

Three-fifths of all substandard housing in the nation--6.3 of the 10.6 million units is located in rural areas, generally on farms or in places of less than 2,500 persons. More pertinent is the fact that 36 percent of all rural housing was classified as substandard, compared to 10 percent of all urban housing.

This title provides loans for very low-income housing repairs and grants for governmental or nonprofit sponsors of housing projects for migrant and other domestic farm workers as well as a new deep subsidy homeownership program for persons of very low income who could not afford existing housing assistance programs.

Title VI, Neighborhood Reinvestment Corporation Act--would incorporate in the Housing and Community Development Amendments of 1978, the Neighborhood Reinvestment Corporation Act, passed last year by the Senate.

This action serves merely to formalize and expand the experimental programs currently conducted by the Urban Reinvestment Task Force under the auspices of the Federal Home Loan Bank Board, HUD, and other federal financial regulatory agencies.

Title VII, Miscellaneous--would amend various housing acts in order to provide for, among other matters, increased exemptions under the Interstate Land Sales Disclosure Act, increased participation by mortgage bankers in the programs conducted by the Federal Home Loan Mortgage Corporation, and a prohibition of expenditures by the Department of Housing and Urban Development for the purpose of implementing the Department's proposed reorganization of multifamily and community planning and development functions. The rationale for this proposal is easy to understand: since 1969 HUD has had 20 reorganizations. The funding for these reorganizations has been provided through funds meant for programming.⁹

Generally, this title increases the ceiling on loans from \$25,000 to \$37,000 for multifamily improvements and increases the average per-unit loan from \$5,000 to \$7,500. Additionally, the repayment period would be extended from 12 years and 32 days to 15 years and 32 days.

An interesting provision is Section 706 which would extend the existing authorization of a day care center for the children of HUD employees, to include the establishment of HUD day care

9. The New York Times, October 14, 1977, p. A13.

centers in field offices, as well as the participation by HUD in the establishment of interagency day care facilities.

COST ESTIMATE

The estimated budget impact of this bill, by title, is summarized in the following table:

COST BY BILL TITLE					
(By fiscal year, in millions of dollars)					
	1979	1980	1981	1982	1983
Title I					
Authorization Level	441	370	-----		
Estimated Cost	141	322	223	17	-48
Title II					
Authorization Level ^a	39,885	96	-----		
Estimated Cost	356	818	390	712	1,136
Title III					
Authorization Level	743	-----			
Estimated Cost	70	135	93	10	7
Title IV					
Authorization Level	20	25	35	40	45
Estimated Cost	3	12	27	36	43
Title v ^b					
Authorization Level	206	134	122	112	104
Estimated Cost	148	155	137	121	115
Title VI					
Authorization Level	15	20	30	-----	
Estimated Cost	13	17	28	7	----
Total					
Authorization Level	41,310	645	187	152	149
Estimated Cost	731	1,459	898	903	1,253

a. Includes an estimated \$27,800,000,000 for annual contributions to assisted housing, based on annual contract authority authorized.

b. Includes estimated authorization levels for rural housing loans and the home ownership assistance program authorized in Title V.

This bill authorizes annual appropriations of \$913 million above the amount requested by the Administration for fiscal year 1979--an increase of 33 percent. Moreover, as the housing assistance payments continue for as long as 40 years, the total budget impact is far greater.

Senate subcommittee members Proxmire (D-Wisconsin), McIntyre (D-New Hampshire), Morgan (D-North Carolina), and Garn (R-Utah), claiming fiscal irresponsibility, estimate that the bill provides for budget authority that is at least \$11.5 billion in excess of the first budget resolution. Several of these are sizable increases over the Administration request. These include:

75 million for a new rent supplement program for tenants in financially distressed housing projects;

480 million for annual assistance payments under the Section 8 and public housing programs on top of the \$1,195 billion requested by the administration (The increase in total budget authority would exceed \$11 billion.);

125 million more for the section 312 rehabilitation loan program on top of the 245 million requested by the Administration (The Administration request was a fourfold increase over the 1978 level.);

71 million for operating assistance payments to public housing projects on top of the \$729 million requested by the administration;

51 million in increased payments under the Urban Homestead Programs;

20 million to establish a new congregate housing program.

In addition to these funding increases are the unrecorded carryover funds and the fluctuating contract authority programs. That is, money which was not spent last year is held on to and so adds to the next year's potential expenditures.

THE CHANGING CONCEPT OF HOUSING NEEDS

Since 1949 the United States has assumed a larger role in helping the poor. However, a concept of housing need is a social, not a market criterion, dependent not upon market forces but the whims of public policy. The result of the change in

policy is that minimum housing standards in the U.S. have changed drastically. No longer accepting the 1949 standards of one room per person and adequate plumbing (hot water, toilet, and bath or shower), federal law now demands in addition to this a satisfactory level of housing maintenance services from the landlord, and that only a modest proportion of income be spent on rent--regardless of how low income may be. A decent neighborhood now includes regular and satisfactory sanitation services, adequate police, fire, and health services, schools, libraries, public transportation, and recreational facilities. The racial crisis of the 1960's precipitated the elimination of barriers to the freedom of movement of black families into any section of the community. Thus, if gains seem small to some, it is in part because a good deal more is demanded now from federal urban programs. This demand was reflected in a recent HUD bulletin¹⁰ which announced that housing per se should no longer be emphasized. Instead, federal programs should encompass all problems external, but contributory to the housing situation: pollution, mismatch of jobs and skills, poor schools, crime, loss of jobs, poverty, fiscally strained budgets, flight of people and industry, eroding tax bases, obsolete physical structures, limited housing choices, racism and discrimination, and a spate of others all of which aim at the revitalization of the nation's urban areas. In a recent speech,¹¹ the President affirmed and expanded on this, stating that there must be an extension and improvement of existing programs which involve all levels of government. The President stressed the need for flexibility and the ability of the local government to respond to all of its problems, that is, in fighting the nation's urban problems, the federal government should not have to pay an ever increasing proportion of local expenditures as it has been doing over the past 16 years.¹² To some however, there is no limit to this commitment; Representative John Conyers, Jr. (D-Michigan), for example, states:

The one explanation for the glaring failure of all the (federal housing) programs which has perpetually eluded policy makers is that when they try to solve the Nation's housing ills in isolation, without attacking all the other problems that stem from social inequality, such attempts are doomed from the start.

10. HUD News, "National Urban Policy: Conserving Americas Communities and Neighborhoods," Fact Sheet, 1978.

11. President Jimmy Carter, "New Partnership to Conserve America's Communities," March 27, 1978, pp. 3-5.

12. "Federal aid as a percentage of local own source revenue," Government Finances Annual Publication, (Washington, D.C.: Bureau of the Census, 1977).

Nothing short of a full-employment program, one assuring each worker the right to a job at livable wages, will solve the riddle of housing.¹³

Because of legislators like Conyers, and our inexorably expanding commitment to the poor, the question for many supporters of housing is no longer one of whether there should be a housing program, but rather how extensive it is going to be.

ARGUMENTS IN FAVOR

While not providing for full-employment, S. 3084 does greatly expand upon housing services for the handicapped, the frail elderly, and the poor--both urban and rural. In addition, it would provide the funds to upgrade the housing stock of those persons unable to provide for themselves a decent living environment. Supporters of S. 3084 believe it represents a major effort to refine and strengthen the nation's housing and community development programs. This effort has as its goal the rejuvenation of our cities, both large and small and the assurance that every American family will be able to have decent and affordable shelter.¹⁴ Further, they suggest that this legislation builds on several themes:

The first is the commitment to the restoration and preservation of the existing housing stock;

A second primary theme that runs through this bill is the continued recognition of the needs of our elderly and handicapped citizens;

A third significant theme found throughout this bill is a concern for improving the management program operations of the HUD and the FmHA, particularly in the programs designed to address the housing needs of the low-income persons.¹⁵

Supporters contend that the greatest social service derived from S. 3084 is the new congregate housing service (Title IV) which provides a minimum \$50 million of section 202 lending authority to meet the specific needs of the handicapped. A

13. Rep. John Conyers, Jr., "The Real Problem is Poverty," The Nation, January 24, 1976, p. 83.

14. Representative Thomas Ashley (D-Ohio), Congressional Record, June 23, 1978, pp. H6012-H6016.

15. Ibid., p. H6012.

total of \$80 million is authorized over the next three years. Nationwide, it is estimated that approximately 3.5 million elderly suffer some degree of mobility limitation and about 2.4 million could be helped in a residential congregate setting with services. Studies of nursing home populations indicate that one-third to one-half of the residents would be able to function in less intensive care settings if they existed.¹⁶ Thus, they argue that the need for this program is significant.

Supporters also emphasize the value of the Rural Housing Amendments which will authorize the FmHA to pay the difference between 25 percent of the family's adjusted income and all homeownership costs, including mortgage payments, property taxes, insurance, utilities, and maintenance.

The need for home ownership assistance is especially acute in the rural areas for two reasons. The first is that there is little incentive for the private sector to construct rental units in rural areas where it is difficult to aggregate enough units to make investment profitable. Second, inflation has been especially hard on single-family homeownership opportunities for low- and moderate-income persons. The level of income which is served by the FmHA 502 (homeownership) program has been moving steadily upward resulting in no services for the families below this level.

As for social need, empirical data detail a precipitous decline in the amount of substandard housing and consequently there has been a decline in the need for federal intervention in the housing market. Substandard housing has declined from 20.5 million units in 1950, to 15.4 units in 1960, to 10.8 million in 1970, to a projected 7.7 million units in 1980. If all government assistance programs were discontinued for this entire decade the difference in the number of substandard units would be only 1.9 million units, or about the number of housing starts in the private market each year. Thus, while substandard housing still remains, it is significantly less than twenty years ago, in part due to the demolitions of urban renewal.

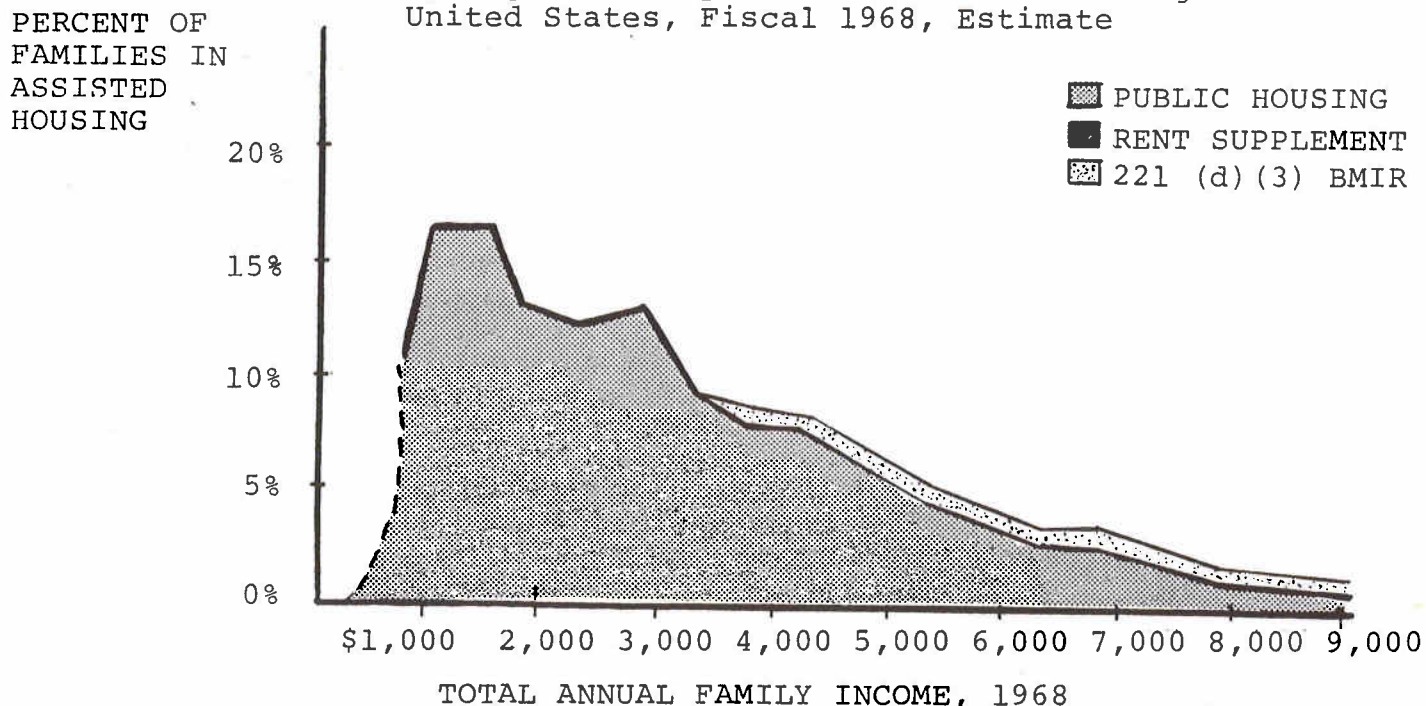
ARGUMENTS AGAINST

The most prominent objection to S. 3084 is the exorbitant costs of both the extensions of existing programs and the fiscal liberalism of the new ventures. As cited above, S. 3084 increases total budget authority by at least \$11.5 billion and authorizes appropriations 33 percent (\$13 million) in excess of Administration requests for fiscal year 1979.

16. Ibid., p. H6013

More broadly, some critics charge that federal programs do not serve the poor. First, they point out that federal programs (according to the most recently available evidence) reach relatively small numbers of people and only a small proportion of families even at low-income levels.

Figure 1
The Percentage of NonFarm Renter Families
Occupying Federally Assisted Rental Housing
United States, Fiscal 1968, Estimate



Source: George von Furstenberg and Howard R. Moskof, "Federally Assisted Rental Housing Programs: Which Income Groups Have They Served or Whom Can They Be Expected to Serve?", U.S. President's Committee on Urban Housing, Technical Studies (1967), Vol. 1, p. 163.

The conclusion here is that only a small fraction of even the most needy are served by federal housing programs. A major factor in this shortcoming is the cost of supporting the bureaucratic inefficiency. A study of federal housing programs in Boston estimated the diversion of funds to intermediaries from federal programs. For most of the programs, an estimated one-fourth to one-half does not reach the residents, but goes for federal and local administrative expenses and for tax benefits to investors.¹⁷ That is, the federal government collects money, takes its cut, and finally redistributes the remainder.

17. Bernard J. Frieden, "Improving Federal Housing Subsidies," Working Paper #1, Joint Center for Urban Studies of the MIT and Harvard University, June 1971, p. 2.

This sort of behavior leads one to wonder about the administrative efficiency of the Department of Housing and Urban Development. Unpublished data reveal that while total HUD expenditures have been erratic, HUD administrative costs have been increasing at an almost perfectly linear rate. For example, in 1969 when total HUD expenditures fell to 36 percent of the previous year's total, administrative costs rose 11 percent. The same holds true for 1977, although not as dramatically. Administrative costs have risen, on the average (1966-1979 est.), 9.6 percent annually, rising as much as 18 percent (as in 1969). The only year that these costs declined was 1974, and then only by less than 1 percent.

Second, the federal government, since early 1977, has not followed its usual fiscal scenario. Instead of the rise in expenditures tapering off and starting to decline as the United States enters the fourth year of economic recovery and prosperity, expenditures are being increased to new record peacetime levels both in absolute amount and as a percentage of national income. The result is that the deficit is not decreasing. In this third year of recovery, it has been increased from \$45 billion in the second year of recovery to \$60 billion. And it is being continued at that level in the coming fiscal year. This has an impact upon housing because the massive government borrowing, coupled with rising business demand for capital will be diverting the funds that would otherwise go into residential construction. In short, the government is absorbing much of the available capital in the economy.¹⁸

The third failure of federal policy, critics charge, seems to be a symptom of the first and second: the federal government enters the cost of housing and credit markets.¹⁹ Some important construction costs, such as energy, are beyond the scope of housing and related economic policies. But several other important factors--interest rates, material prices, and land costs--are very much subject to government influence, which has recently had the effect of making cost increases more severe rather than less. Title III, not suprisingly, allows the Secretary of HUD to set the interest rate at an arbitrary level.

A significant proportion of S. 3084, Title I is dedicated to the urban poor. Unfortunately, rehabilitation does not benefit the poor as it tends to increase the unit value, raise rents, and increase property taxes. As a result, it forces the poor to move to a lower rent district that they can afford. As a rule, rehabilitation benefits primarily the middle class.

18. Yale Brozen, "How Can We Keep the Housing Boom Going," St. Croix Review, Volume XI, Number 3 (June 1978), pp. 16-24.

19. Bernard J. Frieden, "The New Housing Cost Problem," The Public Interest, #49, Fall 1977, pp. 70-86.

The freedom for communities to seek their own solutions is not being achieved to the same extent as under the Nixon-Ford and Block Grant approaches. The need for local control in this matter is absolutely crucial. Unfortunately, the proposals of the New Partnership once again insist upon a narrow categorical approach, removing the policy choice from the community. The federal government is again trying to create a scheme whereby all housing ills may be cured. This type of programming has generally proved to be less well coordinated, less successful, and more expensive. This is the general effect of Title I which stresses rehabilitation and Urban Homesteading while deemphasizing Block Grants.

The opponents also argue that the spectre of substandard housing in the U.S. has greatly declined over the past 28 years, and that the tremendous reduction from 20 million to 12 million units of substandard housing over the years 1950-1966 occurred at a time when all federal construction totaled only 50,000 units a year. Since the era of massive federal involvement, in the housing industry, the decrease in the number of substandard units has progressed at a much slower rate.

Finally, they contend that S. 3084 fails to provide local governments the autonomy they need to solve individualistic problems that experience shows a "National Housing Program" cannot solve, and that rather than expanding the Block Grant program, S. 3084 proposes to "target" funds for specific programs.

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