



**Prepared Testimony of Tonya Plummer  
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to the

**U.S. Senate Committee on Banking, Housing and Urban Affairs  
Subcommittee on Housing, Transportation and Community Development  
Oversight Hearing**

***Examining the U.S. Department of Agriculture's Rural Housing Service: Stakeholder Perspectives***

**September 20, 2022**

Chair Smith, Ranking Member Rounds, and members of the Committee, thank you for the opportunity to share perspectives on the USDA's Rural Housing Service (RHS) with you today.

My name is Tonya Plummer. I am an enrolled tribal member of Assiniboine, Sioux and Cree heritage with roots in the Sisseton Wahpeton Sioux Tribe of South Dakota and the Fort Belknap Indian Community in Montana. Early in my career I gained several years of experience in mortgage banking, working all sides of the lending process, ending as an underwriter, and working deals with USDA loans in 17 western states with over 70 branch offices. It has been a challenge and a joy to apply that experience to help create homeownership opportunities for tribal members living within the bounds of the reservation on trust lands. I stepped away from mortgage banking to start and direct a Native CDFI focused on homeownership before coming to Enterprise Community Partners, where I'm focused on expanding their work on affordable housing and community development in tribal communities across the country.

Enterprise is a national nonprofit working to make home and community places of pride, power and belonging for all. In order to create that change, we draw on our strength as an end-to-end housing platform, providing programmatic and advisory services, capital and community development under one roof. We advocate on a nonpartisan basis for sound public policy at every level of government. We develop and deploy programs and support community organizations on the ground nationwide, in urban, suburban and rural areas. We invest capital to build and preserve rental homes, and we own and operate 13,000 apartments and provide resident services for 22,000 people. In short, our work contributes to thriving, supportive and equitable communities that prioritize safe, stable and affordable housing options.

Over the past 40 years, Enterprise has collaborated with thousands of local partners to build and preserve 873,000 affordable homes, invested \$54 billion across all 50 states and improved millions of lives. Our strategic priorities are advancing racial equity, building climate resilience and upward mobility and creating and preserving housing people can afford.

Enterprise's Tribal Nations and Rural Communities Team has sought to support safe, decent, and culturally appropriate housing on tribal lands and rural communities since 1997. Enterprise's commitment to rural and tribal communities is deep: over the last 20 years Enterprise has invested more than \$990 million in grants, loans and equity, and developed more than 16,000 affordable homes in rural communities nationwide. Our team offers technical assistance, trainings, peer learning sessions, and other capacity building services to expand access to homeownership opportunities and develop or preserve affordable rural rental homes.



Much of this work is supported by federal contracts through HUD's Rural Housing and Economic Development program, USDA's Rural Community Development Program and the USDA 515 TA Program, for which we have just been awarded \$1.4 million in contracts. In advance of my recommendations, I want to acknowledge the recent positive outreach and efforts of USDA Rural Housing Staff to tackle the tough issues for mortgage lending in Indian Country and be present and available thought partners, collaborating with a broader array of stakeholders towards the goals of removing barriers, making USDA housing products more attainable, and realizing a greater impact of these programs on the lives of rural Americans and Native Americans.

I also want to acknowledge the complexities of applying broad changes to all areas including rural markets as well as the vastly underdeveloped and underserved tribal trust land areas. Though they fall under the rural umbrella, the markets, courts and ecosystems of support are varied, making it difficult to analyze and assess intended outcomes across the board. It is of critical importance to be cognizant of this in drafting legislation and careful of unintended consequences.

Enterprise applauds the Committee's interest in and support of the USDA's RHS. The needs of rural residents are profound across the country, and these programs are too often overlooked. Seventy percent of the United States' 473 persistent poverty counties are in rural areas, predominantly in Indian Country, the Mississippi Delta, the Colonias, and Appalachia. A 2021 study by Redfin found that single family homes for sale in rural areas were down 44% year over year – the largest drop in rural inventory since Redfin began tracking. Because of the unequal distribution of traditional financing for homes, USDA RHS funding represents one of the only opportunities for homeownership for many rural Americans. There is also a serious shortage of affordable rental housing in rural communities, where incomes are often lower, making it difficult to finance the construction and development of rental housing, often even more so than in urban and suburban communities. The Low-Income Housing Tax Credit (Housing Credit), which is our nation's most effective tool for the development of affordable rental housing, is greatly over-subscribed, with developers requested nearly 2.5 times as many Housing Credits as there was available authority in 2020. As a result, the vast majority of subsidized rental housing in rural America relies on USDA RHS Section 515 funding to bring those small-scale rural rental housing projects to fruition. **Because of the unique and vital role that USDA's Rural Housing Service plays, it is of utmost importance that it is a fully funded, modern organization with adequate staffing and streamlined regulations that respect the unique needs of rural and tribal communities.**

### **Technology and Staffing**

For RHS to function at the highest possible level, appropriate staff coverage and cross training is important. One person cannot be the only expert in an issue, or the only person able to complete a process. When staff leave for other jobs, retirement, or temporary leave, it can create gaps that are open until a new person is hired, or the person returns from work. For work in tribal communities specifically, it can be difficult to find a staff person who understands the specific requirements of working on tribal lands, for example. It's been said there have been only five Section 502 loans closed on trust lands in the last year and even fewer USDA Guaranty loans. Despite a clear desire to do more, the existing state and program directors simply do not have the experience with the product nor the staff to provide meaningful assistance beyond a reference to a chapter of the handbook. The existing barrier to accessing



meaning help deepens the divide, leaving some of the best products designed for rural America on the shelf and Native lands and homes red-lined because they are complicated and yet, the staffing weakness did not have to impact the deployment of loans. In 2018, due to the smart partnerships in the initial Section 502 Direct relending Pilot, which turned USDA's two loans to Mazaska and Four Bands into an additional 19 solid performing mortgage loans that otherwise would not have been achieved. More broadly, to facilitate meaningful progression toward loan closings, it would be helpful if multiple staff members were cross trained and able to help 502 program partners walk through loan scenarios and interpret the regulations. Overall, staff capacity for USDA RHS has been a serious challenge. In some areas of South Dakota, USDA offices are currently functioning with 25% of the staff they had five years ago.

This USDA 502 Direct relending pilot is an example of a smart approach to overcoming staffing shortages, demonstrating that expanding partnerships with Native CDFI's can alleviate the pressure on highly limited USDA staff by tapping into the wealth of local expertise and community knowledge. Enterprise supports efforts to scale up this pilot program nationally.

Enterprise also recommends reviving appropriations funding for the Technical Supervisory Assistance Program (TSA grant) as an additional means of extending USDA RHS outreach and resources to create bridges to rural and tribal communities and organizations with limited capacity. We encourage this TSA Program remain broadly and easily accessible in order to expand outreach and limit bureaucracy for programs that are already hard to understand and apply for.

In combination, expanding partnerships like the 502 pilot, reviving the TSA Program, and increasing funding for USDA staff and technology will go a long way towards adequately meeting the demand of the rural and tribal markets and achieving the objectives of the Rural Housing Service.

### **Subsidy Recapture**

The USDA's Section 502 Direct Rural Housing Loan (Section 502), despite being a very cost-effective way for low-income earners to achieve homeownership, has its shortcomings. It can be difficult for loans to be made due to lack of USDA staffing, technology and consistent funding. Utilizing these loans on tribal land can also be difficult, a problem that would be remedied by S. 2092, the Native American Rural Homeownership Improvement Act. Enterprise Community Partners is grateful to the members of this Committee who have supported that bill.

Section 502 can be further complicated by the recapture or balloon payment that comes at the end of the mortgage term or at time of sale, and this needs to be addressed. In certain cases, eliminating subsidy recapture is good and will allow people to better build wealth from homeownership. However, this is a nuanced issue and not all markets with 502 housing stock are the same. In addition, eliminating subsidy recapture altogether will have an impact on the USDA Scorecard and subsequent budget authority, potentially resulting in the unintended consequence of significantly decreasing the allocation of Section 502 dollars available.

As a result, Enterprise proposes that subsidy recapture from the USDA's Section 502 be treated differently in different situations to allow the program to more appropriately ensure that increasing equity in homes enables future homeownership. Subsidy recapture should be treated one way on tribal land, one way in appreciating markets, and one way in depreciating markets.



Section 502 loans on tribal trust land should never require repayment, because the land is not given any value in the assessments and there remains an unproven rate of appreciation but a recognition that equity built over time is the simply the result of paying down the loan and not of a paired appreciation in land or market value. Tribal members in tribal communities, especially those with a large, rural trust land base, already come to the closing table with less equity and the application of a subsidy recapture assures they will not build it at a rate comparable to non-tribal members on fee simple lands where a buy/sell market exists. Recently, in one tribal community, a father with a 502 Direct loan passed away, and in order to keep the family housed in the home, they had to come up with \$22,000 of subsidy recapture. The subsidy is not seen as a benefit, and there are South Dakota Native CDFI re-lenders who do not utilize Section 502 because the recapture is seen as a burden to carry rather than a means of affordability and security.

Outside of tribal land, subsidy recapture should more closely replicate a shared equity model. In some rural places, homes with Section 502 loans may substantially increase in value between when the home is purchased and when the owner wishes to sell. In these cases, the full subsidy recapture represents only a relatively small percentage of gained equity. The recapture is thus justified and fulfills the goal of providing money to further subsidize new homeowners.

However, in no circumstances should repaying a Section 502 subsidy leave a borrower underwater, or discourage or prevent them from selling a house that they would otherwise wish to sell. In rural areas with stagnant or even depreciating housing values, this is too often the case. Capping subsidy recapture at a certain percentage of gained equity will prevent this problem. Government support for homeownership, at its heart, is a question of wealth building. If the home has not appreciated enough to pay back the subsidy, it would be waived under this proposal.

### **Foreclosures of Properties with USDA Loans**

Enterprise understands the desire and need to streamline foreclosure but have concerns as previously expressed about the foreclosure issue on tribal lands. This is particularly an area where a nuanced approach is critical. We look forward to continuing to work with Congress to develop legislation that ensures tribal sovereignty is respected.

The Multifamily Foreclosure Act of 1981 allows the Secretary of Housing and Urban Development to conduct non-judicial foreclosures of multi-family mortgages held by HUD by designating a foreclosure commissioner in a state. The foreclosure commissioner may bypass the court process generally required for a foreclosure, allowing the property to be sold quickly. Importantly, the Act also requires that any subsidized rental properties subject to foreclosure retain their income restrictions, even after they are sold again.

Outside of tribal lands, a similar foreclosure process for RHS mortgages would be appropriate. Foreclosures on properties with mortgages held by the USDA currently can take years to complete, and there is no requirement that affordable properties stay affordable after foreclosure or subsequent sale. The result is that properties with delinquent mortgages become vacant, which presents both a public safety hazard and a lost opportunity for affordable housing in rural communities. A non-judicial foreclosure process that is faster to navigate and requires the preservation of affordability requirements would allow affordable housing groups to buy these properties, make necessary renovations and bring them back into use as affordable housing.



It's extremely difficult to buy a USDA property out of receivership. There is no inventory of foreclosed buildings with USDA mortgages, the way there is for HUD. Enterprise is currently receiving USDA funding through four separate Section 515 Technical Assistance contracts to work with communities across the country to provide assistance on transfers, and this work would be greatly benefitted by a list of properties that are available for purchase and can be retained as affordable housing in rural communities.

On tribal land, any foreclosure process must respect tribal sovereignty. When a tribe has foreclosure laws, tribal courts, rather than state courts, have jurisdiction over foreclosures. These tribal laws must not be disregarded in changes to foreclosure laws. While we recognize the need for a streamlined process and affordability measures on fee simple lands, we move with caution around the unintended consequence of damaging tribal relationships, setting a wrong precedent on tribal lands and hindering the furtherance of any USDA financing at all on tribal lands. We recommend further consultation with National American Indian Housing Council (NAIHC), NCN and the policy committees of several state coalitions on this issue.

Ensuring respect for tribal sovereignty and bringing affordable multifamily housing with delinquent USDA mortgages back into service as affordable housing quickly do not need to be opposing goals. Enterprise Community Partners would welcome the opportunity to work with our partners at NAIHC and the Native Homeownership Coalitions in South Dakota and Montana to engage further on discussions of foreclosures on tribal land and reach a solution.

### **Conclusion**

Thank you for inviting me to share my experiences and perspectives today. On behalf of Enterprise Community Partners, I would like to thank the committee, and especially Chair Smith and Ranking Member Rounds for their leadership on rural and tribal housing issues, as well as their bipartisan cooperation on issues that affect so many Americans in every corner of the country. The issues addressed in this testimony are just the beginning, as rural and tribal affordable housing faces profound and urgent challenges in alleviating inequality, preserving scarce units and ensuring that more can be built. Enterprise looks forward to continuing our partnership with Congress to provide safe, stable housing for Native Americans and in rural communities.