

United States Senate

WASHINGTON, DC 20510

July 31, 2023

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th St. SW
Washington, D.C. 20024

Dear Director Thompson:

We are writing in response to the Federal Housing Finance Agency's (FHFA) Request for Input (RFI) on multifamily tenant protections. Earlier this year, following months of analysis and engagement with housing providers, tenant leaders, and housing policy experts, the White House Domestic Policy Council and the National Economic Council released a *Blueprint for a Renters Bill of Rights* setting out principles to create a market that works for America's renters. The White House Tenant Protection Interagency Policy Council, made up of both executive branch and independent agencies including FHFA, also announced a series of steps that participating agencies would take to address challenges that renters are facing. We commend your ongoing engagement with housing providers and tenants, and your decision to undertake this process of receiving public input on opportunities to implement tenant protections for multifamily properties backed by Fannie Mae and Freddie Mac (the Enterprises).

Approximately 34% of American households rent their homes.¹ The Enterprises play a critical role in ensuring access to affordable financing for rental housing in all parts of the country throughout the market cycle. Mortgages backed by Fannie Mae and Freddie Mac support nearly one-in-four rental units in the United States, amounting to over 12 million units.² The Enterprises' activities include providing access to multifamily financing for manufactured housing communities, in which families may rent their homes or the pad site underneath homes they own. In today's housing market, which has historically low vacancy rates and high rents, renters have limited options.³

¹"The State of the Nation's Housing 2023," Joint Center for Housing Studies of Harvard University, pg. 32, available at

https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf.

²"The CARES Act Eviction Moratorium Covers All Federally Financed Rentals – That's One in Four US Rentals," Laurie Goodman, Karan Kaul, and Michael Neal, Urban Institute, April 2020, available at <https://www.urban.org/urban-wire/cares-act-eviction-moratorium-covers-all-federally-financed-rentals-thats-one-four-us-rental-units>.

³"Residential Vacancies and Homeownership, First Quarter 2023," U.S. Census Bureau, May 3, 2023, available at <https://www.census.gov/housing/hvs/files/currenthvspress.pdf>.

Sadly, renters also have too few protections, making them vulnerable to steep rent increases and deteriorating housing conditions – factors that are out of their control. After several quarters of steep rent increases, a record 21.6 million renter households were cost burdened in 2021.⁴ Extremely low-income renters are especially vulnerable.⁵ In fact, nearly three quarters of these renters spend over half their monthly income on housing costs – leaving them with little money for other necessities or the ability to save enough money to move if they face poor housing conditions or extreme increases in rents or fees.⁶

The U.S. Senate Committee on Banking, Housing, and Urban Affairs has held multiple hearings and a renter listening session on the growing role that both private equity and institutional investors play in the rental market. The Committee has listened as tenants, legal aid organizations, and housing policy experts described the exploitation of tenants, unjust evictions, and lack of supply of safe, decent, affordable rental housing throughout the country. Tenant protections vary drastically from state to state and even sometimes from county to county, often leaving renters without recourse. There have been repeated reports of investors using low-cost financing from Enterprise-backed loans to buy properties and then sharply raising rents, mistreating tenants, and allowing buildings to fall into disrepair.

Congress chartered Fannie Mae and Freddie Mac as government-sponsored enterprises with a public purpose of facilitating access to housing across the country. Since that time, Congress has repeatedly affirmed that, as a condition of their Congressional charters, the Enterprises have “an affirmative obligation to facilitate access to affordable housing for low- and moderate-income families,”⁷ including by establishing a requirement to finance housing affordable to low- and very low-income renters⁸ and a “duty to serve” very low-, low-, and moderate-income families in underserved markets.⁹ To fulfill the letter and spirit of those obligations, the Enterprises must support housing that is both affordable and safe for the tenants it serves. The most effective way to ensure that Fannie Mae and Freddie Mac are fulfilling their obligations is by implementing tenant protections for all renters living in properties they back.

We ask that FHFA condition Enterprise-backed mortgages on the following common sense tenant protections:

- Limits against egregious rent hikes in properties with financing backed by Fannie Mae and Freddie Mac and full, upfront transparency regarding rents and fees that may be charged.
- Require good cause for evictions and lease non-renewals and adopt a strong definition of “good cause” – such as serious and repeated lease violations provable in a court of law –

⁴ “The State of the Nation’s Housing 2023,” pg. 5.

⁵ Extremely low-income is defined as a household with an income “at or below either the federal poverty guideline or 30% of the area median income (AMI) – whichever is greater.” “The Gap: A Shortage of Affordable Rental Homes,” National Low Income Housing Coalition, pg. 1, available at <https://nlihc.org/gap>.

⁶ “Out of Reach 2023,” National Low Income Housing Coalition, pg. 5, available at <https://nlihc.org/oor>.

⁷ 12 U.S.C. 4501(7)

⁸ 12 U.S.C. 4563

⁹ 12 U.S.C. 4565

to ensure that tenants are safeguarded against unfair, discriminatory, and retaliatory evictions.

- Requirements for owners to maintain housing that meets or exceeds standards for safety, accessibility, and quality. This includes providing tenants with prompt and effective remedies when safety or accessibility standards are not met.
- Comprehensive asset management procedures to ensure housing safety and quality.
- Enforceable protections against discrimination. This includes enforcing existing laws that prohibit landlords from denying rental housing applicants on the basis of classes protected under the Fair Housing Act: race; color; religion; sex, including sexual discrimination based upon actual or perceived sexual orientation or gender identity; familial status; or disability. FHFA should also prohibit discrimination based on source of income and prohibit presumptive exclusion of applicants based upon information in tenant screening reports such as prior eviction or credit score.
- Timely provision of any tenant screening report used by an owner or manager to an applicant for housing upon request.
- Property owner and property manager participation in an online listing that would require that key information about the owner and manager, including their name and phone number, be disclosed to tenants. This will help ensure that renters have access to their landlords, which is an essential step toward ensuring tenants' needs are met, and that local officials know who to contact in case of property maintenance issues.
- An enforceable right for tenants to organize, which includes forming tenant associations and tenant unions within their buildings and communities.

These protections should be regarded as a minimum for participation in Enterprise-backed mortgages and should not supersede any more protective State, local, or federal requirement.

In addition to these requirements for lenders and mortgagors, we ask that FHFA also take actions to protect tenants by establishing an office within the Agency dedicated to ensuring compliance with the protections outlined above. This office should work alongside FHFA's existing multifamily staff to ensure that property owners, lenders, and Fannie Mae and Freddie Mac are maintaining the properties that stand behind the loans the Enterprises have backed. Further, FHFA should continue its efforts to ensure that the Enterprises' and lenders' comprehensive asset management practices preserve housing quality and work to quickly resolve tenant and local government concerns about housing maintenance. FHFA should also continue its efforts to coordinate with the Department of Housing and Urban Development, the Department of Agriculture, and other appropriate agencies to prevent and address housing quality and management deficiencies in federally-subsidized properties with Enterprise-backed mortgages.

Taken together, these protections will begin to address the challenges that tenants face and set clear expectations for property owners who benefit from Enterprise-backed financing.

The Enterprises are an important source of financing for rental housing in communities across the country. As such, their financing is a critical element in the effort to relieve the nationwide rental housing shortage. Thank you for conducting this important request for public input and we look forward to continuing to work with you on ways to strengthen our housing system and protect renters.

Sincerely,



Sherrod Brown
Chairman
Senate Committee on
Banking, Housing, and Urban
Affairs



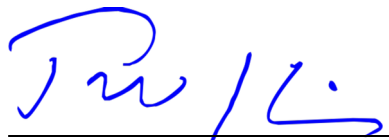
Jack Reed
United States Senator



John Fetterman
United States Senator



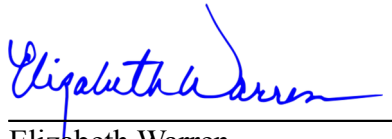
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United States Senator



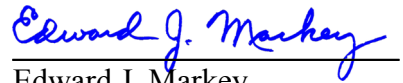
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United States Senator



Richard Blumenthal
United States Senator



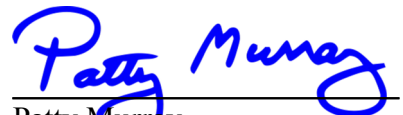
Elizabeth Warren
United States Senator



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United States Senator



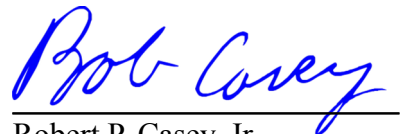
Alex Padilla
United States Senator



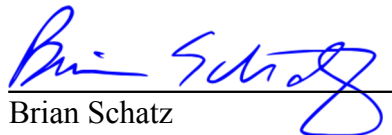
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United States Senator



Brian Schatz
United States Senator



Bernard Sanders
United States Senator



Catherine Cortez Masto
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United States Senator

Tammy Duckworth

Tammy Duckworth
United States Senator