SENT VIA U.S. MAIL AND FACSIMILE

May 10, 2005

The Honorable Michael G. Oxley
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515-3504

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
U.S. House of Representatives
2252 Rayburn House Office Building
Washington, DC 20515-2104

Dear Chairman Oxley and Ranking Member Frank:

We write on behalf of Lawyers’ Committee for Civil Rights Under Law, the Poverty and Race Research Action Council, the National Fair Housing Alliance, and the National Housing Law Project to urge you to oppose the “State and Local Housing Flexibility Act of 2005,” S.771, H.R.1999, which would place new obstacles in the path of low-income and minority families seeking housing opportunities. Not only is this bill bad housing policy, but it is also detrimental to fair housing and civil rights goals. Our concerns with the bill are threefold:

1. the proposed “Flexible Voucher Program” provisions will disadvantage minority families who make up the majority of extremely low-income households and eliminate much of the Section 8 program’s potential to help poor families move out of high poverty neighborhoods;
2. the elimination of affordability requirements for voucher holders and public housing tenants will remove essential federal controls; and
3. the expanded “Moving to Work Program” could result in increased concentrations of poverty in minority neighborhoods.

I. The Flexible Voucher Program

Restricting the right of housing choice. The bill would restrict the ability of families to move to communities of their choice and impede their ability to move to lower-poverty (and higher-rent) neighborhoods in two ways. First, the bill would limit Public Housing Authorities (PHAs) to a fixed sum of funds for the year, based on the agency’s 2005 budget, with no right to receive extra funds when costs for individual vouchers increase. This funding scheme creates a financial conflict on the local level between the number and the quality of housing placements. This system has already led to reductions in allowable rents across the country, and denials of family moves to higher cost areas. This type of conflict is bad for fair housing, deprivies poor families of choice, and will inevitably increase segregation. HUD knows that the problem could be ameliorated with a special reserve fund for moves to lower poverty areas, but such a reserve fund does not appear in the bill.
Second, the bill appears to restrict the long-standing right of Section 8 families to use their vouchers across jurisdictional lines (for example, moving from city to suburb). The bill appears to say that city and suburban housing authorities must “agree” on a system for transferring vouchers (“portability”) before families can move. If that is the intent, the bill would give suburban PHAs the authority to simply say “no” to additional city families seeking to move to opportunity. The fair housing consequences of such a rule are severe, and undermine a central purpose of the program – allowing families the choice of where to live.

Eliminating the current income targeting system could lead to loss of vouchers for Black and Latino families. The bill would dramatically alter the Section 8 voucher program by eliminating the requirement that the majority of vouchers be reserved for extremely low-income families. Under the current program, 75 percent of vouchers must be reserved for families earning up to 30 percent of the median income. However, the proposed “flexible voucher program” would require only that 90 percent of vouchers each year go to families with incomes below 60 percent of area median income (AMI), and the remaining ten percent could be allocated among families with incomes up to 80 percent of AMI. African Americans currently make up the majority of extremely low-income households; likewise, Hispanics are disproportionately represented in that category. If the proposal becomes law, and local housing agencies eliminate income targeting, even using conservative estimates of turnover and redistribution of Section 8 vouchers, hundreds of thousands of vouchers could be shifted away from extremely poor Black and Hispanic households over the next five to ten years.¹

Reducing income targeting will undermine efforts to deconcentrate poverty. By removing the program’s current focus on the poorest city residents, the proposal to eliminate income targeting would steer new vouchers away from extremely low-income households in the most deeply segregated and poverty concentrated neighborhoods and shift the vouchers to higher income neighborhoods. This change undermines the voucher program’s core goal to deconcentrate poverty, as envisioned by the architects of the successful “Gautreaux” and “Moving to Opportunity” housing mobility programs and reinforces patterns of housing isolation and neglect in impoverished neighborhoods.²

II. Eliminating Affordability Requirements for Voucher Holders and Public Housing Residents

Allowing housing authorities to set rents without regard to income could eliminate housing affordability. This bill would allow local housing agencies to determine how much voucher recipients and public housing residents would have to pay in rent without regard to income. Under current law, families are required to make rental payments based on 30 percent of their adjusted income. If the proposal becomes law, PHAs would have broad discretion to establish minimum rents or “flat” rents of any amount.


² The signatories to this letter are also concerned by other provisions in the bill that would adversely affect persons with disabilities. We understand that these fair housing issues will be addressed in a separate letter from other groups.
Likewise, PHAs would have the same ability to designate public housing rents at any level, rather than proportional to household income. This change would effectively repeal the “Brooke Amendment” guarantee of affordable housing by removing federal rent protections for America’s poorest families. Eliminating the current rental policies that preserve housing affordability would place the lowest income families in an even more precarious financial position and disproportionately impact minorities, who are overrepresented in the lowest-income tiers of voucher holders and public housing residents.

III. **Dramatic Expansion of Waivers Available Under the Moving to Work Program**

The “Moving to Work” (MTW) proposal is potentially the most far-reaching of all the components of the bill. Agencies allowed to participate in a revamped MTW program could waive important statutory protections that have fair housing consequences. Currently, participation in the MTW demonstration is limited to 32 agencies, and these agencies are required to serve substantially the same number of families as they would without their special status. This bill would permit agencies to reduce or eliminate tenant-based vouchers and to use voucher funds to operate public housing under the MTW program. Indeed, the proposal encourages this reallocation if it is less costly for the housing agency involved. Such a change would undermine fair housing goals, since vouchers are often the only vehicle by which minority and low income families can move to lower poverty neighborhoods.

The proposal also appears to allow HUD to waive fair housing provisions that promote deconcentration of voucher locations and desegregated siting of public housing. These requirements, particularly the HUD “site and neighborhood standards,” are a central obligation imposed by the Fair Housing Act on all federal housing programs. They are critical to ensuring that the programs cannot be used by local housing authorities to increase segregation or limit housing opportunities only to poor neighborhoods.

For these reasons, the bill would diminish fair housing opportunities for low-income Black and Latino households, while at the same time exacerbating concentrated poverty and segregation. We strongly urge you to reject this bill.

Sincerely,

Barbara Arnwine, Executive Director
Lawyers’ Committee for Civil Rights Under Law

Shanna Smith, President and CEO
National Fair Housing Alliance

Philip Tegeler, Executive Director
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Hon. Spencer Bachus
Hon. Richard Baker
Hon. Gresham Barrett
Hon. Melissa Bean
Hon. Judy Biggert
Hon. Virginia Brown-Waite
Hon. Michael Capuano
Hon. Julia Carson
Hon. Michael Castle
Hon. William Clay
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