

**Virginia Housing
Study Commission**

1990 Annual Report

***1970-1990
Twenty Years of Leadership***



Virginia Housing Study Commission

General Assembly of Virginia

The Honorable Alan A. Diamonstein,
Chairman

Virginia House of Delegates
94th Legislative District

The Honorable Clive L. DuVal 2d,
Vice Chairman

Virginia State Senate
32nd Legislative District

The Honorable James F. Almand
Virginia House of Delegates
47th Legislative District

The Honorable Daniel W. Bird, Jr.
Virginia State Senate
38th Legislative District

The Honorable Clinton Miller
Virginia House of Delegates
28th Legislative District

The Honorable Lewis W. Parker, Jr.
Virginia House of Delegates
61st Legislative District

The Honorable Ford C. Quillen
Virginia House of Delegates
1st Legislative District

The Honorable Stanley C. Walker
Virginia State Senate
6th Legislative District

Gubernatorial Appointees

Mr. Wallace I. Allen
Roanoke, Virginia

Mr. Richard J. November
Richmond, Virginia

Mr. James M. Scott
Springfield, Virginia

Director

Nancy M. Ambler, Esquire
Richmond, Virginia

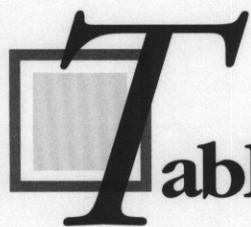


Table of Contents

3 Introduction

5 Executive Summary

9 Preservation and Rural Housing

9 Conversion of Tax-Delinquent Properties

11 Indoor Plumbing Contribution Program

14 Virginia Residential Landlord and Tenant Act

16 Virginia Fair Housing Law

17 At-Risk Assisted Properties

19 Energy Conservation Grants

21 Land Use and Regulatory Issues

21 Building Code Standards for Low-Income Housing

23 Housing and Growth Management

24 Manufactured Housing and Local Land Use Regulation

26 Manufactured Housing Licensing and Transaction Recovery Fund

28 Zoning and Rural Housing Affordability

31 Housing Finance

31 HJR 84: State Mortgage Insurance Program

34 Private Activity Bonds

35 VHDA Issuance of Taxable Bonds

35 VHDA Acquisition of Multifamily Developments

36 VHDA Regulation of Multifamily Developments

36 VHDA/DHCD Line of Credit Agreement

37 Taxation Initiatives

38 Housing Affordability Impact Statements

39 Virginia Housing Partnership Fund

41 Conclusion

42 1990 Subcommittees

ntroduction

Twenty Years of Leadership

The publication of the 1990 Virginia Housing Study Commission Annual Report marks the twentieth anniversary of Commission leadership. Established by the 1970 Virginia General Assembly, the Commission was originally mandated "to study the ways and means best designed to utilize existing resources and to develop facilities that will provide the Commonwealth's growing population with adequate housing." The Commission was further directed to determine if Virginia laws "are adequate to meet the present and future needs of all income levels" in Virginia, and to recommend appropriate legislation to ensure that such needs are met. Delegate Alan A. Diamonstein (D-Newport News) has served as Commission Chairman since soon after the Commission's establishment.

Increasingly, the Commission has come to be recognized as a forum for new ideas in Virginia housing, and as a focal point for helping to develop consensus for such ideas. Nationally, the Commission is one of only a few such bodies that work closely with the public and private sectors and nonprofit organizations to develop workable solutions to housing problems, and advocate within state government for their implementation.

From 1971-1982, the Commission introduced numerous pieces of legislation, subsequently passed by the Virginia General Assembly, to further its goal of ensuring safe, decent affordable housing for every Virginian. Commission accomplishments during that time period include:

- The establishment of a state office of housing, now the Division of Housing of the Virginia Department of Housing and Community Development

- The establishment of the Virginia Housing Development Authority
- The Uniform Statewide Building Code
- The Virginia Residential Landlord and Tenant Act
- The Condominium Act
- The Virginia Real Estate Cooperative Act.

Following a 1982-1986 dormancy period, the Commission was reactivated by the 1987 General Assembly. That year, the Commission again proposed landmark legislation: the creation and capitalization of the Virginia Housing Partnership Fund. In 1988, at the Commission's recommendation, the General Assembly established the Fund and increased state allocations for housing programs from \$400,000 to \$47.5 million over the 1989-90 biennium. Other successful 1987-88 recommendations included the establishment of a Virginia income tax voluntary contribution program for housing programs, and the Governor's Conference on Housing, now an annual event, first convened in 1988.

Commission recommendations embraced by the 1989 General Assembly included: a state low-income housing tax credit program; the establishment of the Virginia Housing Research Center; state authorization of such flexible zoning techniques as planned unit developments, mixed unit developments, and density bonuses; and exemption of nonprofit housing organizations from tangible personal property tax on materials purchased for the development of affordable housing.

And in 1990, the General Assembly approved additional Commission initiatives, including: a \$3.0 million program to assist in providing indoor plumbing for rural Virginians; a tax credit program for landlords providing rent discounts to low-income



Commission Chairman Alan A. Diamonstein and Governor L. Douglas Wilder at the 1990 Governor's Conference on Housing.

elderly or disabled tenants; a legislative provision mandating that localities study affordable housing in preparing their comprehensive plans; and legislation requiring localities to provide for the placement of double-wide manufactured housing in districts zoned primarily for agricultural purposes. Commission advocacy also was crucial in ensuring the inclusion of the Housing Partnership Fund in the fiscally constrained state 1991-92 budget.

1990 Work Program and Methodology

Building on its accomplishments during previous years, the Commission in 1990 focused on the following broad areas of study: Preservation and Rural Housing, Land Use and Regulatory Issues, and Housing Finance.

Since the Commission's 1987 reactivation, Delegate Diamonstein has involved a cross section of housing advocates in the work of the Commission, and in 1990, as in previous years, he appointed Subcommittees to share with the Commission their insight and expertise on designated study issues. To gather testimony on those issues, the Commission convened regional public hearings attended by hundreds of Virginia citizens.

Together with the Virginia Department of Housing and Community Development and the Virginia Housing Development Authority, the Housing Study Commission

also sponsored the 1990 Governor's Conference on Housing. The Conference, convened in Richmond in October, was the largest housing-related gathering held in the United States. Some 700 conferees from the public and private sectors and nonprofit organizations participated in tracks on housing the homeless; growth management and affordable housing; housing the elderly and disabled; rural housing; and affordable housing finance strategies.

Following the public hearings and the Governor's Conference, the Commission, joined by its Subcommittees and the Boards and key staff of the Department of Housing and Community Development, Virginia Housing Development Authority, Housing Research Center, and Virginia Housing Foundation, convened its annual legislative work session. After reviewing testimony from public hearings, issue papers prepared by its staff and staff of the Department of Housing and Community Development, and Subcommittee recommendations, the Housing Study Commission unanimously agreed on the recommendations published in this report.

The Commission and its staff express sincere gratitude and appreciation to all who have contributed to its work, particularly Subcommittee members; the Virginia Department of Housing and Community Development Office of Policy Analysis and Research; the Virginia Housing Development Authority Division of Planning and Research; the staff of Virginia Water Project; members of the Virginia Housing Coalition; those who participated in the Commission public hearings and the Governor's Conference on Housing; and housing advocates across the Commonwealth who have actively assisted the Commission.

Executive Summary

Following is a brief summary of Virginia Housing Study Commission recommendations to the Governor and 1991 General Assembly of Virginia.

Preservation and Rural Housing

Conversion of Tax-Delinquent Properties

To foster the conversion of tax-delinquent properties to affordable housing, the Commission:

- Recommends amending §58.1-3965 of the *Code of Virginia* to reduce the time period from three years to one year, following December 31 of the year taxes were originally due, that a locality must wait before initiating sale of tax-delinquent properties;
- Requests that the Office of the Attorney General examine the concept of allowing localities to use a non-cash bid to purchase delinquent properties; and
- Recommends that the Virginia Housing Development Authority (VHDA) and the Virginia Department of Housing and Community Development (DHCD) establish a statewide clearinghouse to assist in the development of local abandoned housing conversion programs.

Indoor Plumbing Contribution Program

To assist in promoting the installation of indoor plumbing facilities in Virginia homes, the Commission will:

- Establish a task force with comprehensive membership to develop strategies for implementing a voluntary contribution program for financing indoor plumbing in low-income homes. The program, which

could be administered by the state's 4,500 water and water treatment providers, would be similar to Virginia Power's EnergyShare program; and

- Introduce legislation in 1991 encouraging water and water treatment providers to initiate such programs.

Virginia Residential Landlord and Tenant Act

To provide more Virginia landlords and tenants coverage under the Act, the Commission will introduce legislation in 1991 to reduce the Act's current exemption for single family rental housing from ten to four units held by owners of such property subject to the Act. The Commission will also introduce legislation enacting the above reduction only in Virginia's cities and specified urban counties.

Virginia Fair Housing Law

The Commission recommends that legislation be enacted in 1991 amending the Virginia Fair Housing Law to ensure that Virginia codified law remain substantially equivalent to the federal Fair Housing Law.

At-Risk Assisted Properties

To assist in the preservation of over 13,000 Virginia units which are at-risk of disappearing from the affordable housing inventory because of mortgage prepayments, opt-outs of subsidy contracts, expiration of loan management set-asides, and foreclosure, the Commission:

- Requests that VHDA expeditiously complete its inventory of assisted units in the Commonwealth and efforts underway to preserve such units, and
- Expresses its ongoing support for Congress taking strong action to retain such properties in the affordable housing inventory.

Energy Conservation Grants

Recognizing the need for an energy conservation/rehabilitation program serving very low-income Virginians, the Commission supports the continuation of an energy grant program in the Commonwealth at least at its current funding levels.

Land Use and Regulatory Issues

Building Code Standards for Low-Income Housing

Rather than recommending separate building code standards for low-income housing, the Commission continues its long-time support for the current Uniform State-wide Building code system, as well as such efforts to modify USBC provisions as would assure that Code health and safety goals are met while improving housing affordability.

Housing and Growth Management

Mindful of the well-documented link between regulatory policies and housing costs, the Commission will work to ensure that housing affordability provisions become an integral part of any growth management system proposed for adoption in the Commonwealth.

Manufactured Housing and Local Land Use Regulation

To clarify the intent of legislation passed by the 1990 Virginia General Assembly designed to permit double-wide mobile homes and thereby expand affordable housing opportunities in localities with a primarily rural character, the Commission recommends amending §15.1-486.4 of the *Code* to make more explicit the original intent of the 1990 legislation.

Manufactured Housing Licensing and Transaction Recovery Board

To promote the recognition of manufactured housing as a legitimate and permanent source of affordable housing, the Commission recommends transferring the regulation of industry sales and service from the

Department of Motor Vehicles to the Department of Housing and Community Development. The Commission further recommends the establishment of an industry transaction recovery fund to offer increased protection to the mobile home consumer. A new *Code* Chapter 4.2 in Title 36 would promulgate regulations for both licensing and recovery fund activities.

Zoning and Rural Housing Affordability

The Commission encourages local governments to examine their zoning ordinances to ensure that land use regulations, such as large-lot zoning, do not unnecessarily restrict the development of affordable housing for rural Virginians.

Housing Finance

HJR 84: State Mortgage Insurance Program

Given the issues of risk, the requisite large state sums for loans and loss reserves, the current and projected fiscal climate in the Commonwealth and nationally, and the dearth of new state funds for affordable housing, the Commission recommends that the establishment of a 100 percent state mortgage insurance program is neither feasible nor desirable at this time.

Private Activity Bonds

Because the system now in place will continue to provide effective allocation of private activity bond authority, the Commission recommends that such current state private activity bond allocation system be maintained.

VHDA Issuance of Taxable Bonds

Because of the continuing important role played by VHDA-issued taxable bonds in the development of affordable housing, the Commission recommends amending §36-55.37:1 of the *Code* to extend the sunset date for issuance of taxable bonds to July 1, 1996.

VHDA Regulation of Multifamily Developments

To ensure that VHDA bonds remain tax-exempt from the date of issuance, the Commission recommends amending §36-55.33:1 of the *Code* to clarify 1) that VHDA may regulate a development as necessary to preserve the tax exemption of its bonds and 2) that VHDA mortgage regulatory provisions run with the land.

VHDA/DHCD Line of Credit Agreement

To ensure the continuity of the Virginia Housing Partnership Fund, the Commission recommends enacting emergency legislation creating a new *Code* §36-148.1 to authorize DHCD, on behalf of the Fund, to enter into agreements with VHDA pursuant to the Fund, and to pledge Fund assets as security for VHDA loans to the Fund.

Taxation Initiatives

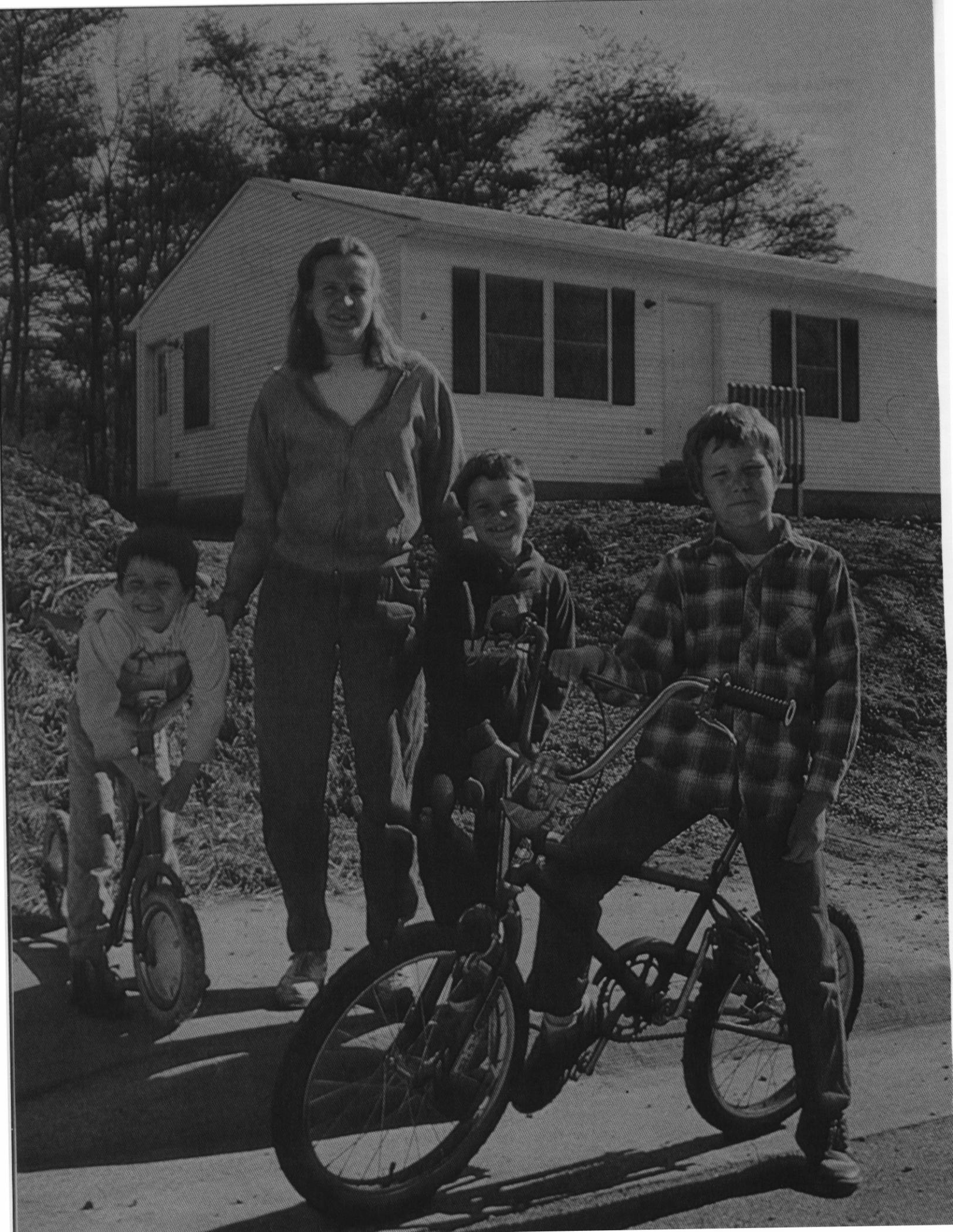
Recognizing that often there is only a fine line between a relatively stable housing situation and homelessness, the Commission encourages further study and discussion of the Earned Income Tax Program and Circuitbreaker Property Tax Relief Program proposed by the Virginia Coalition for the Homeless.

Housing Affordability Impact Statements

Because of increasing regulatory-related housing development costs, the Commission regards as a top priority study in 1991 the feasibility of requiring preparation and filing of statewide and/or local Housing Affordability Impact Statements prior to the passage of such regulations, fees, or other requirements which affect the cost of housing.

Virginia Housing Partnership Fund

Because the Virginia Housing Partnership Fund is a carefully crafted, well managed, and highly effective stimulus for affordable housing in the Commonwealth, the Commission recommends that the Virginia General Assembly return the Fund, at full funding levels, to the state General Fund budget as soon as is reasonably possible given fiscal realities.



Preservation and Rural Housing

Conversion of Tax-Delinquent Properties

Tax-delinquent housing — often abandoned and located in low- and moderate-income neighborhoods where additional affordable housing is most needed — represents an untapped housing resource. The sale and rehabilitation of tax-delinquent properties could increase housing supply, put properties back on the tax rolls, and eliminate a serious impediment to neighborhood revitalization. This strategy offers an important housing option during a time of continuing increases in land and housing construction costs.

While localities now have several different options for converting tax-delinquent housing into occupied, affordable housing, the most effective action is to encourage new ownership by selling the property to enforce the locality's lien for real estate taxes. The successful bidder at the tax sale can gain title to the property and rehabilitate it — if such improvements are necessary — so it may be safely occupied. Section 58.1-3965 of the *Code of Virginia* permits the judicial sale of real property by filing a bill in equity if taxes have been unpaid for three or more successive years. According to §58.1-3970, the city, county or town may be a purchaser at these sales.

The sale of property is also an appropriate action when the owner has died

intestate or if there are no heirs capable of inheriting the estate. The *Code* allows for the public sale of escheat properties (reversion of abandoned, unclaimed property to the State) through §55-184.1. Although escheated properties are not believed to constitute a large portion of the abandoned lands and structures in most communities, they do constitute another potential source of low-cost housing.

An additional option exists for jurisdictions with a local public housing authority (PHA). Such localities may encourage the PHA to execute its power of eminent domain under §36-27 of the *Code*, whereby authorities may acquire any real property which may be necessary for such purposes as the clearance, replanning, re-

habilitation, and reconstruction of blighted areas.

In cases where the property is tax-delinquent as well as abandoned, there is arguably even stronger cause to convert the property to occupied, affordable housing. Abandoned housing detracts from existing properties while encouraging further decay, disinvestment, and lower property values in a neighborhood. Unmaintained abandoned property can be a haven for drug use and other illegal activities, as well as a potential fire hazard.

The sale and rehabilitation of tax-delinquent properties could increase housing supply and put properties back on the tax rolls.

Florence Henderson with her son and nephews at their new home in Radford's Wilson Heights neighborhood. The homes were constructed and mortgages financed through a unique rural regional home loan program for which the Commission recommended funding in 1988.

The City of Richmond is one Virginia jurisdiction with an aggressive, multi-faceted program for eliminating abandoned housing. Its Bureau of Housing and Neighborhood Preservation supports environmental and building maintenance code enforcement. In a program modeled after a Roanoke initiative, the City also prepares a listing of abandoned tax-delinquent properties and contacts the owners to secure permission to market the properties for sale. The City then photographs the available houses and supplies the pictures and additional information in a catalog available at no charge to the public. Parties interested in purchasing tax-delinquent properties must make a written offer to the City, and if the City decides to make the sale, it then files a suit in equity.

Analysis of the City of Richmond's abandoned housing program, as well as a comparison of programs from various states, reveals additional possible impediments to local efforts to convert tax-delinquent properties into affordable housing. These limitations are summarized below:

- Gaining clear title on a piece of tax-delinquent property can be difficult. Often the property owner has died without leaving a will. Heirs may be living out of state and very difficult to locate. Circumstances such as these create complicated and costly title searches, and localities are seldom willing to initiate them when abandoned properties tend to have such low values.
- Virginia Code §58.1-3344 provides that the real property tax shall be a lien on the property and the party listed as owner shall be liable for the collection of taxes. When property is sold the purchaser becomes responsible for any tax liens. Tax liens on seriously dilapidated property can approach or exceed the assessed or fair market value of the property, which can discourage potential purchasers from investing.
- The delay in holding a tax sale is one of the biggest obstacles hindering a property

transfer. A locality cannot initiate the sale of property to satisfy tax liens until the taxes have been delinquent at least three years following December 31 of the year the taxes were originally due. A bill in equity is filed against one property owner at a time, which can create even further delay. (A single owner of multiple delinquent properties can be covered by a single bill in equity.) During this waiting period, an abandoned property will further decay and will be susceptible to arson and vandalism, becoming more difficult and costly to rehabilitate as each year passes.

- Additional time delay in the sale of property can result from a lack of administrative capacity. Many localities do not have the staff capabilities to implement an abandoned housing rehabilitation program. Examining titles to tax-delinquent property, advertising in newspapers as required by the Virginia Code, and filing petitions for judicial sales are time-consuming. (The costs associated with these actions are to be paid first from the proceeds of the sale.) Even if a locality has a redevelopment and housing authority to handle this activity, acquiring land through the authority is not always feasible. The abandoned properties are often too scattered throughout the community to meet the requirements to qualify as "conservation area" in order to be able to obtain the properties through their power of eminent domain.
- Local officials cannot inspect the building interior to estimate rehabilitation costs or the structure's fair market value without either the permission of the owner, or the authority conveyed by an administrative search warrant.

Recommendations

The Virginia Housing Study Commission makes the following recommendations designed to strengthen a locality's ability to establish a program that will facilitate the conversion of tax-delinquent

properties into affordable housing for low- and moderate-income residents.

- The Commission recommends the revision of §58.1-3965 of the *Code of Virginia* to reduce the time period from three years to one year, following December 31 of the year taxes were originally due, that a county, city, or town must wait before initiating a sale of tax-delinquent properties. This shorter time frame would help prevent the accumulation of large delinquencies and reduce the potential for a delinquent property to be subjected to substantial decay.

Other jurisdictions promote the conversion of tax-delinquent housing to properties that are occupied, tax-producing housing. For example, Baltimore allows a sale to be initiated just six months after taxes are due. The Illinois Revenue Code, widely recognized for enabling localities to enforce tax collections on real property effectively, allows the advertisement of a tax sale September 1 after delinquent taxes are due in any given year.

This reduced time period is realistic given that similar delinquencies would

not be tolerated in private sector consumer debt for even twelve months. Virginia *Code* §58.1-3965 currently provides ample protection for owners of property sold at tax sales by allowing them to reclaim their property and pay off liens before the sale is final, and local policies buffer owner-occupants from unduly harsh application of this tax enforcement mechanism.

- The Commission requests that the Office of the Attorney General review the concept of allowing localities to use a non-cash bid (based on the accumulated tax-delinquency) to purchase tax-delinquent property.
- The Commission requests that the Virginia Housing Development Authority and the Virginia Department of Housing and Community Development provide additional support to local housing programs by establishing a statewide clearinghouse responsible for collecting and disseminating information and technical assistance to localities, nonprofits, and neighborhood groups on the establishment and operation of an abandoned housing conversion program.

Indoor Plumbing Contribution Program

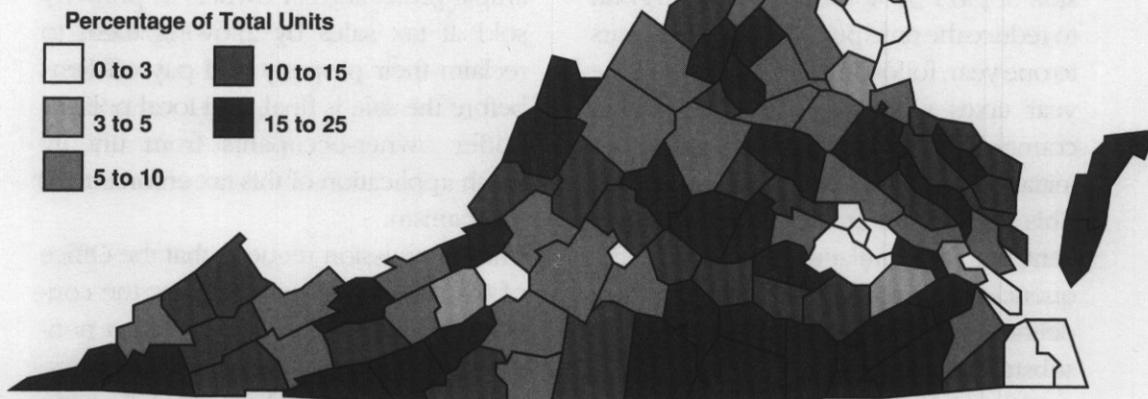
During the past decade various public, private, and nonprofit organizations in the Commonwealth have sponsored a variety of programs designed to assist households living with inadequate residential water and wastewater facilities. Despite the success of these programs, thousands of lower income Virginians continue to live in housing lacking the most basic water and wastewater facilities.

In 1988, Virginia Water Project, Inc., a leading nonprofit organization, released *Water for Tomorrow*. The report indicated that there were then over 53,000 housing units in Virginia without *any* indoor

plumbing facilities. Additionally, there were over 74,700 housing units in the state served by a water source (such as springs, cisterns, or streams) other than a well or a public / private water system. The report also indicated that over 90,000 housing units in Virginia were utilizing sewage disposal means — generally outdoor privies — other than septic tank or public sewer systems.

Based on the figures included in *Water for Tomorrow* and on testimony received at its regional public hearings, the Virginia Housing Study Commission recommended that the 1990 General Assembly establish a program to begin to address the water and

Virginia Housing Units Lacking Complete Plumbing



Source: 1980 U.S. Census of Housing

wastewater needs of lower-income Virginians. The General Assembly approved the Commission's recommendation, and appropriated \$3 million for Fiscal Year 1991 to create and capitalize a state Indoor Plumbing Program. This grant/loan program, a first step in addressing some of the critical residential water needs of Virginia, is administered by the Department of Housing and Community Development.

The Indoor Plumbing Program is designed to assist very low income households — approximately 350 during the first year — to obtain plumbing facilities within their homes. In the first round of competition for funding awarded under the program, 41 applications requesting \$8.4 million were received for the \$3 million in available funds.

As governmental sources of funding for housing improvement programs become more limited, there is an increased need to find alternative means of financing residential indoor plumbing efforts. One option for encouraging voluntary private sector assistance is the establishment of a special fund to which Virginia residents could contribute through their water and sewer utility invoices. A similar invoice contribution program established by Virginia Power provides assistance to low-income households for energy and heating costs.

In 1982, Virginia Power implemented EnergyShare, a consumer/industry partnership program that enables Virginia Power customers to make voluntary contributions to a special fund that provides assistance for winter heating expenses to very low-income households. Program participants may overpay their electric utility bills in increments of \$1, \$5, \$10, \$20, or \$30, with all overpayment proceeds used in the Energy Share program. Virginia Power employees may also participate in the program through a payroll deduction. Virginia Power provides all funding for program administrative costs.

Program contributions are placed in a separate account maintained by the United Way, and a citizen steering committee determines how the funds will be distributed among Virginia Power's five regional service divisions. Each division has a separate committee to determine the distribution of its portion of EnergyShare funds to various agencies that provide direct assistance to low-income households.

During the eight years since the program was initiated, over \$4 million has been contributed by Virginia Power customers to EnergyShare program. In turn, these funds have been used to provide heat-related energy assistance to over 80,000 persons. As an alternative to the invoice overpayment contribution program, Virginia Power has recently implemented a "check method"

contribution program. A separate mailing is sent to all Virginia Power customers in October and February of each year to allow them to contribute by a separate check to the EnergyShare program. Last year, this "check method" contribution program generated over \$230,000 for the EnergyShare program.

Given the success of the Virginia Power EnergyShare program, it is possible that Virginia consumers would maintain the same spirit of giving for other programs designed to assist very low-income persons attain a decent quality of life. Providing basic water and wastewater facilities in housing for all Virginians may well be a goal many would consider worthy of their contributions.

Recommendations

The Virginia Housing Study Commission recommends the establishment of a "WaterShare" program in the Commonwealth. The public/private sector partnership program would allow Virginians to make voluntary contributions with their water and sewer utility payments to a state-wide residential water/wastewater improvement program that would assist low-income households.

In recent years, Virginia Water Project has made several attempts to establish a demonstration program that would allow the customers of a specific water and sewer authority to contribute to a special indoor plumbing fund. However, VWP concluded that the effort and hours required to work out the details of a separate program with the over 4,500 individual public and private water and water treatment providers would not be feasible.

In 1991, the Housing Study Commission will establish a task force comprised of representatives from Virginia Water Project, the Virginia Department of Housing and Community Development, the Virginia Housing Development Authority, the Virginia Municipal League, the Virginia Association of Counties, the Virginia Section of



the American Waterworks Association, and other key groups to determine the methods and requisite details of implementing and operating voluntary contribution indoor plumbing programs. This task force will also work to determine alternative financing methods to expand efforts to provide safe and sanitary water and wastewater facilities for all Virginians. The task force will report its findings and recommendations to the Commission in late 1991.

The Commission will also introduce a resolution at the 1991 General Assembly session to encourage the over 4,500 community water providers in the Commonwealth to offer a program to their water customers in which the customers could make voluntary financial contributions to augment the state indoor plumbing program.

Constructed wetlands like these in Monterey, Virginia, can prove an excellent alternative to more costly community wastewater systems.

Virginia Residential Landlord and Tenant Act

At the recommendation of the Virginia Housing Study Commission, the Virginia Residential Landlord and Tenant Act was enacted by the 1974 General Assembly to:

- 1) simplify, clarify modernize, and revise the law governing the rental of dwelling units and the rights and obligations of landlords and tenants;
- 2) encourage landlords and tenants to maintain and improve the quality of housing; and
- 3) establish a single body of law relating to landlord and tenant relationships throughout the Commonwealth.

While most multifamily rental housing facilities in Virginia are covered by the Act, certain housing units, including single family residences whose owner owns ten or fewer such rental residences, are exempted. Single family housing represents a significant number of rental units throughout Virginia. In 1980, the number of renter-occupied, single family housing units in the Commonwealth was approximately 55 percent of all rental units. A significant number of those units are owned by persons who own ten or fewer single family units and are therefore exempted from the provisions of the Act.

One of the original purposes for providing the exemption of certain single family units from the Act was to protect small property owners from the possible additional rules and requirements of a state landlord and tenant law. However, the Act is designed to provide protection to *both* the landlord and the tenant.

Small landlords could benefit from increased clarity and certainty as to their rights and duties as well as those of the

tenant. The Act provides specific guidance in areas of rental contract agreements including application fees, security deposits, written leases, oral agreements, disclosure, inspections, payment of rent, services, right of access, and remedies for violations.

Coverage of such complex areas of rental contract law may provide needed guidance to the small landlord and may assist landlords to avoid tenant disputes and possible litigation.

There is also some question as to what constitutes a "small" property owner. The average home sales price in Virginia during the last half of 1989 was \$121,015. While this figure is somewhat inflated as a statewide home sales price due to the inclusion of high housing costs in Northern Virginia, it does indicate that owners with up to ten single family units may have over \$1 million in real estate

holdings. Even with more moderately priced houses in the \$50,000 to \$60,000 range, owners with up to ten units could approach \$.5 million in real estate holdings. Such property owners arguably do not need protection from requirements designed for small scale investors.

A 1990 analysis by the Virginia Department of Housing and Community Development indicates that the cities of Virginia, or, more specifically, the urban localities of Virginia, have high concentrations of rental housing. Forty-two percent of all housing units in Virginia's cities are rental units. By comparison, only 26 percent of housing units in the counties are rental units. The analysis also indicates that over half of all rental housing in the cities are

Providing a single body of law to govern all rental agreements in Virginia's cities would provide increased equity in urban rental housing opportunities, greater protection for landlords and tenants, and improved housing opportunities.

single family dwelling units. Many of these units, therefore, may be exempt from the Landlord and Tenant Act.

Current state law, then, designed to provide increased uniformity to rental agreements, may actually result in less uniformity in rental agreements because of the exemptions allowed under the Act. Differences in rental housing opportunities under such a dual system of contract law are particularly evident in urban areas where significant differences in rental agreements may be common even within the same neighborhood. Providing a single body of law to govern all rental agreements in Virginia's cities would provide increased equity in urban rental housing opportunities while increasing protection for landlords and tenants as well as improving housing opportunities.

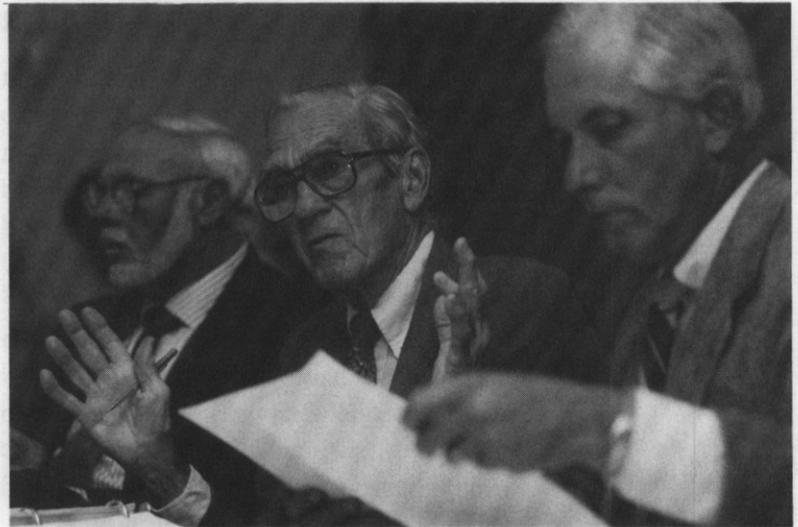
Recommendations

During the 1990 General Assembly session, the Virginia Housing Study Commission recommended the introduction of Senate Bill 285 to increase coverage of single family rental housing units under the Landlord and Tenant Act. The bill passed the Senate with amendments but was killed on the House floor. An examination of voting records on SB 285 indicates strong support for such legislation by representatives from Virginia's cities and urban counties.

The Commission recommends introducing alternative legislation during the 1991 Session.

- 1) The Commission recommends reducing the current Act exemption from owners who own no more than ten single family rental units to owners who own no more than four such residences being rented.
- 2) The Commission recommends the above reduction in the current exemption apply only to single family rental units located in Virginia's cities and specified urban counties.

Such legislation could provide coverage under the Act for most rental housing in



the Commonwealth. Approximately 68 percent of all rental housing in Virginia would be covered under the Act if the single family exemption were eliminated in all cities and the counties of Arlington and Fairfax. Approximately 80 percent of all rental units would be covered under the Act if the single family exemption were eliminated in all cities and the counties of Arlington, Fairfax, Prince William, Chesterfield and Henrico.

Commission Vice Chairman Clive L. DuVal, 2d, with Commission members Lewis W. Parker, Jr., (left) and Richard J. November (top photo).

Clinton Miller (left) and James F. Almand at the Commission 1990 legislative work session.

Virginia Fair Housing Law

In 1988, the federal government amended the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing. Under the law as it existed before the amendments, Virginia had gained the status of having a state fair housing law that was "substantially equivalent" to the federal law. The status has allowed Virginia to enforce both the state law and the federal law using state personnel. In states that do not have "substantial equivalency," the United States Department of Housing and Urban Development (HUD) enforces the federal act.

Under the Virginia Fair Housing Law it is unlawful to discriminate against a person in the sale or rental of housing because of race, color, religion, national origin, sex, elderliness, familial status, or handicap. Prior to enactment of the 1988 amendment the federal law did not include the categories of

"familial status" and "handicap" as conditions that cannot be used as a basis for discrimination.

The federal law includes more extensive definitions for both "handicap" and "familial status" than does the Virginia law, and these differences in the definitional and remedy sections of the Virginia and federal laws have implications for Virginia's continuing status as a state having substantial equivalency. Last year, the Virginia Department of Commerce — the Administering Agency for the Virginia Fair Housing Law — drafted amendments to the state law designed to bring the Commonwealth into substantial equivalency with the federal law. The Virginia Housing Study Commission recommended that the 1990 General Assembly enact legislation that would allow the Commonwealth to maintain its status as being substantially equivalent to the federal government in the enforcement of fair housing laws, and in turn introduced SB 474 to attain such objective. At the request of the chief patron, the bill was carried over to the 1991 Session.

Recommendation

As it is currently drafted, SB 474 likely would not bring Virginia into substantial equivalency given new developments at HUD. The Virginia Fair Housing Office of the Department of Commerce continues to receive information from HUD regarding requirements for substantial equivalency.

The Commonwealth's status as an equivalent agency expires in September 1992, and HUD requires that amended law and regulations be submitted for review by September 1991. Therefore, it is necessary for the 1991 Virginia General Assembly to enact requisite amendments to the Virginia Fair Housing Law if the Commonwealth is to retain substantial equivalency status. The Virginia Housing Study Commission recommends that the 1991 General Assembly adopt such legislation.

Residents of a Charlottesville home for young adults with mental disabilities. Commission recommendations have included state funding for the development of such congregate living facilities, as well as zoning favorable to their development.



At-Risk Assisted Properties

The preservation of the current inventory of assisted housing for low- and moderate-income households is one of the most important housing issues facing Virginia and the United States today. The potential volume of units — over 13,000 in Virginia alone — and the displacement which could result from their conversion to market rate rentals dwarf the incremental number of housing units produced annually under federal and state housing programs.

To complicate the situation, reductions to the inventory come from sources other than prepayments of mortgages, although the prepayment issue is the cause of greatest short-term concern, and particularly pursuant to Section 236 and Section 221 (d)(3) units. Potential reductions also come from opt-outs of subsidy contracts, expiration of loan management set-asides, and defaults and foreclosures on projects no longer economically or physically viable.

The problem of prepayments has been anticipated by virtue of the knowledge that subsidy contracts exist only for defined periods of time. However, significant reductions in federal housing program allocations during the 1980s and the current recessionary economic environment have served only to exacerbate the problem, not only nationally but in Virginia as well.

In 1989 the Virginia Housing Study Commission addressed the issue of at-risk assisted units and made several related recommendations, including advising Virginia's Congressional delegation of its support for expansion of the federal Low-Income Housing Tax Credit Program as a preservation tool; proposed federal legisla-

tion granting the right of first refusal to nonprofit organizations for the purchase of housing developments prior to or at the end of the term of federal tax credit; and the federal Community Housing Partnership

Act. At the Commission's recommendations, the Virginia General Assembly memorialized Congress to take strong action to resolve the present housing crisis created by the prepayment option in order to assist in preserving the low-income housing stock.

Among other recommendations, the Commission recommended that the Virginia Housing Development Authority:

- act as a preservation clearinghouse for property owners and public agencies or qualified nonprofit organizations interested in acquiring units with expiring HUD contracts;
- disseminate general background information to all Virginia localities where there are potentially at-risk projects and request all localities to identify projects, based on local market conditions, financial return, and other factors, that place them at risk;
- maintain an updated list of at-risk properties and initiate a dialogue with each owner once the owner has indicated an interest in or initiated prepayment;
- develop an annual report to the Housing Study Commission on the status of at-risk properties and efforts underway to retain them;
- design procedures localities can use to analyze the potential for the conversion of properties to market rate units;
- research innovative strategies used in other states to maintain the units as affordable housing; and

The preservation of the current inventory of assisted housing for low- and moderate-income households is one of the most important housing issues facing Virginia and the United States today.



U. S. Secretary of Housing and Urban Development Jack Kemp delivers the keynote address to some 700 participants at the 1990 Governor's Conference on Housing.

- examine the status of multi-family projects it financed with tax-exempt bonds to determine the number of units which may convert to market-rate rents during the 1990s.

The VHDA reported to the Commission that it has a significant inventory of assisted multi-family housing units, the majority of which are uninsured. Substantially all of the Section 8-assisted newly constructed or substantially rehabilitated developments which VHDA financed are prohibited from prepaying their mortgages for the term of the subsidy contract — generally 30 to 40 years and coterminous with VHDA's mortgage.

In the 1981 and 1986 Tax Acts, restrictions imposed under the federal laws governing the issuance of tax-exempt bonds require that occupancy by certain below-median income groups be ensured for 10 to 15 years or one-half of the term of the bonds, whichever is longer. As a method of ensuring compliance with these provisions, VHDA incorporated prepayment prohibitions for those periods of time.

The VHDA also reported that it is in the process of developing a preservation clearinghouse through the establishment of a task force comprised of representatives of effected state and federal housing agencies within Virginia. Because the preservation issue is broader than just the likelihood of prepayment, and the probability that loss of

inventory due to defaults and foreclosures may be a larger problem, the responsibilities of the task force will likely be expanded to inventory and categorize all existing assisted housing in the state.

In 1982, the U.S. Department of Housing and Urban Development, Farmers Home Administration, Virginia Department of Housing and Community Development, and VHDA prepared such an inventory, which VHDA will update and expand to include a qualitative and quantitative analysis of the properties. Attention will be focused on those properties at greatest risk of being lost from the affordable housing inventory, and on financial strategies to preserve the units as affordable housing.

The central office of HUD is currently completing an inventory of federally insured Section 236 and 221(d)(3) projects which will include 113 data items for each project. This effort is being joined by the National Council of State Housing Agencies and its member organizations, including VHDA, so that all uninsured projects (financed primarily by state housing finance agencies) will also be included in the study.

Recommendations

A recent study completed for VHDA concluded that the greatest number of potential problems for at-risk assisted housing units could arise between 1993 and the end of the decade. Because the task of identifying and developing financially sound methods to retain this inventory is a significant one, the Virginia Housing Study Commission recommends that VHDA expeditiously complete its inventory of assisted units in the Commonwealth that are at risk due to prepayment, opt-outs of subsidy contracts, expiration of loan management set-asides, and foreclosure. The Commission requests VHDA in 1991 and in subsequent years to provide it with an annual report on the status of at-risk properties, and efforts underway to retain such properties in the affordable housing inventory. Such efforts would include VHDA's role as a clearing-

house for property owners, public agencies, and nonprofit groups interested in acquiring such properties for ongoing use as affordable housing. The Commission also requests that DHCD review the VHDA report and recommend to the Commission in 1991 policy initiatives to preserve at-risk units.

The Commission will also express to the Governor's Congressional Liaison Office, the Southern Legislative Conference, the National Legislative Conference, and the Virginia Congressional delegation its ongoing support for Congress taking strong action to retain assisted properties in the affordable housing inventory.

Energy Conservation Grants

The Virginia Weatherization Program, locally administered by the Virginia Association of Community Action Agencies, is designed to rehabilitate units occupied by low-income households, in turn reducing their energy costs while ensuring a warm and dry environment. Traditionally, the Weatherization Program has used energy grants to serve Virginians without adequate incomes for participation in Virginia Housing Partnership Fund programs.

The Weatherization Program, funded with "oil overcharge" monies, now faces a significant reduction in staff and program assistance given the depletion of its primary funding source. Indeed, the 1991-92 Program budget will constitute only one quarter of its 1989-90 budget.

Recommendation

The Virginia Housing Study Commission recognizes the need for an energy conservation/rehabilitation program serving low-income Virginia residents. The Commission also recognizes the importance of coordinating the work of such a program with that of other housing programs in the Commonwealth to ensure the best possible delivery of services to those in need of assistance. The Commission supports the continuation of an energy grant program in Virginia at least at its current funding levels.



Alan Diamonstein addresses the housing rally, sponsored by the Virginia Housing Coalition and the Virginia Coalition for the Homeless in support of funding for Virginia housing programs, during the 1990 General Assembly Session.



Land Use and Regulatory Issues

Building Code Standards for Low-Income Housing

Building regulations have long been a focus of concern for those seeking to promote affordable housing. Several major studies, including efforts by the Advisory Commission on Intergovernmental Affairs, the Douglas Commission, and the Kaiser Commission in the 1960s; the General Accounting Office and the Task Force on Housing Costs in the 1970s; and the President's Commission on Housing in the 1980s have considered the effects of building regulations on housing costs. More recently, the HUD-sponsored Commission on Regulatory Barriers to Affordable Housing has considered the issue.

All of the major studies have reached essentially similar conclusions, and noted that construction costs and, in turn, housing costs could be better controlled by taking the following steps:

- increasing the uniformity of all building regulations,
- increasing reliance upon the provisions of recognized, major model codes,
- replacing prescriptive requirements with performance standards wherever possible,
- employing minimum/maximum codes to prevent the proliferation of local code variations,
- adopting well-defined modification and appeals procedures,

- upgrading the professionalism of code enforcement personnel, and
- increasing state participation in code development but not necessarily code enforcement.

Virginia originally adopted and has subsequently amended its Uniform State-wide Building Code (USBC) precisely to

achieve these improvements. All new construction in Virginia is currently subject to a single set of regulations with an increased emphasis on performance standards incorporated in major model codes. The USBC also established a uniform appeals process, provided for periodic revision, and retained local administration.

In recent years, HUD has sponsored demon-

stration projects to determine whether construction costs can be reduced by modifying a variety of regulations. Generally, these demonstrations suggest that the use of innovative materials or design features can produce some reduction in the initial cost of construction, thereby lowering the cost to consumers.

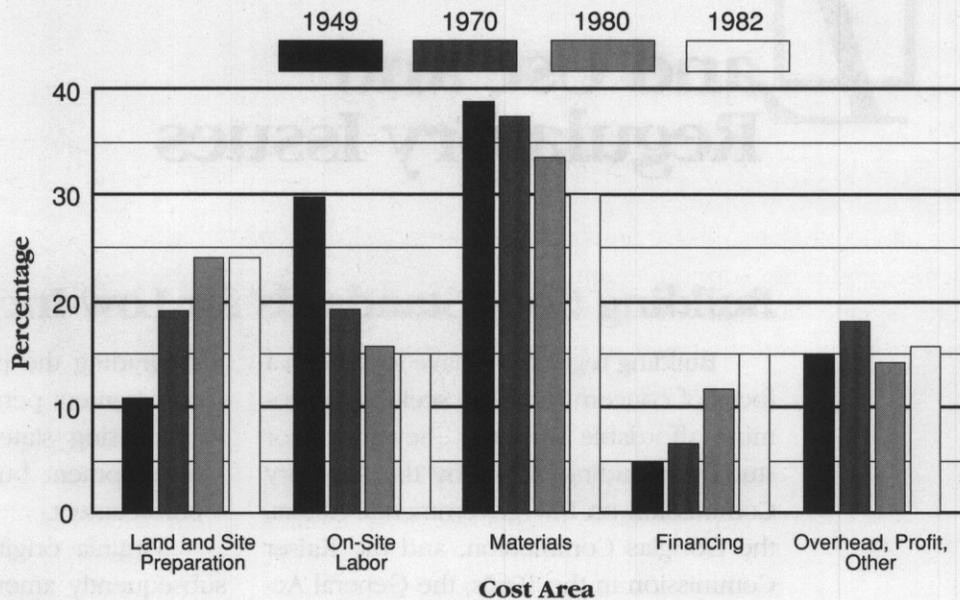
Because building code requirements directly affect design features as well as the materials and methods of construction, revisions are frequently suggested. One recent suggestion is to establish a distinct set of building regulations governing the con-

*The Virginia
Housing Study
Commission
continues its long-
time support for the
current Uniform
Statewide Building
Code system.*

One of the Commission's first and foremost recommendations was a Uniform Statewide Building Code designed to ensure structural safety without unnecessarily increasing housing cost.

Cost Breakdown for New Single-Family Homes

Costs as a Percentage of Purchase Price



Sources: President's Commission on Housing; Welfeld, *Where We Live*

struction of low-income housing. The purpose of such regulations would be to promote affordability by permitting the use of less costly materials and methods for units intended for residency by low-income persons and households.

A separate low-income housing construction code presents a number of additional and substantial concerns.

- The promulgation of safety standards that vary according to the income of the citizens to be protected raises constitutional questions of equal protection.
- The uniformity of the USBC would be undermined, offsetting some anticipated savings from lower standards with higher costs for preparing plans differing from the current norm.
- The USBC is designed to attain structural safety at the lowest possible cost. Code provisions that exceed this principle can be revised within the existing process.
- Initial cost savings, such as those gained through reduced insulation, could result in higher, long-term operating costs.
- Most cost saving features highlighted in HUD demonstration projects are permitted under the USBC.

- Over the past forty years, on-site labor and material costs as a percentage of home purchase price have fallen steadily while land, site preparation, and financing costs have risen sharply.

Recommendations

In light of the issues attendant to the creation of a separate low-income housing construction code, the Virginia Housing Study Commission continues its long-time support for the current Uniform Statewide Building Code system — an approach to building regulation that remains one of the Commission's first and most significant initiatives. The Commission also continues to support such efforts to modify USBC provisions as would assure that Code public health and safety goals are met while improving housing affordability. The Commission suggests that the Virginia Department of Housing and Community Development work in conjunction with organizations such as the Home Builders Association of Virginia to provide information on innovative new construction techniques, home designs, and other methods that would reduce the cost of housing in the Commonwealth.

Housing and Growth Management

During the past decade, Virginia experienced a sustained period of rapid population growth and economic expansion, coupled with increased interest in "growth management." Growth management — a malleable term at best — has generally been characterized as a system for guiding growth to meet its inevitable demands for housing, infrastructure, and other support systems.

There is little question that growth management is an issue that will receive increasing attention. During the last session, the General Assembly expanded the Commission on Population Growth and Development (Growth Commission) and placed it upon a more permanent basis.

The Growth Commission's recommendations could foster significant changes in the land use regulatory environment. If such changes result in more restrictive development regulations without provisions for affordable housing needs, they could have serious negative consequences for housing affordability, particularly in the higher-growth regions of the Commonwealth.

Most states that have developed active growth management programs have attempted to integrate local housing needs into the process. For example, Florida's housing goal in the state's growth management plan incorporates provisions to support an increased supply of affordable units as well as the elimination of unnecessary regulatory burdens. Local comprehensive plans are required to include a housing element with a specific focus on affordability. The Maine plan, by contrast, specifically defines affordable housing and mandates that, locally, ten percent of new residential development meet the definition of affordability. New Jersey's elaborate state planning process is designed to integrate environmental and fiscal concerns with the mandates of the state Supreme Court that flow from the *Mt. Laurel* housing decisions of the 1970s and 1980s. And Oregon



attempts to control urban sprawl while providing affordable housing options.

Recommendations

The well-documented link between regulatory policies and housing costs underscores the importance of the Growth Commission's activities for those with an interest in Virginia's housing problems. The Virginia Housing Study Commission will seek to ensure that housing affordability issues are addressed by the Growth Commission, and that housing affordability provisions become an integral part of any growth management system proposed for adoption in the Commonwealth.

Commission member Richard J. November (left) with Wendell White, a member of the Virginia Housing Research Center Advisory Board, at the Commission 1990 legislative work session.

Manufactured Housing and Local Land Use Regulation

In 1990, the Virginia Housing Study Commission recommended legislation, subsequently passed by the General Assembly, designed to eliminate some of the barriers localities have traditionally erected against manufactured housing. The legislation, House Bill 1076, added §15.1-486.4 to the *Code of Virginia*. The new *Code* section mandates that after July 1, 1990, all localities must permit the placement of manufactured housing units at least nineteen feet wide ("double-wide" mobile homes) in agricultural zoning districts subject to the same development standards that apply to conventional, site-built single family dwellings.

Local governments generally have used a number of different terms, such as "Agricultural," "Residential-Agricultural," and "Rural-Residential" to describe districts permitting essentially the same types of land uses. Such permitted uses include single family residences as well as the production of a variety of crops (such as grains, forage, fruits, vegetables) or livestock (including breeding and grazing such animals). Accordingly, HB 1076 focused on the substance of rural communities (places where agricultural and related economic activities predominate and where income levels create serious affordability problems) rather than on the precise terminology characterizing such activities in a local zoning ordinance. For instance the bill included the generic term "agricultural zoning districts" rather than the specific "Agricultural," "A," "Residential-Agricultural," "R-A," "Rural/Agricultural," "Rural Residential," or

similar classification typically found in local ordinances.

Since the passage of the 1990 legislation, a number of localities have amended or considered amending their zoning ordinances to redefine terminology or the uses permitted within various classes of agricultural districts. The effect of such changes may have been to eliminate or narrow the applicability of the term "agricultural," thereby limiting the number of potential sites for manufactured housing, potentially nullifying the effect of the new law. In some cases, the changes could be construed simply as an effort to avoid complying with the actual intent of the law.

James City, Mathews, Northumberland, Spotsylvania, Caroline, and Stafford are among those counties that have acted or contemplated such actions. In the case of James City County, for example, the locality made double-wide units a permitted use in A-1 (Agricultural) zoning districts where special use permits had formerly been required. The County also redesignated its "holding" zone from A-2 (Agricultural) to R-8 Rural-Residential, so double-wide units would not be a permitted use in this district.

Stafford County provides another example of a local response to the new requirement. The County's Zoning Administrator ruled that the requirements of §15.1-486.4 would only apply in the county's A-1 Agricultural District and not in other districts such as the A-2 Rural Residential District. The principal distinction between the two districts lies in the densities allowed

The intent was and remains to permit double-wide mobile homes in portions of the counties, cities, and towns in the Commonwealth where the dominant land uses are agricultural, horticultural, or forestal.



A double-wide manufactured home produced by a Virginia company. In 1990, the General Assembly passed Commission legislation mandating that localities provide for the placement of such housing in districts zoned for agricultural or similar uses.

and not the uses permitted. The A-1 minimum lot size is three acres; in A-2 it is one acre. Fourteen of the fifteen permitted uses in the A-2 district are identical to those in the A-1 district, but despite the fact that both districts are designated for similar, essentially rural activities, only one is available for double-wide manufactured homes on a permanent basis.

Recommendation

Rural housing affordability remains a serious concern for the Commonwealth, and HB 1076 was drafted and passed by the General Assembly with the express intent of

expanding affordable housing opportunities in settings with a primarily rural character.

To clarify the intent of HB 1076, the Virginia Housing Study Commission recommends amending §15.1-486.4 to make the law's intent more explicit. The intent was and remains to permit double-wide mobile homes in portions of the counties, cities, and towns in the Commonwealth where the dominant land uses are agricultural, horticultural, or forestal, regardless of the precise terminology employed in local land use regulations to characterize a zoning district permitting such activities.

Manufactured Housing Licensing and Transaction Recovery Fund

Currently, most aspects of the manufactured housing industry are controlled by the Department of Motor Vehicles under its powers set forth in Title 46.2 of the *Code of Virginia*. A manufactured home is defined as a vehicle and manufactured home dealers are licensed as are new and used automobile dealers. Manufactured home sales centers are required to complete title applications that request information on odometer readings and pollution control devices on homes sold.

In recent years, there has been a growing recognition that manufactured housing has evolved substantially away from its relationship to motor vehicles. Manufactured homes have become larger, roofs have become pitched, and siding material improved to the point that the multi-sectioned home closely resembles ranch-style site-built homes. Manufactured homes are rarely moved. State law offers an established procedure for classifying the homes as real property. And the 1990 General Assembly, recognizing the value of the manufactured home as a housing resource, directed local governments to zone land for such homes in certain districts in the same manner as site-built homes.

An evolution in the financing of manufactured homes also has occurred. The Virginia Housing Development Authority, Farmers Home Administration, the Veterans Administration, and the Federal Housing Administration offer real estate loans for manufactured homes on permanent foun-

dations. Such loans are now accepted by the secondary mortgage purchase market.

Continuing this trend toward acceptance of manufactured housing as a legitimate form of housing, the industry has sought a different forum for the regulation of its sales and service. During the 1990 General Assembly session House Bill 729 was introduced to add Chapter 4.2 to Title 36 of the *Code* to remove the regulation of manufactured home sales, installation, and warranties from the purview of the Department of Motor Vehicles and place it within the Department of Housing and Community Development. Both agencies concurred with this transfer of authority. However, at the request of the industry, the bill was carried over for consideration during the 1991 session.

In addition to reflecting concern over manufactured housing's identification as a motor vehicle

in state law, the bill offers increased consumer protection. A Virginia Manufactured Housing Board would be created to issue licenses to manufacturers, dealers, brokers, and salespersons of manufactured homes, and to resolve complaints from buyers of the homes and persons in the industry. A Manufactured Housing Transaction Recovery Fund also would be established to pay for purchaser losses incurred because of regulatory violations. Arkansas, North Carolina, and South Carolina operate similar regulatory funds.

*L*icensing, warranty regulation, settlement of consumer complaints, and damage awards from the proposed recovery fund would offer increased protection to the mobile home consumer, and promote the recognition of manufactured housing as affordable housing.

Major provisions of the licensing portion of the proposed legislation include:

- The Manufactured Housing Board would be composed of nine members appointed by the Governor with balanced representation between the industry and the general public.
- The Department of Housing and Community Development, for many years involved in regulatory issues related to manufactured housing, is identified as the administering agency. An alternative state agency could be the Department of Commerce, which concentrates on professional and occupational regulation, including licensing and recovery fund administration.
- License fees would be levied to cover the expenses of the Board and Department in administering the regulations and recovery fund. A special fund account would be established to finance the expenses of the Board and a staff of three or four for administration.
- Licensing provisions would help to protect the consumer and industry member alike. Set-up and tie down requirements, new home warranties to cover the unit and its installation, dealer alterations, unfair methods of competition, and fraud are among the items controlled through industry licensing.

Additional legislative provisions address the creation of a transaction recovery fund. Such funds are capitalized using contributions by the regulated industry to provide restitution to consumers who suffer financial loss or damage due to an illegal activity by a regulated party. The Department of Motor Vehicles administers a recovery fund to protect purchasers of motor vehicles (including manufactured housing) and the Department of Commerce operates recovery funds to protect the consumer from contractors and realtors who may prove unscrupulous.

Key provisions of the proposed Manufactured Housing Transaction Recovery Fund are:

- The Board would serve in a quasi-judicial manner, deciding cases where damages should be awarded and determining the amount of the award.
- The fund would be capitalized at \$250,000 through assessments of licensed entities. This amount would be maintained by replenishing the fund after withdrawals to compensate complainants. (The contractors, real estate, and motor vehicle funds require minimum balances of \$400,000 but involve many more regulated parties.)
- The limitation on an individual recovery from the fund would be \$20,000, the same limit as that of the Department of Commerce real estate recovery fund, with the aggregate of multiple claims against a regulated party also capped.
- The license would be revoked for any individual or business responsible for a damage claim paid from the recovery fund, and could not be renewed until the fund was reimbursed for the awarded amount.
- Decisions of the Board could be appealed through the courts. The liability of the fund per individual claim would be preserved regardless of the damages assessed by the courts. Court-awarded attorney's fees and court costs could be recovered from the fund. (Both the real estate and contractors recovery funds administered by the Department of Commerce allow claims to include such court related costs.)
- More specific rules and regulations for administering the fund would be promulgated in accordance with the Administrative Process Act.

Recommendations

The Virginia Housing Study Commission recommends enactment of a Manufactured Housing Licensing and Transaction Recovery Fund law as a new Chapter 4.2 in Title 36 of the *Code of Virginia*, effective July 1, 1992. The proposed legislation, provided in HB 729, would promote the recognition of manufactured housing as a legiti-

mate, permanent source of housing by transferring the regulation of its sales and service from the Department of Motor Vehicles to the Department of Housing and Community Development. Furthermore, licensing, warranty regulation, settlement of consumer complaints, and damage awards from the proposed recovery fund would offer increased protection to the mobile home consumer.

In addition, the Commission recommends that the appropriate *Code* sections of

Title 46.2 pursuant motor vehicle dealer licensing and a transaction recovery fund be amended to eliminate its application to manufactured housing given the transfer of this authority to the Department of Housing and Community Development. In addition, amounts credited to the Motor Vehicle Transaction Recovery Fund from manufactured housing dealerships and salespersons should be transferred to the Manufactured Housing Recovery Fund once such fund is established.

Zoning and Rural Housing Affordability

In recent years, in part in an attempt to combat urban sprawl, the boards of supervisors of some Virginia counties have enacted large-lot zoning requirements for single family homes. At least one county now requires a minimum lot size of 50 acres for such construction.

Although large-lot zoning requirements have not demonstrated an ability to curtail unwanted growth, they do serve effectively to lock out lower-income, often lifelong local residents from home ownership opportunities. The concept also denies most lower-income residents the option of extended family living, in which a family could give to a member a small parcel of land on which to build a home. And in many cases, large-lot zoning precludes a lower-income purchaser from borrowing from Farmers Home Administration (FmHA), the largest rural lender. The FmHA requires a special approval process to make a loan on a site larger than two acres, and the additional downpayment, closing, and mortgage costs

associated with a larger site tend to disqualify lower-income borrowers.

Recommendation

Recognizing that zoning and subdivision regulations may well impair the rental and home ownership opportunities of lower-income rural Virginians, the Virginia Housing Study Commission encourages local governments to work to ensure that such regulations do not unnecessarily restrict the construction and acquisition of affordable housing. The Commission unanimously adopted the Resolution which follows:

Some zoning and subdivision regulations effectively impair the rental and home ownership opportunities of lower-income rural Virginians.

- Whereas, the availability of affordable housing opportunities is essential to the general welfare of communities throughout the Commonwealth; and
- Whereas, the lower incomes characterizing many rural areas of the Commonwealth create

particular difficulties in developing affordable housing opportunities; and

- Whereas, some residents may have resources available in the form of land; and

- Whereas, the effects of local zoning or subdivision regulations may limit, restrict, or prohibit the use of such resources as the site for affordable rural housing; and
- Whereas, §15.1-466(K) of the *Code of Virginia* requires localities to provide for the division of parcels for the purpose of selling or giving land to a member of the land owner's immediate family, and §15.1-466(b) permits localities to include provisions for variations or exceptions to the general regulations of subdivision ordinances in cases of unusual situations or where strict adherence to the general regulations would result in substantial injustice or hardship; it is therefore
- Resolved, by the Virginia Housing Study Commission, that all localities, but particularly rural communities, examine the provisions of local land use regulations and act to ensure that the provisions and effect of zoning and subdivision regulations do not unnecessarily hinder lower-income households from using available land resources to provide affordable housing opportunities.



(Top) Large-lot zoning restrictions on record in some Virginia localities would have prevented this proud homeowner in Lancaster County's Corbin-Lewis Estates neighborhood from realizing her dream of home ownership. Such restrictions would also have prevented the development of affordable housing in rural southwest Virginia by the Federation of Appalachian Housing Enterprises (FAHE).



At the 1990 Governor's Conference on Housing, Alan Diamonstein presents a 1990 Housing Achievement Award to Crestar Bank Assistant Vice President Judith C. Ritter in recognition of Crestar's important partnership role in the FAHE regional loan program.



Housing Finance

HJR 84: State Mortgage Insurance Program

Owning a home represents one of the major personal and economic goals of many American households, and home ownership, in turn, is an important factor in the stability of neighborhoods and communities. During recent years, as interest rates declined and remained relatively low, the expectation has been that home ownership opportunities would increase. However, the rising cost of housing and the corresponding high down payment requirements have resulted in a significant barrier to home ownership.

Responding to a high default experience in the early 1980s, private mortgage lenders have tightened underwriting standards and increased down payment requirements. To complicate the situation, higher living costs and substantial levels of other nondeductible consumer debt (including student loan debts) limit the ability of many households to accumulate funds for down payments.

A steady decline in the nation's homeownership rate was experienced during the 1980s. While the percentage of the decline appears small — from 65.6 percent of households as homeowners in 1980 to 63.8 percent by 1988 — it means that nearly two million fewer families own homes

today than would have had the prior rate been sustained.

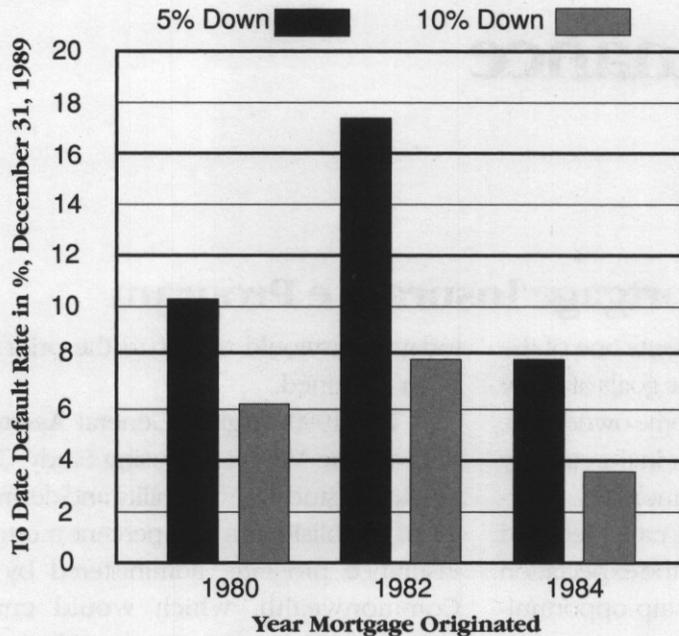
The 1990 Virginia General Assembly directed the Virginia Housing Study Commission to study the feasibility and desirability of establishing a 100 percent mortgage insurance program, administered by the Commonwealth, which would enable consumers to obtain 100 percent mortgage financing. The need for lower down payment requirements or down payment assistance has been the subject of numerous studies in recent years. Mortgage lenders, however, are not likely to increase their risk of loss by accepting a lower equity commitment from the home purchaser, especially in the current housing market where real estate losses by financial institutions are not uncommon.

Current mortgage banking standards require home buyers to provide a minimum of 20 percent of the purchase price of the house as a down payment. During the last half of 1989, the average selling price of a house in the major real estate markets of the Commonwealth was \$121,015. A twenty percent down payment requirement for a home in Virginia, therefore, would have been approximately \$24,203. A twenty percent down payment requirement for a

Responding to a high default experience in the early 1980s, private mortgage lenders have tightened underwriting standards and increased down payment requirements.

Lynchburg residents Victor and Martha Gosnell and their children were the 100,000th Virginia family to receive a VHDA loan. Over 4,000 additional households have closed on VHDA loans since that 1989 milestone mortgage. The Commission recommended the establishment of VHDA in 1972.

Default Rates for Privately Insured Mortgage Loans



Source: Private Mortgage Insurance Industry

house in northern Virginia during the same period would have been \$35,471 based on an average northern Virginia home sales price during the last half of 1989 of \$177,355.

The need for financial assistance for households that cannot meet the twenty percent down payment requirement has led to the growth of the mortgage insurance industry during recent decades. Private mortgage insurance companies and certain federal government agencies provide insurance coverage on loans where home purchasers provide less than a twenty percent down payment. The financial institution, therefore, does not incur greater risk with a lower down payment from the purchaser if insurance coverage is provided for the decrease in purchaser equity. In transactions where private mortgage insurance companies provide insurance coverage for up to 95 percent of the purchase price of the house, eligible home loans may require only a five percent down payment.

Significantly increasing housing costs have also led to discussion of the possible need for mortgage insurance coverage for

greater than 95 percent of the selling price of a house. The Federal Housing Administration (FHA) provides up to 97 percent insurance coverage on certain home loans and the Veterans Administration (VA) provides up to 100 percent insurance coverage for loans. There are, however, significantly higher risks of loan default as down payment requirements decrease.

Available statistics indicate that low down payments increase risk of default on home loans. The recent performance of FHA and VA loan portfolios supports this position. In May 1989, the General Accounting Office published a report on FHA's Section 203(b) Program and found that during the period of 1980-1985, FHA loans with down payments of three percent had foreclosure rates well in excess of those with higher down payments. Between 1980 and 1985, FHA foreclosure rates on loans with five percent down payments exceeded ten percent for each year and foreclosure rates on loans with 3 percent down payments exceeded 13 percent during each year. A corresponding increase in foreclosure rates was experienced as down payments decreased. A default rate of 40 percent was experienced on loans with three percent down payments during the recession year of 1982.

Results from the VA Guaranteed Home Loan Program are also available. In July 1989, the General Accounting Office reported that during the period of 1981-1987, the VA's annual foreclosure loss increased from \$51 million to \$615 million and resulted primarily from loans that required no down payment. The default rate for loans with zero percent down payment was more than twice the default rate of loans with at least a five percent down payment.

Private mortgage insurance companies have also experienced greater losses with lower down payments. The Mortgage Guaranty Insurance Corporation compared foreclosure rates for five percent and ten percent down payments on conventional loans underwritten during 1982 and 1983.

For all income brackets, defaults on five percent down payment mortgages had foreclosure rates of at least 1.5 percent higher than ten percent down payment mortgages. In fact, the foreclosure rate for households with incomes of at least \$80,000 making a five percent down payment was higher than the rate for households with incomes under \$40,000 making ten percent down payments.

Private mortgage insurance companies are very selective in providing coverage and generally do not provide insurance for certain types of units such as condominiums and other multifamily facilities. In addition, private mortgage insurance is often not available in rural areas where comparable housing values are more difficult to determine.

Federal government mortgage insurance programs are also limited, with the VA primarily providing insurance to veterans, and the FHA currently insuring mortgages on homes up to a maximum selling price of \$105,500. As previously indicated, the average purchase price of a home in Virginia is over \$120,000. Furthermore, although mortgage insurance enables households to provide lower down payments and meet the initial financial requirements for purchasing a home, low down payments and mortgage insurance premiums often significantly increase monthly housing costs.

Most states, including those with severe housing affordability problems, have not implemented state mortgage insurance programs. Several states that have established such programs indicated that the gap between mortgage insurance needs and private and federal government mortgage insurance availability was the primary reason for providing a state program.

There are several reasons why states generally have not provided mortgage insurance programs. Moody's Investors Service believes that "most states will find it uneconomic to provide primary mortgage insurance" for the following reasons:

- States lack sufficient geographic diversification to stabilize potential losses in a particular region.
- Most state housing authorities do not have a sufficient volume of loans adequate to cover the expenses of a mortgage insurance program.
- Most states are not willing to commit a significant portion of state revenues to insurance loss reserves. Massachusetts and California have used \$5 million of their respective state housing finance agency funds to insure their loans. Maryland has invested over \$100 million in general fund revenues over twenty years to establish a statewide housing insurance fund. New Hampshire and Wisconsin studied the concept and decided not to capitalize insurance programs.
- Most states do not have sufficient assets to provide adequate catastrophic loss protection.
- States generally do not have strong incentives to pursue such high-risk programs.

Recommendation

The need for a state mortgage insurance program in Virginia may be indicated by the limitations on the availability of private, FHA, and VA mortgage insurance. However, given the issues of risk, the requisite large state sums for loans and loss reserves, the current and projected fiscal climate in the Commonwealth and nationally, and the dearth of new state funds available for housing programs, the Virginia Housing Study Commission recommends that the establishment of a 100 percent state mortgage insurance program is neither feasible nor desirable at this time. The Commission will, however, continue to monitor the availability of mortgage insurance, particularly in the rural and northern Virginia regions, and make such future recommendations as may be appropriate.

Private Activity Bonds

The Internal Revenue Code of 1986 generally excludes from gross income for federal income tax purposes the interest received by taxpayers on bonds issued by state and local governments to finance certain private sector projects. Such bonds are classified in federal statutes as "private activity bonds" and are used for such purposes as industrial development, housing development, mortgage finance assistance, student loans, and the development of facilities that have community or statewide benefit (such as hospitals, universities, and solid waste disposal facilities). Federal law limits the total dollar amount of private activity bonds that may be issued in each state in any calendar year and specifies the type of project that qualifies for such tax exempt financing. The Commonwealth has adopted legislation (set forth in §15.1-1399.14 of the *Code of Virginia*) to provide a system for allocating private activity bond authority to all eligible project types.

Virginia has benefited for many years from the availability of private activity bond financing. During calendar year 1989, the state's private activity bond limit was used to develop over 700 new multifamily residential units for low- and moderate-income households. The bonds were also issued to provide mortgage financing to an estimated 1,660 moderate-income households. The 1989 private activity bond limit was also used for numerous industrial development projects which in turn increased employment opportunities and enabled more Virginians to obtain housing without governmental assistance.

State private activity bond legislation was amended during the 1990 General Assembly session in response to revisions in federal private activity bond law (enacted under the Omnibus Budget Reconciliation Act of 1989). The state legislation was designed to establish an allocation system of private activity bond authority that would provide an equitable allocation of bond issuing authority and maximize the benefits

to the Commonwealth of such tax exempt financing in the event that Congress extended the September 30, 1990, sunset provision for single family housing and manufacturing facility uses. Congress did, in fact, extend until December 31, 1991, such sunset provisions as part of legislation passed in October 1990.

Recommendation

The Virginia Housing Study Commission recommends that the current state private activity bond allocation system be maintained. The system now in place will continue to provide effective allocation of private activity bond authority. In the event federal laws or regulations controlling private activity bonds are revised, affecting the Commonwealth's ability to issue bonds, state legislation authorizes the Governor to establish an interim allocation system through Executive Order.

Current state legislation provides 41 percent of the total state ceiling on private activity bonds for housing purposes (2,300 low- to moderate-income households served in 1989) and 41 percent for industrial development purposes (over 3,000 jobs created or retained in 1989). The remaining available bond authority is reserved for student loans (financing was available in 1989 to assist approximately 7,000 students) and projects of state and regional interest as determined by the Governor.

State legislation provides for the reallocation of any unused bond authority at the end of each calendar year to projects that require additional bond authority and to projects that are eligible to carry forward bond allocations to later years. Bond allocations set aside for either housing or industrial development purposes and not used by year end will be reallocated in accordance with state regulations to other project types, ensuring that the Commonwealth utilizes all of its private activity bond authority allowed under federal law.

VHDA Issuance of Taxable Bonds

The sunset date set forth in §36-55.37:1 of the *Code of Virginia* for the issuance of taxable bonds by the Virginia Housing Development Authority will expire July 1, 1991. In recent months, a number of applicants for the federal low-income housing tax credits have expressed interest in the possible financing of housing units with proceeds of taxable bonds issued by VHDA. (The Internal Revenue Code permits a higher amount of such credits for developments with taxable financing, and such higher credit amounts usually more than offset the benefits of tax-exempt financing.) Also, taxable bonds should con-

tinue to prove useful in supplementing tax-exempt multifamily bonds when the amount of such bonds, because of restrictions imposed by federal tax law, is not sufficient to finance all of the proposed developments.

Recommendation

Because of the continuing important role played by VHDA-issued taxable bonds in the development of affordable housing, the Virginia Housing Study Commission recommends amending §36-55.37:1 of the *Code* to extend the sunset date for the issuance of taxable bonds from July 1, 1991, to July 1, 1996.

VHDA Acquisition of Multifamily Developments

The sunset date set forth in §36-55.33:2 of the *Code of Virginia* for acquisition by the Virginia Housing Development Authority of multifamily developments will expire June 30, 1992. (In order for VHDA to enter into purchase contracts during 1991 for developments to be completed after June 30, 1992, it will be necessary to change the sunset date during the 1991 General Assembly Session.) The VHDA in recent months has received a number of inquiries from federal low-income housing tax credit applicants as to whether VHDA would be interested in acquiring the developments to be assisted by such credits. To date, VHDA has acquired two multifamily developments, one of which received such tax credits and serves persons and families at or below 60 percent of the median income. The other development acquired is financed with tax-exempt bonds and generally serves persons and families at or below 80 percent of the median income. As required by §36-55.34:1 of the *Code*, both developments were constructed and are managed by private firms. VHDA's acquisition of such housing developments fosters affordable housing where private developers are unwilling to own the

units given that rents generated do not justify the private developer's investment.

Recommendation

Because of the ongoing need for development of affordable housing and the role that subsequent acquisition of such developments by VHDA can play in promoting such housing, the Virginia Housing Study Commission recommends amending §36-55.33:2 of the *Code* to extend the sunset date for acquisition by VHDA of multifamily developments from June 30, 1992, to June 30, 1997.

VHDA Regulation of Multifamily Developments

During foreclosure proceedings on a Virginia Housing Development Authority-financed housing project in July, 1990, VHDA became aware of a technical problem of federal taxation law. When the loan was accelerated due to non-payment, the owner sought refinancing of the VHDA loan. However, if the loan were refinanced and prepaid, the development would remain subject to the low-income occupancy restrictions set forth in the federal tax code for a period of years after prepayment. Future non-compliance with such occupancy restrictions would cause the interest on the VHDA bonds to be taxable from the date of issuance.

Therefore, in order to assure that VHDA's bonds remain tax-exempt, the occupancy restrictions must continue to bind the owner and to run with the land and bind successors and assigns of the owner after any prepayment has been made and until the expiration of the time period (currently

15 years from initial occupancy) required by federal tax law. Current provisions in §36-55.33:1 of the *Code of Virginia* (the VHDA Act) authorize VHDA to supervise and regulate a development "at all times during which an HDA mortgage loan to such housing sponsor is outstanding." No such authorization is included in the VHDA Act for regulation and supervision after the mortgage loan is paid in full.

Recommendation

To ensure that VHDA bonds remain tax-exempt from date of issuance, the Virginia Housing Study Commission recommends amending the VHDA Act to clarify that (1) subsequent to payment of a VHDA mortgage loan, VHDA may supervise and regulate the development as necessary to preserve the tax exemption of Authority bonds, and (2) VHDA mortgage regulatory provisions run with the land and are binding on successors and assigns of the owner.

VHDA/DHCD Line of Credit Agreement

The Virginia Housing Development Authority in October 1990 agreed to provide a line of credit of up to \$38 million to permit the continuation of the programs of the Virginia Housing Partnership Revolving Fund during the 1991-92 biennium. Section

36-141 et seq. of the *Code of Virginia*, the act creating the Partnership Fund, does not authorize the Virginia Department of Housing and Community Development, on behalf of the Partnership Fund, to enter into such line of credit agreement.

Recommendation

To ensure the continuity of the Virginia Housing Partnership Revolving Loan Fund, the Virginia Housing Study Commission recommends enacting emergency legislation in the form of a new *Code* section — number 36-148.1, to be added to the *Code* section creating the Partnership Fund — to authorize DHCD, on behalf of the Fund, to enter into agreements with VHDA for funding of the Partnership Fund, to apply moneys of the Fund for repayment of such funding, and to pledge the assets of the Fund as security for repayment of such funding.

DHCD Director Neal J. Barber (left) and VHDA Executive Director John Ritchie, Jr., at the Commission 1990 legislative work session.



Taxation Initiatives

The Virginia Coalition for the Homeless in 1990 proposed to the Virginia Housing Study Commission two taxation-related initiatives designed to assist low-income households and, in turn, to reduce homelessness. The Coalition initiatives are: 1) an earned income tax credit program for households in which at least one member is a wage-earner, and 2) a circuit breaker property tax relief program for income-targeted households whose property taxes exceed a designated amount. The initiatives are outlined below.

Earned Income Tax Credit Program

The Coalition proposes a Virginia earned income tax credit program at 20 percent of the federal program of the same name. Program guidelines would require earned income, and only those very low- and low-income households that include a child living with at least one parent would be eligible.

Under the proposed program, a household would receive a fourteen-cent credit for each dollar earned up to an established amount based on poverty level. At such amount, the household would qualify for the maximum available program credit. The credit would remain at the maximum amount until earnings rose to the poverty level for a family of four. Once poverty level were attained, the credit would be phased out gradually, declining ten cents for each additional dollar earned. Because the household would transfer its federal tax credit amount to the Virginia income tax forms and calculate its Virginia credit accordingly, the program would prove a relatively simple one in which to participate as well as to administer.

Circuitbreaker Property Tax Relief Program

The Coalition also proposes a Virginia circuitbreaker property tax program in which very low- and low-income homeowners and tenants would receive relief from such taxes. The proposed program would work

in much the same way as an electric circuitbreaker. Just as an electric circuitbreaker shuts off electricity at a danger level, so also would the property tax circuitbreaker trigger when such taxes threatened to consume an excessive percentage of household income. The program would provide a credit, not to exceed a designated amount, to qualified homeowners. It would also provide a credit to tenants based on a percentage of rent treated as a property tax equivalent.

Some form of circuitbreaker property tax relief program is now operative in 31 states, with programs in 25 of the 31 jurisdictions covering tenants as well as homeowners.

Recommendation

The Virginia Housing Study Commission recognizes that large numbers of Virginia households are at risk of homelessness, and that often for such families there is only a fine financial line between a stable housing situation and homelessness. Accordingly, the Commission encourages further study and discussion of the above-described earned income tax credit and circuitbreaker property tax relief programs advocated by the Virginia Coalition for the Homeless.

A young resident of a Warren County emergency shelter with friend. The Commission's 1988 recommendation to establish a state-funded homelessness prevention program resulted in one of the first such programs in the country.



Housing Affordability Impact Statements



Lynchburg Covenant Fellowship Director Herb Moore and colleague review designs for affordable housing financed in part with allocations from the Virginia Housing Partnership Fund. It is possible that housing Affordability Impact Statements could assist in ensuring more affordable housing in the Commonwealth.

In recent years, there has been expressed increasing concern over the cost impact of statewide and local regulations on the purchase prices and rental rates of new single and multifamily housing. A 1990 suggestion presented for the consideration of the Virginia Housing Study Commission involves requiring local governments, prior to enacting certain regulations, to publish and evaluate a Housing Affordability Impact Statement pursuant to such action which would affect the cost of housing.

Such Impact Statement, it has been suggested, would help to ensure that the impact on housing affordability of proposed building industry related fees, ordinances, regulations, and other policies is known and considered prior to their adoption. The proposed statewide Housing Affordability Impact Statement would serve much the same purpose as the federally required Environmental Impact Statement, which

helps to identify and gauge the effects of various proposed projects on the environment.

It has been further suggested that the Commission consider the feasibility and desirability of recommending that any and all legislation introduced before the Virginia General Assembly be evaluated by the Division of Legislative Services to determine the fiscal impact, if any, such legislation would have on affordable housing. The results of Legislative Services' analysis could then be included in legislators' discussions of such bills, and their ultimate decisions as to bill disposition.

Recommendation

Because of the increasing costs associated with some statewide and/or local regulatory policies, the Virginia Housing Study Commission regards as a top priority the study of the feasibility and desirability of requiring statewide and/or local Housing Affordability Impact Statements prior to the passage of such regulations, fees, or other requirements which affect the cost of housing. The Commission will work closely with the private and public sectors as well as nonprofit organizations as it conducts its study, analyzes its findings, and deliberates on possible recommendations pursuant to this issue to be made to the 1992 Virginia General Assembly.

Virginia Housing Partnership Fund



Virginia Housing Partnership Fund loans helped make possible this new home under construction by People, Inc., near Damascus, Virginia. The home, built on land owned by the Barr family that now occupies it, replaces their aging trailer lacking adequate heat and water facilities.

Since 1987, Virginia has come to be recognized as a national leader in the arena of housing. State funding for housing increased from some \$400,000 in 1986-87 to over \$49 million in the 1988-90 biennium allocated to the landmark Virginia Housing Partnership Fund. That level of funding leveraged an additional \$141 million for affordable housing programs from the federal and local governments, foundations, the private sector, and nonprofit organizations.

The Partnership Fund was created by the 1988 Virginia General Assembly at the recommendation of the Virginia Housing Study Commission. Today, the Fund is at work throughout the Commonwealth in such programs as indoor plumbing, single and multifamily production and rehabilitation, homeownership assistance, migrant housing, emergency home repair, congregate housing, shelters for the homeless and homelessness prevention, and operative support to help fledgling nonprofits build their capacity to produce affordable housing.

The Fund as originally created was intended to be self-sustaining within ten to thirteen years if capitalized with an annual

appropriation of some \$20 million. In this biennium, however, the bulk of Partnership Fund revenues — \$38 million — was removed from the General Fund budget and included among those projects which would, given available revenues, be funded through Virginia Lottery proceeds.

Then, to address the state budgetary shortfall, those Lottery proceeds which would have been allocated to the Partnership Fund were allocated instead to other programs areas. In turn, VHDA agreed to issue to the Fund a line of credit so that Fund loan programs will not be curtailed or phased out during the biennium. (Certain grant programs which remained in the General Fund budget received percentage reductions in line with other state budget cuts. Emergency shelter programs were unaffected by cuts.) The VHDA Board of Commissioners has repeatedly stated that the line of credit should be considered an interim financing measure rather than permanent Fund capitalization.

Recommendation

The Virginia Housing Partnership Fund, by accounts received from across the Commonwealth, is a carefully crafted, well

managed, and highly effective stimulus for affordable housing in Virginia. Indeed, it is the major source of critical gap financing for such housing development.

Since July 1990, when it appeared that capitalization of the Fund was in jeopardy, the Housing Study Commission has heard from hundreds of housing advocates, most of whom are actively utilizing Partnership Fund dollars to leverage other monies for housing. These advocates have described the affordable housing momentum the Partnership Fund has helped to foster, and implored the Commission to ensure that the Fund is returned at full funding levels to the General Fund budget. Without the Partnership Fund, the housing programs it has stimulated likely would diminish significantly.

The Virginia Housing Study Commission recommends that the Virginia General Assembly return the Virginia Housing Partnership Fund to the General Fund budget as soon as is reasonably possible given fiscal realities. Commission staff will in 1991 take such reasonable measures and pursue such action — including but not limited to public information programs to apprise Virginia legislators of the accomplishment of the Fund in their respective legislative districts — as may be helpful to ensure that the Fund is returned to the General Fund budget.

Conclusion

As the Virginia Housing Study Commission begins its third decade, national fiscal constraints mirrored in the Commonwealth pose new challenges for housing advocates. Nationally and in Virginia, the housing industry is in recession; foreclosures and evictions are increasing, and with them the risk of homelessness; and a general economic downturn is requiring more households to use savings, initially designated for home ownership or rehabilitation, as a tool for maintaining the *status quo* or, more seriously, surviving financially.

Amidst the current economic climate, however, there are positive directions. For example, the recently passed federal housing legislation signals the possible intent of the federal government to return as a key participant in housing development; lower mortgage lending rates provide a window of opportunity for borrowers; the Virginia Housing Development Authority remains a vital institution and magnet for the infusion of national capital into the Commonwealth; the Virginia Housing Partnership Fund, a primary source of gap financing for afford-

able housing, remains largely intact through the 1991-92 biennium; and the private and public sectors and nonprofit organizations increasingly are establishing partnerships to foster exciting and innovative housing programs.

The Commission takes pride in its first twenty years of achievement, and recognizes that now — perhaps more than ever before — its advocacy and commitment are crucial in helping to meet the housing needs of the Commonwealth. The Commission is dedicated to continuing and expanding its activities, and to working ever more diligently to ensure safe, decent affordable housing for every Virginian.

*Alan Diamonstein and
Commission Director
Nancy M. Ambler, with
Commission members
James M. Scott and
James F. Almand, at the
Commission's final
1990 regional public
hearing in Richmond.*



Virginia Housing Study Commission 1990 Subcommittees

Preservation and Rural Housing

**The Honorable Lewis W. Parker, Jr.,
Chairman**

Virginia House of Delegates
South Hill, Virginia

The Honorable James F. Almand

Virginia House of Delegates
Arlington, Virginia

The Honorable Daniel W. Bird, Jr.

Virginia State Senate
Wytheville, Virginia

Mr. James M. Scott

Assistant Vice President
Inova Health Systems
Springfield, Virginia

Mr. David J. Brown

Executive Director
Preservation Alliance of Virginia
Charlottesville, Virginia

Mr. Janaka Casper

Executive Director
Virginia Mountain Housing, Inc.
Christiansburg, Virginia

Mr. Andrew C. Epps, III

Richmond, Virginia

Ms. Lou Ann Frederick

Executive Director
Arlington Housing Corporation
Arlington, Virginia

Mr. Richard C. Gentry

Executive Director
Richmond Redevelopment and
Housing Authority
Richmond, Virginia

Mr. Charles A. George

Manager of Planning and
Development
Virginia Water Project, Inc.
Roanoke, Virginia

Mr. Michael Hervey

Senior Planner
Department of Community
Development
City of Richmond
Richmond, Virginia

Mr. A. J. Johnson, Jr.

Executive Vice President
Beacon Construction Co.
Newport News, Virginia

Mr. John McCrimmon

President, Virginia Housing Coalition
Executive Director
Williamsburg-James City County
Community Action Agency
Williamsburg, Virginia

Ms. Maryann I. Ustick

Director
Department of Housing and
Community Development
City of Virginia Beach
Virginia Beach, Virginia

Land Use and Regulatory Issues

**The Honorable Clive L. DuVal 2d,
Chairman**

Virginia State Senate
Arlington, Virginia

The Honorable Clinton Miller

Virginia House of Delegates
Woodstock, Virginia

The Honorable Ford C. Quillen

Virginia House of Delegates
Gate City, Virginia

Mr. Richard J. November

President, Delami Corporation
Richmond, Virginia

Mr. James D. Campbell

Executive Director
Virginia Association of Counties
Richmond, Virginia

Mr. Ron Dunlap

Executive Director
Virginia Manufactured
Housing Association
Glen Allen, Virginia

John G. Dicks, III, Esq.

Mays & Valentine
Richmond, Virginia

Ms. Barbara Eubank

Executive Director
Virginia Apartment and
Management Association
Richmond, Virginia

Ms. Callie Gass

Program Manager
Northern Virginia Planning
District Commission
Annandale, Virginia

Mr. Gary Garczynski
Chairman and Chief Operating Officer
Long Signature Homes, Inc.
Woodbridge, Virginia

Mr. J. B. Hall, Jr.
Executive Vice President
Home Builders Association of Virginia
Richmond, Virginia

Ms. Michelene A. Hostetter
Director
Fauquier Housing Corporation
Warrenton, Virginia

Dr. Theodore Koebel
Director
Virginia Center for Housing Research
Blacksburg, Virginia

Mr. Larry Land
Intergovernmental Relations Coordinator
Virginia Association of Counties
Richmond, Virginia

Mr. Paul Miller
Director of Planning and Development
City of Newport News
Newport News, Virginia

Mr. Edward A. Ragland, Sr.
Caroline County Community Action, Inc.
Milford, Virginia

Mr. Lloyd A. Jones
State Director
Farmers Home Administration
Richmond, Virginia

Ms. Wilma C. Warren
Executive Director
Virginia Water Project, Inc.
Roanoke, Virginia

Mr. Wendell A. White
President
Professional Realty Corporation
Virginia Beach, Virginia

Mrs. Mary Ann E. G. Wilson, Ex Officio
Manager, Richmond Office
U. S. Department of Housing and
Urban Development
Richmond, Virginia

**For more information on the Virginia
Housing Study Commission, please contact:**

Nancy M. Ambler, Esquire
Director
Virginia Housing Study Commission
205 North Fourth Street
Richmond, Virginia 23219
(804) 225-3797

Affordable Housing Finance

**The Honorable Alan A. Diamonstein,
Chairman**

Virginia House of Delegates
Newport News, Virginia

The Honorable Stanley C. Walker

Virginia State Senate
Norfolk, Virginia

Mr. Wallace I. Allen

Vice President
Dominion Bank
Roanoke, Virginia

Mr. Ralph R. Allen

Senior Vice President
Newport News Savings Bank
Newport News, Virginia

Mr. Francis H. Fife

Charlottesville, Virginia

Mr. William L. Hawkins, Jr.

Executive Director
Newport News Redevelopment
and Housing Authority
Newport News, Virginia

Photography credits:

Nancy M. Ambler, pages 13,19
Taylor Dabney, pages 4, 8 (courtesy of VHDA), 15, 18, 23, 29, 36, 41
Henley & Savage (courtesy of VHDA), pages 16, 29, 30, 37, 38
Marcel D. J. Van Den Bos, page 39
Virginia Housing Development Authority, page 20
Virginia Manufactured Housing Association, page 25

Design: Publications, Ink.
Richmond, Virginia



Printed on recycled paper