



Virginia Housing Coalition

2011 Unified Legislative Housing Agenda

This legislative agenda has been endorsed by:

- **The Virginia Housing Coalition**
- **The Virginia Coalition to End Homelessness**
- **Housing Opportunities Made Equal of Virginia**
- **Habitat for Humanity Virginia**

1. A Statewide Housing Trust Fund

The Virginia Housing Coalition has for several years advocated and lobbied for the adoption of a statewide Housing Trust Fund patterned after the Virginia Housing Partnership Fund, EXCEPT with a dedicated source of revenue.

The **adoption of Virginia Housing Trust Fund legislation remains the highest priority** of the Virginia Housing Coalition. This legislation has been introduced in five of the past six sessions of the General Assembly. While the current state budget condition creates an unfavorable environment for immediate funding to this initiative, the Coalition is committed to enactment of a Fund that can be capitalized fully as State budget conditions improve.

The key issue remains the identification of one or more stable funding sources for the fund. In the past, we have proposed several options including the real estate recordation tax and a portion of the state's overall budget "surplus" at year end. In consultation with the administration and our sponsors in the House and Senate, we will be working toward a plan that could gain enough support for passage this year. One approach may be a "trigger" mechanism that would only begin to generate funds as the state's overall budget situation improves.

The state Housing Trust Fund has been one of the key finance issues brought to the Governor's state housing policy development process over the past six months. The Trust Fund has also been an important element in the parallel state homeless policy development discussions. The Governor will be announcing his initial recommendations at the Governor's Housing Conference in November. The advocates all agree that a Housing Trust Fund should serve the full range of housing needs – from permanent supportive housing that serves the needs of the most vulnerable to programs that assist with homeownership and rental housing.

Virginia remains as one of only a handful of states that do not have a state housing trust fund. The continuing housing crisis is a reminder that a flexible source of funds that are dedicated to improving housing opportunities can be a valuable asset to the Commonwealth – not just for families in need of housing but to impact overall economic conditions throughout the housing sector.

Proposed Legislation

Statewide Housing Trust Fund – enabling legislation with identification of dedicated revenue source. The design should be flexible but with a clear direction to serve the full range of housing needs in the Commonwealth.

2. Anti-Nimby Initiative / Fair Housing

The "Not in My Back Yard" or NIMBY syndrome is found in just about every community.

NIMBYism affects many types of developments from commercial to residential to transportation and public use. Often, the fears of existing residents in the community are based upon misperceptions and wrong information. In some cases, however, they are based upon prejudice and intolerance. NIMBYs come out in full force at local zoning hearings, and quite frequently they are successful in persuading government officials to deny new developments just because they intend to include affordable housing.

Last year, the Coalition supported legislation (HB1280) that would help advocates, developers and local governments overcome the forces of NIMBYism that battle affordable housing. The bill added another protected class to Virginia's Fair Housing law – affordable housing (defined as "intended for occupancy by families or individuals with incomes at or below eighty percent of the area median income"). This would give localities a tool that could be used to stand up to those who are opposed to creating greater diversity in our communities.

Proposed Legislation

This year, a slightly revised version of HB 1280 has been adopted by the Housing Commission and will be introduced in the 2011 session. The Coalition and our partners support its passage.

3. SAFE Act Revisions

The SAFE Act was passed by Congress in 2008 as a response to the growing national mortgage crisis. The intent was to provide greater uniformity and accountability among mortgage originators so as to better protect consumers. The bill established a range of educational, training and licensing requirements that states would need to adopt and enforce. The provisions became effective in Virginia on July 1, 2010.

Unfortunately, the broad provisions of the bill unintentionally included some types of activities and programs that do not fall within the spirit of what the bill was intended to protect against. For example, housing counselors who are advising families and individuals who are facing foreclosure would now need to be licensed as mortgage loan originators. Similarly, non-profits and local government staff who are engaged in providing down payment assistance grants to homeowners would also need to be licensed by the Commonwealth. Current requirements call for credit and criminal record checks, training and achieving a passing score on the national licensing examination.

These requirements are burdensome to impose on small agencies and organizations who are not engaged in the origination of mortgage loans as envisioned under SAFE. The proposed legislation would clarify that; 1.) housing counselors who work for a HUD approved agency and who are offering default and foreclosure services to households are not covered by the Act and, 2.) that the Act does not include "grant" programs where no interest is charged and repayment is only required upon violation of a covenant that is secured by a deed of trust.

Proposed Legislation:

SAFE Act revisions will likely be introduced in a bill by the Housing Commission.

4. Responsibilities of Trustees in Foreclosures

Housing Opportunities Made Equal has encountered a number of situations where foreclosures have proceeded in Virginia despite errors having been made by the servicer / lender – including the misapplication of payments and other record keeping related issues.

Proposed Legislation:

HOME is developing proposed legislation that would require trustees to carry out reasonable due diligence to ensure that these types of errors have not resulted in wrongful foreclosure on a residence.

5. Expansion of the Livable Home Tax Credit Program

The Livable Home Tax Credit Program provides a state tax to the owner of a residential dwelling who makes accessibility improvements. Currently, the credit is capped at \$1,000 and is limited to existing structures.

Proposed Legislation:

The legislation being sponsored through the Housing Commission would raise the credit to \$5,000 and include new construction.

6. Study Resolutions

The Coalition will be seeking the introduction of several Study resolutions that could lead to future legislation. The study resolutions would most likely direct the Virginia Housing Commission to take up and explore the issue and determine whether legislative action would be beneficial.

Vacant Property: The Coalition will seek study of the "receivership" approach to dealing with the proliferation of vacant and deteriorating property. Receivership is an approach where a judge can appoint a "receiver" for a property (typically a non-profit) that will rehabilitate the property and return it to good and habitable condition. The receiver can then sell or rent the property. The original owner has the right to "redeem" the property by paying for the costs of the upgrade.

This program can be an effective tool in neighborhoods that are hard hit by foreclosure and absentee owners who actively disinvest in their properties.

6. Study Resolutions continued

Community Land Trusts: Land trusts are a growing and recognized way of achieving land use development policy goals. Virginia has several land trusts that are focused on the preservation of open space, sensitive environmental areas and farmland. The Virginia Conservation Easement tax credit has created a strong financial incentive for donors to consider such gifts.

Land Trusts can also be used to achieve housing affordability goals. A Community Land Trust (CLT) is a local nonprofit 501(c)(3) organization created to hold land for the benefit of a community and its residents. CLTs provide 99-year renewable leases to homeowners, rental residents, co-op or condominium associations, and commercial or community facilities that are located on CLT-owned land. The buildings remain permanently affordable through resale provisions which balance a fair return on investment with future affordability. For three decades, community land trusts (CLTs) in the US have been rebuilding neighborhoods and providing **permanently affordable** homeownership and rental opportunities for low-income people in urban and rural communities.

7. Further Consideration is being given to Foreclosure efforts.

The Coalition is still actively considering whether any legislation in the arena of foreclosure is feasible. Legislation adopted in 2009 provided for the notification of pending foreclosure action to localities in the Northern Virginia area but does not apply to other areas of the Commonwealth. Last year, the Coalition was unable to identify a sponsor for an effort to expand this notification to the balance of the state. While foreclosures are declining in Northern Virginia, they are still rising in the balance of the state.

We are studying the potential for a shift that would make residential foreclosure a judicial process rather than an administrative one. Many states use a judicial process, which can slow down the speed of the foreclosure and create greater protections for homeowners – especially those that have been victims of unfair or misleading practices. It is anticipated that there will be legislation introduced during the session that deals directly with this issue.

The Coalition will announce any further plans in this area by early December.

8. State Housing Policy Development:

Governor McDonnell will announce the initial recommendations for a state housing policy at the Governor's Housing Conference in November. The VHC has been an active participant in the planning and work groups that have been contributing to the development of the policy over the past six months. In particular, the Coalition continues to work for:

- Establishment of statewide, regional and local housing affordability goals.
- Stronger affordable housing planning provisions in local Comprehensive Plans
- Requiring affordable housing in Urban Development Area (UDA) planning
- Connecting affordable housing to transportation planning & initiatives
- Inclusion of Green Building and Energy Conservation standards and goals
- Inclusion of Universal Design and Visitability standards into building and development standards for residential development

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