NATIONAL RURAL HOUSING COALITION

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Statement of Joe Myer
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Committee on Financial Services
US House of Representatives

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Chairwoman Waters and Ranking Member Capito, my name is Joe Myer and I am the Executive Director of NCALL Research, Inc. The National Council on Agricultural life and Labor Research Fund (NCALL) is a nonprofit organization based in Dover Delaware with a rural housing mission serving the Delmarva/Mid-Atlantic region with affordable housing since 1976. In addition to homeownership education, foreclosure prevention, and financial literacy services, self-help housing technical assistance across 21 states, and community development lending as a CDFI, NCALL has developed 45 multifamily housing apartment communities, mostly using the Rural Housing Service's Section 515 Rural Rental Housing and 514-516 Farm Labor Housing programs. These developments are important to our towns and rural communities because they are usually the only source of decent, affordable apartments for very low-income elderly, family, and farmworker households.

The National Rural Housing Coalition

I am also a current board member of the National Rural Housing Coalition. The National Rural Housing Coalition (NRHC) is a national membership organization that advocates for federal policies which improve housing and community facilities in rural America. NRHC has stood for the principle that all rural residents have the right to a decent place to live, safe drinking water, and basic community services. We have testified before this Committee previously and appreciate the opportunity to testify today on rural housing issues and HR 2876: Rural Housing Preservation Act of 2009. We commend the bipartisan effort of Congressmen Geoff Davis and Lincoln Davis.

Rural Housing Need

It is important to preserve the current stock of affordable rural rental housing because of the lack of decent housing in rural America. A disproportionate amount of the nation's substandard housing is located in rural areas. According to the 2000 Census, of the approximately 106 million occupied housing units available in the United States, 18.7 million units or 17.7% of the occupied units are located in non-metropolitan counties. The Economic Research Service recently released updated typologies for the Nation's counties. The classification includes a new typology which identifies 15% of non-metropolitan counties as housing stressed. In these counties, 30% or more of homes are considered too costly relative to household incomes, are too crowded, or lack certain basic facilities, such as a complete kitchen or bathroom.

Thirty-five percent of rural renters are cost-burdened paying more than 30% of their income for housing costs. Almost one million rural renter households suffer from multiple housing problems, 60% of whom pay more than 70% of their income for housing. More than 900,000 renters live in moderately or severely inadequate housing and 1.9 million people are rent-overburdened.[1]

Also according to the Economic Research Service, some four-million rural families live in "housing poverty," a multidimensional indicator that combines measures of economic need, housing quality, and neighborhood quality. The 2000 Census revealed that 5.5 million people, one-quarter of the non-metro population, face cost overburden and 1.6 million non-metro housing units are either moderately or severely substandard.

Section 515 Rural Rental Housing Loans

Section 515 of the Housing Act of 1949 is the principal source of financing for rental housing in rural areas. Under Section 515, non-profit and for-profit entities receive one-percent loans for acquisition, rehabilitation or construction of rental housing and related facilities. While for much of the history of Section 515 the loan term was 50 years, the term of the loan was recently reduced to 30 years in a cost cutting move. Most Section 515 loans have gone to for-profit entities such as developers, who combine the subsidized loan with rental assistance and tax subsidies to finance housing.

Section 515 housing also is generally well managed. Property managers often invest much of their own free time and creativity in providing tenants with a safe and cohesive community. The Section 515 portfolio is also financially sound, with a loan delinquency rate of just 1.6% and only eight properties in inventory.[2] The projects are small with an average unit size of 28.

Over 400,000 low-income families and elderly households live in rental housing financed under Section 515. For many rural areas, Section 515 provides the only decent, affordable rental housing in the community. Some 57% of Section 515 households are elderly, handicapped, or disabled; 26% are headed by persons of color; 73% are headed by women.

The average annual tenant income in these properties is about $9,200. Seventy-five percent of tenants received a rental assistance subsidy, either through project-based rental assistance, the Section 8 program, or through vouchers. Although rents are extremely low, averaging little more than $325 per unit per month, 20% of tenants were nevertheless rent-overburdened and 7% pay more than half their income toward rent. More than 100,000 rural rental housing units do not have rental assistance.

The Need for Rural Housing Preservation

Over the last several years, the federal government has gotten out of the business of financing new affordable rental units in rural America. In 1992, the loan level for section 515 was over $500 million; by 1998 that number less than $200 million and the Fiscal Year 2009 level for Section 515 is $69 million.

The other principal federal rental housing production program, Low Income Housing Tax Credits, has not picked up the slack. According to a 2007 HUD report, only 13% of Low Income Housing Tax Credit resources find their way to rural America. That was, of course, before LIHTC went off a cliff in last fall’s financial crisis.

Because of the lack of financing for new units, preserving the existing rural housing stock is imperative.

Overview of Prepayment Issues

Over the last 40 years, Congress has debated the best, most appropriate way to preserve the rights of owners and tenants living in section 515 developments. This issue is important because virtually all households living in these apartments are low income; many are elderly or persons with disabilities. They are people with few other housing options.

It is important to trace the evolution of the Section 515 program and the prepayment process in order to show how the Rural Housing Service's lack of funding for incentives and rent subsidy vouchers has hurt both owners and tenants.

In the late 1970s, Farmers Home Administration (predecessor to the Rural Housing Service) found itself balancing competing pressures. Rising property values in rural areas enabled a growing number of owners to prepay their loans. Given the agency's history of enforcing the requirement that they "graduate" from the program by repaying their loans as soon as they had the financial means, the owners expected they could do so. As a result, there was a sharp increase in prepayment activity, with 55% of all prepayments since the program's inception occurring between 1977 and 1979.[3]

At the same time, tenant advocates began mobilizing to halt this trend, because prepayments often led to dramatically increased rents and the eviction of very low income tenants. Advocates argued that owners had reaped tax and other benefits at the taxpayers' expense, and that they should not be allowed to profit even more by converting their properties to market use.

Congress responded by passing the Housing and Community Development Amendments of 1979 (P.L. 96-153). This law required that properties with Section 515 loans made on or after December 21, 1979 serve low income residents for 15 or 20 years, depending on the level of the Section 515 interest rate subsidy. Congress also placed prepayment restrictions on existing pre-1979 loans, but repealed these restrictions in 1980.

As the federal tax benefits to those participating in the Section 515 program began to expire during the 1980s, more owners prepaid. The resulting displacement of large numbers of tenants, many of whom were elderly, generated much publicity and controversy. In response, Congress mandated a moratorium on prepayments in October 1986, which remained in effect until the Emergency Low-Income Housing Preservation Act (ELIHPA, P.L. 100-242) became law in 1988. While creating financial incentives for borrowers with pre-1979 loans not to prepay, ELIHPA also restricted their prepayment rights, a provision that directly contradicted the Rural Housing Service's mandate that these owners graduate from the Section 515 program as soon as they were financially feasible.[4]

In order to eliminate the prepayment issue for all new housing, Congress passed the Department of Housing and Urban Development Reform Act of 1989 (P.L. 101-235), precluding prepayment for all Section 515 loans made on or after December 15, 1989. Congress then extended prepayment prevention incentives to borrowers with loans made between December 21, 1979 and December 14, 1989 through the Community Development Act of 1992 (P.L. 102-550).

The law regulated prepayment by owners and provided a set of incentives to encourage long term use. These incentives included equity loans; increased return on investment; increased rental assistance; and interest rate write-downs to one-percent and/or loan reamortization over the remaining life of the property. Demand for incentives always exceeded supply, and owners waited as long as eight years to receive the incentives.

However, as appropriations for section 515 – the financing source for equity loans – dropped, RHS reduced funding for equity loans. As a consequence, starting in 2004, RHS faced a number of lawsuits which arose from the change in the graduation policy, the rescinding of the automatic prepayment right, and the lack of funding for incentives. Many of the lawsuits were settled in favor of the owners with an average settlement of $400,000 per project.

USDA Report on Section 515 Portfolio

In November 2004, USDA released the Comprehensive Property Assessment and Portfolio Analysis of Rural Rental Housing (CPA). The purpose of this report was to assess the status of the Section 515 portfolio in terms of prepayment options and long term rehabilitation needs. This report had at least four key findings including:

1. Only 10% of the units in the Section 515 portfolio are in 'hot markets' and could become market rate housing if the owners were to prepay;
2. 90% of the units are not in markets where prepayment is an option and are in need of additional funds to ensure adequate operation;
3. The average age of Section 515 housing projects is 26 years. Their major infrastructure systems are at or near obsolescence and need rehabilitation or replacement. Most are in need of renovation; and
4. The projected cost for ensuring adequate operations and addressing long term rehabilitation needs is $2.6 billion for 20 years.

In response to the USDA report, Congress provided funds for a demonstration program aimed at preserving rural rental housing developments. From 2006-2009, the RHS Multi-Family Housing Preservation and Revitalization Restructuring Program (MPR) financed a total of $100 million in multi-family restructurings. This funding allowed RHS to provide assistance to preserve and renovate existing section 515 developments and vouchers for families who might be displaced in the event of prepayment. Requests for restructuring regularly total over $2 billion per year. Since the beginning of the demonstration, MPR has financed some 300 transactions that will affect close to 10,000 tenants.

In 2008 alone, RHS has provided restructuring financing to 105 projects. The financing – mostly in the form of deferred loans – preserved over 4,500 units of rental housing in rural areas. The financing also stabilized tenants' rents and allow the projects to significantly increase reserves.

The current restructuring program relies heavily on funding from other sources. USDA data indicates that every dollar provided by Agriculture is matched by a dollar from some other source including tax credits, state and local financing, and other federal grants. In this difficult economic climate, raising capital from other sources may prove more difficult.

It is important to note that while the RHS demonstration has shown potential, it is just that: a demonstration. While some 300 transactions are on the books, there are some 15,000 Section 515 properties. According to the USDA CPA report, most are in need of restructuring assistance.

We support the provisions of HR 2876 Rural Housing Preservation Act of 2009, which are contained in the discussion draft legislation. The Rural Rental Housing Preservation Act authorizes assistance for owners and tenants, and charts a course toward preserving rural rental housing developments. In return for long term use restrictions, the legislation establishes financial incentives and other assistance to owners of eligible projects. These incentives include but are not limited to the following: loan forgiveness, payment deferrals, reamortization, grants, interest rate write downs, loans, and loan guarantees along the lines of the current MPR demonstration.

For any property participating in the program, the bill would leave in place current law regarding use restrictions for Section 515 developments which consists of continued affordability for low-income tenants lasting 30 years or the term of USDA's loan, whichever is longer. The legislation also insures that tenants living in restructured properties will not pay more than 30% of income for rent. Projects that are deemed ineligible to participate in the program include: owners who were participating in active lawsuits; had a history of poor property management; or were in default on a Section 515 loan.

The legislation also requires that owners who successfully sued the government for damages under various lawsuits are subject to a matching requirement when seeking restructuring assistance. With limited funds available and an extremely long road to make even a dent in the need to preserve rural rental housing development, this provision seems fair. These owners have already received assistance from the government. Given the limitation of funds available, and the huge dimension of need, Congress should require that project owners contribute to the cost of revitalization and restructuring.

The legislation authorizes the vouchers for use by tenants displaced due to prepayment and by tenants of projects that receive restructuring assistance. As we have noted, some 100,000 households living in section 515 pay more than 30% of income for rent. We support the use of vouchers for those low and very low income families as a way to ensure that restructuring does not result in a rent increase for these families.

Farm Labor Housing

We also urge the Committee to authorize the use of restructuring assistance for farm labor housing developments. The only federal program targeted to the housing needs of migrant and seasonal farmworkers is the section 514/516 loan and grant program administered by the Department of Agriculture and the Rural Housing Service. Over the history of this program, USDA has financed some 36,000 units for a cost of $1.27 billion. The current MPR includes farm labor housing developments and has had good results.

Thank you for this opportunity to testify on this important matter. I would be happy to answer any questions you might have.

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[1] These tenants pay more than 30 percent of their incomes toward rent.
[2] Rural Housing Service, Office of Rural Housing Preservation, untitled PowerPoint presentation, January 2004.
[3] National Task Force on Rural Housing Preservation, p. 8.
[4] Ibid., p. 9.