
LEADERSHIP
for a
NEW CENTURY

Virginia Housing
Study Commission

1999 ANNUAL REPORT

*As a new century begins,
the Virginia Housing Study Commission
is well-positioned to continue to provide
knowledgeable, experienced, and objective leadership
in critical, complex, emerging issues of interest in the
Commonwealth and nationwide.*

VIRGINIA HOUSING STUDY COMMISSION

GENERAL ASSEMBLY OF VIRGINIA

The Honorable Alan A. Diamonstein

Chairman
Virginia House of Delegates
94th Legislative District
Newport News

The Honorable James F. Almand

Virginia House of Delegates
47th Legislative District
Arlington

The Honorable Franklin P. Hall

Virginia House of Delegates
69th Legislative District
Richmond

The Honorable William C. Mims

Virginia State Senate
33rd Legislative District
Leesburg

The Honorable Jackie T. Stump

Virginia House of Delegates
3rd Legislative District
Oakwood

The Honorable Stanley C. Walker

Virginia State Senate
6th Legislative District
Norfolk

The Honorable Donald L. Williams

Virginia House of Delegates
86th Legislative District
Norfolk

The Honorable Jane H. Woods

Virginia State Senate
34th Legislative District
Fairfax

GUBERNATORIAL APPOINTEES

Ms. Tracey S. DeBoissiere

Arlington

Mr. F. Gary Garczynski

Woodbridge

Mr. Walter J. Parker

Norfolk

EXECUTIVE DIRECTOR AND COUNSEL

Nancy M. Ambler, Esquire

Richmond

TABLE OF CONTENTS

INTRODUCTION	7
EXECUTIVE SUMMARY	11
HOUSE JOINT RESOLUTION 739: VIRGINIA RESIDENTIAL LANDLORD AND TENANT ACT	16
HOUSE BILL 1454: VIRGINIA MANUFACTURED HOME LOT RENTAL ACT	19
HOUSE JOINT RESOLUTION 744: COMMUNITY ASSOCIATIONS	20
HOUSE JOINT RESOLUTION 747: CARBON MONOXIDE SAFETY	26
HOUSE JOINT RESOLUTION 760: FINANCING FOR AFFORDABLE MULTIFAMILY HOUSING	33
VIRGINIA HOUSING PARTNERSHIP FUND	38
VIRGINIA HOUSING STUDY COMMISSION 1999 SUBCOMMITTEES	47

INTRODUCTION

BACKGROUND

Established by the 1970 Virginia General Assembly, the Virginia Housing Study 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.

The Commission is comprised of eleven members, including five members of the Virginia House of Delegates, three members of the Virginia State Senate, and three gubernatorial appointees. Delegate Alan A. Diamonstein of Newport News has served as the Commission’s Chairman since soon after its establishment.

The Commission has long been recognized as a forum for new ideas in housing and community development, and as a focal point for developing consensus for such ideas in the form of landmark statutory, regulatory, and non-governmental initiatives. Nationally, the Commission is the only such entity that works closely with the public and private sectors, nonprofit organizations, and private citizens to develop workable and sustainable responses to housing and community development challenges and advocates for the implementation of those initiatives. Commission recommendations have led to homeownership for thousands of Virginians, job creation and retention in localities large and small, enhanced fire safety and building code consumer protection, and neighborhood revitalization across the Commonwealth.

1971 - 1987

From 1971 throughout the early 1980s, the Commission introduced numerous legislation initiatives, 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:

- establishment of a state office of housing, now the Virginia Department of Housing and Community Development
- establishment of the Virginia Housing Development Authority
- passage of the Uniform Statewide Building Code, and establishment of the State Technical Review Board and local boards of building appeals
- passage of the Virginia Residential Landlord and Tenant Act
- passage of the Virginia Mobile Home Lot Rental Act
- promulgation of design standards to ensure accessibility by disabled persons to public buildings
- passage of numerous legislative initiatives to foster effective operation, management, and creativity of Virginia redevelopment and housing authorities
- passage of the Virginia Condominium Act
- passage of the Virginia Real Estate Cooperative Act
- passage of the Virginia Timeshare Act
- passage of legislation coordinating fire safety programs in Virginia.

The Commission has long been recognized as a forum for new ideas in housing and community development, and as a focal point for developing consensus for such ideas in the form of landmark statutory, regulatory, and non-governmental initiatives.

Following a period of dormancy, the Housing Study Commission was reactivated in 1987. That year, the Commission proposed the creation and capitalization of the landmark 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 for the 1989-90 biennium. Other successful 1987-88 recommendations include the establishment of a Virginia income tax voluntary contribution program for housing programs, the Virginia Housing Foundation (now the Virginia Community Development Corporation), and the annual Governor's Conference on Housing.

Commission recommendations embraced by the 1989 General Assembly include: a state low-income housing tax credit program; 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. In 1990, the General Assembly approved additional Commission initiatives, including: creation and capitalization of the landmark Indoor Plumbing Program; a tax credit program for landlords providing rent discounts to low-income elderly or disabled tenants; a legislative mandate 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 recommendations passed by the 1991 General Assembly include: amendments to the Virginia Fair Housing law to ensure that Virginia law is substantially equivalent to federal law; amendments to the Virginia Residential Landlord and Tenant Act reducing the exemption for single family rental housing from ten to four units held by owners of such property (and thereby ensuring that some sixty percent of such rental units in the state are covered by the Act); and establishment of a Virginia Manufactured Housing Licensing and Transaction Recovery Fund.

The 1992 General Assembly approved the following Commission recommendations: comprehensive consumer protection language in the Virginia Manufactured Home Lot Rental Act; a one-time right of redemption of tenancy prior to an action for eviction or unlawful detainer; expansion of the Virginia tax credit program fostering rent discounts to low-income elderly or disabled tenants; and restoration of the Virginia Housing Partnership Fund to the Virginia General Fund Budget.

In its 1993 Session, the General Assembly approved comprehensive Commission recommendations related to the operation and management of condominium, cooperative, and property owners' associations. The Assembly also approved the Commission's landmark legislation designed to assert the responsibility of localities to consider the affordable housing needs of a more broadly defined community, as well as its recommendations to extend the innovative state tax check-off for housing and rent reduction tax credit programs.

In 1994, the General Assembly approved these Commission recommendations in the area of homeless prevention: banning self-help evictions in the case of all residential leases, and allocating additional funding for the Virginia Homeless Intervention Program, originally a Commission initiative, to ensure service to additional households needing temporary assistance to prevent homelessness.

In the area of blighted housing, the Assembly approved Commission recommendations which authorize localities to: acquire and rehabilitate or clear individual properties which constitute "spot blight" in a community; require the issuance of certificates of compliance

with current building regulations after inspections of residential buildings, located in conservation and rehabilitation districts, where rental tenancy changes or rental property is sold; and control the growth of grass and weeds on vacant property as well as property on which buildings are located.

The 1994 General Assembly also approved the following Commission recommendations: authorization for all Virginia localities to develop affordable dwelling unit (ADU) ordinances; authorization for VHDA to issue adjustable rate mortgage loans; and legislation to ensure efficient and effective administration of the Manufactured Housing Licensing and Transaction Recovery Fund Law.

In its 1995 Session, the General Assembly approved two Commission recommendations relating to landlord-tenant law in Virginia. In response to requests by tenants seeking to make their neighborhoods more safe, the Commission initiated expedited eviction proceedings where a tenant has committed a non-remediable criminal or willful act which poses a threat to health or safety. In response to requests to help prevent eviction-related homelessness, the Commission initiated reform of Virginia removal bonds, fostering removal of eviction actions from general district to circuit court in cases not involving nonpayment of rent.

The 1995 General Assembly also approved the Commission's comprehensive package of legislation addressing blighted and deteriorated housing as follows.

- To address violations of the Virginia Uniform Statewide Building Code, the Commission clarified that every Virginia circuit court has jurisdiction to award injunctive relief in cases involving USBC violations. The Commission also recommended mandating that the local building department enforce Volume II (Building Maintenance Code) of the USBC where the department finds that there may be a violation of Volume II, Section 105 (Unsafe Buildings).
- To help localities combat the growing problem of drug gang-related graffiti, the Commission also initiated legislation fostering local government removal of graffiti from public or private structures.
- To assist localities in identifying and locating owners of blighted properties, the Commission initiated legislation which provides that the name and address of the owner of real property must be included in local land book records.
- To address concerns of localities that, by paying one year of delinquent taxes, owners may effectively preclude tax sale of such property indefinitely, the Commission initiated legislation authorizing localities to enter into a lien agreement with the owner of tax-delinquent property, prior to the date of a tax sale of such property by the locality, in which such owner agrees to pay all delinquent taxes, penalties, interest, and costs on same.
- To foster additional local revitalization efforts, the Commission initiated legislation which authorizes localities without redevelopment and housing authorities to engage in "experiments in housing," e.g., homesteading programs.

The Commission's 1995 study agenda and subsequent 1996 legislation focused on expansive soils, building code matters, and community land trusts. Its landmark legislation on soils and related building code issues set new standards in providing localities, the homebuilding industry, and homeowners a framework for addressing problem soils found statewide.

In 1996, the Commission addressed a spectrum of housing issues in a climate characterized, nationally and in the Commonwealth, by changes in the housing industry. The 1997 General Assembly approved the Commission's package of legislation relating to such issues as preservation of affordable housing subsidized under federal programs and with

Commission recommendations have led to homeownership for thousands of Virginians, job creation and retention in localities large and small, enhanced fire safety and building code consumer protection, and neighborhood revitalization across the Commonwealth.

subsidy contracts expiring; homeless children; common interest communities; and the composition of the state Board of Housing and Community Development.

The 1998 General Assembly approved legislation resulting from the Commission's 1997 focus on the following broad areas of study: strategies to foster installation of indoor plumbing; residential rental security deposit returns and interest rates; condemnation by public housing authorities; common interest community association issues; education and licensure issues relating to the multifamily residential housing industry; assisted living for the elderly; and allocations and production data for the Virginia Housing Partnership Fund.

In its 1999 Session, the General Assembly approved Commission legislative recommendations stemming from its three diverse and complex 1998 study issues: fire sprinkler systems in multifamily residential buildings; establishment of an entity to foster the preservation of affordable housing; and affordable assisted living options for Virginia's elderly residents. (The Commission issued some forty recommendations alone following its two-year comprehensive study of affordable assisted living options.)

1999 WORK PROGRAM

The 1999 General Assembly also requested the Commission's leadership and involvement in eleven new legislative studies. In four studies, the Commission served as lead agency, in two studies it served as co-lead agency, and in five other studies it served as an actively participating agency. Indeed, the Commission's 1999 agenda was its most ambitious to date. After reviewing public comment, issue papers, and Subcommittee recommendations, the Commission reached unanimous consensus on the recommendations published in this report. Recommendations reported are those pursuant to studies for which the Commission served as lead agency or co-lead agency.

In addition to legislative and study activities, the Commission responded to hundreds of inquiries regarding housing and community development policy, finance, and regulatory issues. Its Executive Director met regularly with board members and key staff of the Virginia field offices of the U. S. Department of Housing and Urban Development and the U. S. Department of Agriculture/Rural Development, Department of Housing and Community Development, Virginia Housing Development Authority, Virginia Community Development Corporation, Virginia Interagency Action Council for the Homeless, and Virginia Housing Coalition, as well as housing advocates, government officials, and industry representatives from around the Commonwealth. The Director also played an active role in the national housing and community development arena, serving as a member of the Board of Directors of the National Housing Conference; as Chair of the American Bar Association Forum on Affordable Housing and Community Development Law/Committee on State and Local Programs; and as a representative to the ABA Commission on Homelessness and Poverty.

The Virginia Housing Study Commission and its Executive Director gratefully acknowledge the collegiality, assistance, and support of Ms. Susan F. Dewey, Executive Director, Virginia Housing Development Authority, and Mr. William C. Shelton, Director, Virginia Department of Housing and Community Development, as the Commission, the Authority, and the Department worked in partnership in 1999. The Commission and its Executive Director also gratefully acknowledge the invaluable assistance of members of the Commission 1999 Subcommittees in framing study issues, deliberating their merits, and crafting proposed recommendations for the consideration of the Commission.

EXECUTIVE SUMMARY

Following is a brief summary of Virginia Housing Study Commission unanimous recommendations to the Governor and the 2000 General Assembly of Virginia.

House Joint Resolution 739 requests the Virginia Housing Study Commission to study the Virginia Residential Landlord and Tenant Act (VRLTA) for the purpose of clarifying existing law. In its 25-year history, the VRLTA has been amended more than one hundred times, with resulting inconsistencies in terminology, outdated uses of language, and sections/subsections that do not follow previous sections/subsections technically or logically. The Commission unanimously recommends comprehensive VRLTA amendments which would reorganize the Act in a more logical and technically accurate format, more clearly identify defined terms used throughout the Act, and clarify and update VRLTA provisions. Proposed language includes amendments to sections/subsections of the Act relating to: definitions, notice, terms and conditions of the rental agreement, confidentiality of tenant records, access of tenants to cable, satellite, and other television facilities, security deposits, rules and regulations, emergency repairs of the premises, and waiver of landlord's right to terminate the rental agreement.

House Bill 1454 requests the Commission to review the issue of security deposits as it relates to the automatic renewal of a manufactured home lot rental agreement under the Virginia Manufactured Home Lot Rental Act (VMHLRA). The Act was amended in 1999 to provide that, in the event of an automatic rental agreement renewal, the security deposit initially furnished by the tenant shall not be increased by the park owner nor shall an additional security deposit be required. The Commission unanimously recommends amending the VMHLRA to clarify that: a park owner may not demand or receive security, however denominated, in the amount in excess of two months' periodic rent and, further, where such periodic rent is increased, the park owner may require an increase in the amount of the security deposit so long as such increase, together with the initial deposit, is not in excess of two months' periodic rent as reflected in such increased rental rate.

House Joint Resolution 744 requests the Commission to study the provisions of certain municipal services to homeowners by their common interest community associations and the localities in which such associations are located. The Resolution notes that owners of property in common interest communities (which are the fastest growing segment of the national housing market) pay real property taxes as well as assessments for services provided by these communities, while such services may be provided by localities to taxpayers not residing in such communities at no cost other than the payment of local real estate taxes.

The Commission Subcommittee addressing HJR 744 discussed at length the tremendous diversity, not only in number of homeowners but also in services provided, among community associations in the Commonwealth. (Associations range from two units to planned unit communities with up to 60,000 residents, where services provided may include road maintenance, snow and trash removal, street lighting and cleaning, security patrols, extensive landscaping and playing fields, and stormwater management, including ponds and lakes.)

The Subcommittee acknowledged the dramatic increase in numbers of residential developments governed and managed by community associations and also discussed at length the reasons for such increase. In part, the increase is related to consumer demand for more and better amenities, particularly community green space. Therefore, while such development is market-driven, localities also are increasingly requiring developers to provide such open space, together with such cost-intensive infrastructure as roads and stormwater

The 1999 General Assembly requested the Commission's leadership and involvement in eleven new legislative studies. Indeed, the Commission's 1999 agenda was its most ambitious to date.

management systems, as part of their residential development. Maintenance responsibility for such infrastructure is then passed on to homeowners' associations by the developers, who are increasingly required under proffers contracts with local governments to provide for such maintenance. Subcommittee members discussed these issues in the context of ever-expanding challenges facing local governments: provision of infrastructure and services to a growing population despite reduced sources of revenues.

Although Subcommittee members discussed whether a state income tax credit or deduction should be made available to homeowners living in associations in recognition of the expenses they pay for provision of services typically provided by localities, no comprehensive solution emerged and the Subcommittee did not forward a recommendation to the Commission. While Subcommittee members representing community associations supported the concept of such a credit or deduction, local government representatives were strongly opposed on public policy grounds, pointing out that budgetary alignment of resource and expenditure line items could create a precedent that could effect funding for public education, public roads, and other publicly-funded services. Local government representatives also expressed concerns regarding the development, quantification, uniform application, and enforcement of standards for costs and levels of services provided by associations.

Subcommittee members did, however, unanimously make two recommendations which were in turn unanimously adopted by the Commission.

- In response to concerns that certain associations may misuse charges assessed under the Property Owners' Association Act against a member for violating the association declaration or rules and regulations, the Commission requests that the Virginia Real Estate Board consider imposing a time cap on such charges. (The cap recommended could be the date action on point is initiated in a court of law by a homeowner who has been assessed such charges by an association.)
- In response to concerns that inadequate notice is provided to buyers of homes located in property owners associations not only that a home is located in such an association but also of monthly/annual charges assessed by such associations against homeowner members, the Commission requests that the Virginia Real Estate Board consider the development of a one-page form, to accompany the association disclosure packet in the homebuying process, which would include the salient features of the packet.

House Joint Resolution 747 requests the Virginia Housing Study Commission and the Virginia Department of Housing and Community Development (DHCD) to study whether changes relating to carbon monoxide (CO) poisoning and life safety matters should be made to the Virginia Uniform Statewide Building Code to reflect more closely National Fire Protection Association (NFPA) Code provisions addressing chimneys, fireplaces, vents, and solid fuel burning appliances. In addition, the Resolution requests the Commission and the Department to study the need for certification of those who inspect and repair chimneys, fireplaces, and vents for the same.

Carbon monoxide is a colorless, odorless, poisonous gas resulting from incomplete combustion of such fuels as natural or propane gas, oil, wood, and coal. While heating systems and certain gas-fueled appliances are designed to vent CO into the outside atmosphere where it disperses harmlessly, problems may occur where the system or appliance is installed incorrectly, is blocked or deteriorated, or has inadequate draft or ventilation. Although initial CO poisoning symptoms (e.g., headache, dizziness, nausea, fatigue, difficulty concentrating) may mimic such common illnesses as colds or influenza, these early warnings soon give way to loss of consciousness, coma, and death.

A 1998 report from the Consumer Product Safety Commission states that, nationally, an average of 220 persons died from nonintentional, non-fire CO poisoning. The report also states that, nationally, from 1993 to 1997, an average of 10,700 persons were treated annually in hospital emergency rooms for non-fire, non-fatal CO poisonings not involving automobile exhaust. In a survey conducted by the Virginia State Fire Marshal in conjunction with HJR 747, fifteen rural fire departments reported that about one percent of their 1996-1998 responses were CO-related. The Newport News Fire Department reported that about 1.6 percent of its responses for that time period were CO-related. The vast majority of all responses involved single or two-family housing units as opposed to multifamily dwellings, and some 70 percent of rural responses involved homes ten to 25 years old.

Where inadequate exterior venting of heating systems and certain appliances occurs, CO may vent into an interior space, with potentially deadly results, rather than harmlessly outside. Potential venting problems include:

- chimneys partially or completely blocked by bricks or mortar falling within the deteriorated chimney structure
- chimneys partially or completely blocked by creosote or soot build-up
- chimneys partially or completely blocked by debris, such as leaves or nests of birds or animals
- chimneys or vents improperly sized, with resultant inadequate draft
- venting systems improperly installed
- inadequate clearance between the appliance or venting system and
- combustible materials (a problem sometimes masked by enclosing walls).

While the Consumer Product Safety Commission suggests that the increase in CO-related deaths and poisonings may stem from increased public recognition of CO poisoning symptoms, some Virginia certified chimney safety professionals suggest that the increase may result from other factors, as well, including:

- installation of high efficiency replacement appliances in systems designed for lower efficiency units (with resulting acidic condensate within the chimney which accelerates the deterioration of the chimney system)
- possible inadequate inspections of the chimney/venting systems prior to installation of replacement appliances to determine if that system can adequately meet ventilation demands or if there is an adequate supply of air to the combustion area.

The Commission HJR 747 Subcommittee unanimously agreed on recommendations in two areas: public awareness, including continuation of the HJR 747 study in 2000 with a final report to be submitted to the Governor and 2001 General Assembly, and mandatory state certification of chimney safety professionals. The Commission in turn unanimously adopted such recommendations. In two other areas, a majority of Subcommittee members recommended delaying recommendations pending widely anticipated amendments to NFPA Code 211 (chimney inspection standards) and possible amendments to the national model building code (CO detectors). (The Subcommittee noted, however, and the Commission subsequently acknowledged, that the issue of chimney inspection standards should be revisited in a timely manner following the anticipated January 14, 2000, approval and issuance of NFPA 211 proposed amendments relating to the same.) In two final discussion areas (chimney inspections and USBC amendments), the Subcommittee was in agreement as to the importance of obtaining additional information on the magnitude of carbon monoxide-related poisonings and deaths in the Commonwealth.

House Joint Resolution 760 requests the Virginia Housing Study Commission to study the most efficient and advantageous method of and structure for the establishment of an entity to foster the preservation of affordable housing, and to proceed with the

The Commission unanimously recommends that up to \$20 million in new funds be appropriated in each year of the new biennium to support the activities of the Virginia Housing Partnership Fund. In addition, the Commission unanimously recommends that up to \$5 million in additional funds be appropriated annually in each year of the new biennium to foster the provision of indoor plumbing in housing across the Commonwealth.

establishment of such an entity. Although the Commonwealth and the nation as a whole are enjoying unparalleled prosperity, the blessings of such abundance are not, for the most part, being shared among Virginia's lower income tenants. Higher incomes and low levels of unemployment have translated in the past decade into steadily increasing rents and fewer available rental units that are safe, sound, and affordable. This trend is compounded by the fact that more than 13,000 units will likely be lost from the Virginia affordable rental housing inventory as property owners opt out of federally assisted housing programs.

Since 1997, members of the Commission and its Executive Director have engaged in informal meetings with representatives of the private, public, and nonprofit sectors to discuss strategies to foster the preservation of affordable housing in the Commonwealth. Such meetings were formalized pursuant to HJR 208 (1998), the predecessor study to HJR 760, which requested the Commission to study the feasibility of establishing a foundation or nonprofit corporation to preserve affordable housing.

The Commission unanimously recommends the establishment of a new entity structured as a 501(c)(3) nonprofit organization to be certified by the U.S. Treasury as a Community Development Financial Institution (CDFI). The Board of Directors will include the executive directors of the Virginia Housing Development Authority (VHDA), DHCD, and the Commission, as well as representatives of investors and housing advocates. All staff functions of the entity, including those of an executive director, as well as loan underwriting and servicing, and payment of principal and interest to investors, will be performed by VHDA staff on a fee basis, as needed. Initial investments by financial institutions are projected at \$30 million annually, with loans expected to be second mortgages for affordable housing preservation projects, with VHDA lending project funds for the first mortgage. A goal of July 1, 2000, was set for the new entity to be operational.

The 1999 Virginia Appropriations Act requests DHCD and the Commission, with assistance from VHDA, to study and report on the impact of the **Virginia Housing Partnership Fund** in the Commonwealth. Recommended by the Commission in 1987 and created and capitalized by the 1988 General Assembly, the Partnership Fund was designed to complement existing local, state, and federal housing opportunities for lower income Virginians.

Administered by DHCD and VHDA, the Fund was designed to accomplish this goal, according to statute, by "preserving existing housing units, producing new housing units, and assisting persons with special needs to obtain adequate housing." The Fund targeted homeownership opportunities for those at or below 80 percent of area median income and rental opportunities for those at or below 50 percent of area median – namely, those households VHDA programs could not necessarily target because of its fiduciary obligations to its bondholders. The Partnership Fund was initially capitalized at about \$20 million annually with a goal of self-sufficiency in ten years if allocations of \$20 million were allocated each year during that time frame.

Although the Partnership Fund was an umbrella for up to nine specific housing programs during parts of the past decade, in recent years the General Assembly has appropriated funds specifically to several of those program components, effectively establishing them as categorical activities distinct from the loan activities associated with the Virginia Housing Partnership Revolving Loan Fund. Federal funds have also provided a large share of support to such state housing programs as indoor plumbing and weatherization, and certain programs addressing homelessness.

The study focused specifically on the loan activities associated with the revolving loan fund (which fund has received no new state appropriations during the past two biennia) and their relationship to the original mission of the Fund. In assessing the performance of the

Fund, four key features that were its hallmarks as originally conceived were examined:

- flexibility
- strategic investing and leveraging
- local partnerships
- long-term support for affordable housing.

Study findings are comprehensive. In the area of flexibility, the Fund has assisted in financing a wide range of housing projects, serving a variety of households (two-parent and single parent, single persons, the elderly, and those with special needs) with incomes well below prevailing medians in more than 110 Virginia localities.

In the area of strategic investment and leveraging, study loan samples indicate that each single family loan dollar leverages an additional \$5.67; each multifamily loan dollar leverages an additional \$4.68. Fund monies also have leveraged other benefits for Virginia communities in which they are invested, including: revitalization, enhanced real property, income, and sales tax bases, efficiently utilized infrastructure, and sales of various products as residents equip and furnish their homes and gardens. Fund single family loan foreclosures stand at virtually zero; multifamily loan foreclosures stand at less than one percent.

In the area of local partnerships, reciprocal relationships have been a hallmark of the Fund. In single family investments, 33 different sponsors accounted for 360 sample units; 81 sponsors accounted for 157 multifamily projects.

In the area of long-term support for housing, the study noted that, while Virginians are better housed than at any time in the history of the Commonwealth, housing needs, including the following, continue to challenge the capacity of conventional financing mechanisms: homeownership opportunities, indoor plumbing (in homes occupied by very low income, often rural, households), housing for the disabled and the elderly, and affordable rental housing.

Based on the study and the Partnership Fund Subcommittee unanimous recommendations, the Commission in turn unanimously recommends that up to \$20 million in new funds be appropriated in each year of the new biennium to support the activities of the Virginia Housing Partnership Fund. In addition, the Commission unanimously recommends that up to \$5 million in additional funds be appropriated annually in each year of the new biennium to foster the provision of indoor plumbing in housing across the Commonwealth.

In its 25-year history, the VRLTA has been amended more than one hundred times. The Commission recommendations would reorganize the Act, more clearly identify its defined terms, and clarify and update VRLTA provisions.

HOUSE JOINT RESOLUTION 739: VIRGINIA RESIDENTIAL LANDLORD AND TENANT ACT

ISSUE

House Joint Resolution 739 (1999) requests the Virginia Housing Study Commission to study the Virginia Residential Landlord and Tenant Act (VRLTA) for the purpose of clarifying existing law. The Resolution also requests the Commission to examine other provisions of the *Code of Virginia* affecting the VRLTA to determine necessary VRLTA revisions. The Commission Chairman appointed Commission member Delegate James F. Almand, chief patron of the legislation, to chair the HJR 739 Subcommittee, which was comprised of attorneys and others representing landlords and tenants.

BACKGROUND

Enacted by the General Assembly of Virginia in 1974, the VRLTA is the primary body of law governing the relationship between landlords and tenants. By statute, the purposes of the VRLTA are to:

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

In its 25-year history, the VRLTA has been amended more than one hundred times. These multiple amendments have resulted in certain inconsistencies in terminology, outdated uses of language, and sections/subsections that do not follow previous sections/subsections technically or logically. (The VRLTA sections have never been renumbered.) In turn, confusion may result on the part of landlords and tenants alike. Further, because residential landlord and tenant cases tend to be litigated in general district courts (which are not courts of record) and because such cases generally are not appealed, there is little judicial interpretation of the VRLTA to provide additional guidance to landlords, tenants, attorneys, and members of the judiciary.

RECOMMENDATIONS

The Virginia Housing Study Commission unanimously adopted the recommendations of its HJR 739 Subcommittee and recommends comprehensive VRLTA amendments, which recommendations would:

- reorganize the Act in a more logical and technically accurate format
- more clearly identify defined terms used throughout the Act
- clarify and update VRLTA provisions.

While the amendments proposed by the Commission are primarily clarifications of existing law and self-explanatory, rationales for those proposed amendments which may require explanation follow.

Section 55-248.4 (Applicability of chapter)

The proposed amendment moves existing Section 55-248.10 verbatim from the conclusion to the beginning of Article 1 (General Provisions) so that references to statutory applicability precede statutory exemptions for such applicability.

Section 55-248.4 (Definitions)

The proposed amendment, which clarifies that “application fee means any deposit of money, however denominated, including all money intended to be used as a security deposit under a rental agreement,” reflects the realities of today’s marketplace, in which, when prospective tenants apply for rental housing, they believe they are paying (and landlords often believe they are collecting) application fees and security deposits. This change is intended to clarify the intent of the law such that any money or property paid by the tenant to the landlord at the time of application for a rental unit is an application fee and subject to the provisions of Section 55-248.6:1 (Application fees).

The proposed amendments, which define “managing agent” and clarify that “landlord” means “managing agent,” also reflect the realities of today’s marketplace, in which property owners frequently retain professional property management services to manage their rental properties. The proposed definition confirms that such agent must fulfill the landlord’s obligations under the rental agreement and has standing to enforce the landlord’s rights under the same.

Section 55-248.6 (Notice)

The proposed amendment, in allowing for a certificate of service to serve as a sufficient proof of mailing, codifies current common practice.

Section 55-248.7 (Terms and conditions of rental agreement)

The proposed new subsection (G) provides that a change in the terms and conditions of a rental agreement cannot be unilateral unless i) notice of the change is given in accordance with the terms of the rental agreement or as otherwise provided by law and ii) both parties consent in writing to the change.

Section 55-248.9:1 (Confidentiality of tenant records)

Landlords reportedly are often requested to provide tenant information to attorneys representing parties in litigation, police officers without subpoenas, or others. The proposed amendment clarifies that tenant information provided to landlords is deemed confidential and that it will be made available only with tenant’s written permission or service upon the landlord of a subpoena for the production of records. An emergency provision is included.

Section 55-248.10:1 (Landlord and tenant remedies for abuse of access)

The proposed amendment moves this section verbatim from Article 5 (Landlord Remedies) to the more appropriate Article 1 (General Provisions).

Section 55-248.13:2 (Access of tenant to cable, satellite, and other television facilities)

The proposed amendment reflects dicta included in the 1995 appellate decision in *Multi-Channel TV Cable Co. d/b/a Adelphia Cable Communications v. Charlottesville Quality Cable Corp, et al.*, 65 F.3d 1113 (4th Cir. 1995). The proposed language clarifies that any consideration paid to the landlord for granting a television provider access to the landlord’s property should be reasonably related to the value of the property and those services rendered by the landlord to the television provider.

Section 55-248.13:3 (Notice to tenants for pesticide use)

The proposed amendment moves this section verbatim from Article 4 (Tenant Remedies) to Article 2 (Landlord Obligations).

Section 55-248.15:1 (Security deposits)

The proposed amendment moves this section from the beginning to the conclusion of Article 2 (Landlord Obligations) because most of the provisions apply following termination of tenancy. Subsection (B)(1) clarifies a 1999 amendment enacted to provide that the security deposit shall accrue interest at an annual rate equal to one percentage point below the Federal Reserve Board discount rate as of January 1 of each year.

Section 55-248.17 (Rules and regulations)

The proposed amendments preserve the intent of the statute by clarifying that a rule or regulation relating to the rental agreement is not enforceable until the landlord has provided the tenant notice of the same.

Section 55-248.21:1 (Early termination of rental agreement by military personnel)

The proposed amendment substitutes the term “tenant’s obligations” for the term “rights” because the statute speaks to the “tenant’s obligations” to maintain the dwelling unit but does not speak to the “rights” of either the tenant or the landlord.

Section 55-248.32 (Remedy by repair, etc.; emergencies)

The proposed amendment is based on the premise that the landlord should have the right, given that he or she has the responsibility, to address an emergency situation relating to the dwelling unit immediately. Accordingly, the proposed language would provide that, in the case of an emergency materially affecting health and safety due to a violation by the tenant, the landlord may, as promptly as conditions require, enter the premises, cause the work to be done in a workmanlike manner, and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date when periodic rent is due, or if the rental agreement has been terminated, for immediate payment.

Section 55-248.34 (Waiver of landlord’s right to terminate)

The proposed amendment clarifies that, unless the landlord accepts rent with reservation, and gives a written notice to the tenant of such acceptance, acceptance of periodic rent payments with knowledge “in fact” of the tenant’s material noncompliance “shall constitute” a waiver of the landlord’s right to terminate the rental agreement. The amendment is proposed in response to reported differing interpretations as to the definition of “knowledge.”¹

¹The Virginia Housing Study Commission and its Executive Director gratefully acknowledge the assistance of B. Grimes Creasy, Esquire, Johnson, Ayers & Matthews; Thomas J. Dillon, III, Esquire, Hirschler, Fleischer, Weinberg, Cox & Allen; Ms. Barbara R. Eubank, Executive Director, Virginia Apartment and Management Association; and Maria J.K. Everett, Attorney at Law, Virginia Division of Legislative Services, in its study relating to House Joint Resolution 739 and House Bill 1454 (page 17).

HOUSE BILL 1454: VIRGINIA MANUFACTURED HOME LOT RENTAL ACT

ISSUE

House Bill 1454 (1999) amended *Code of Virginia* Section 55-248.42:1 (Term of Rental Agreement; Renewal) of the Virginia Manufactured Home Lot Rental Act (VMHLRA) to provide that, “in the event of an automatic renewal of a rental agreement involving a year-round resident, the security deposit initially furnished by the tenant shall not be increased by the park owner nor shall an additional security deposit be required.” The bill also provided “that the Virginia Housing Study Commission shall review the issue of security deposits as it relates to the automatic renewal of a manufactured home lot rental agreement.” The Commission Chairman requested that the Commission 1999 Subcommittee addressing House Joint Resolution 739 (Virginia Residential Landlord and Tenant Act) also address HB 1454.

BACKGROUND

Section 55-248.42:1 of the VMHLRA currently provides that, for all year-round residents, upon the expiration of a rental agreement, such agreement shall automatically be renewed for a term of one year with the same terms unless the park owner provides 60 days written notice to the tenant of any change in terms. As noted, the Section was amended in 1999 to provide that, in the event of such automatic rental agreement renewal, the security deposit initially furnished by the tenant shall not be increased by the park owner nor shall an additional security deposit be required.

The VMHLRA also addresses the terms and conditions of security deposits the park owner may require. Section 55-248.48 (Other Provisions of Law Applicable) of the VMHLRA sets forth sections of the Virginia Residential Landlord and Tenant Act (VRLTA) – including Section 55-248.11 (Security Deposits) – which shall, insofar as they are not inconsistent with the VMHLRA, apply to the latter. Section 55-248.11 of the VRLTA provides that “a landlord may not demand or receive security, however denominated, in the amount or value in excess of two months’ periodic rent.” That Section also sets forth guidelines for interest to be paid on security deposits as well as for their return to tenants at the close of tenancy.

RECOMMENDATION

The Virginia Housing Study Commission unanimously adopted the recommendation of its HB 1454 Subcommittee, which recommendation would clarify the VMHLRA by adding a section which provides that VRLTA Section 55-248.11 (Security Deposits) shall govern the terms and conditions of security deposits for rental agreements under the VMHLRA except as limited by the language set forth in Section 55-248.42:1 (Term of Rental Agreement; Renewal) and recited above. In sum, such amendment would have the effect of providing that:

- A park owner may not demand or receive security, however denominated, in the amount or value in excess of two months’ periodic rent.
- In the event of an automatic renewal of a rental agreement involving a year-round resident, the security deposit initially furnished by the tenant shall not be increased by the park owner where the periodic rent is not increased.
- Where such periodic rent is increased, the park owner may require an increase in the amount of the security deposit so long as such increase, together with the initial deposit, is not in excess of two months’ periodic rent as reflected in such increased rental rate.

Commission members acknowledged the dramatic increase in numbers of residential developments governed and managed by community associations (nationwide, from 36,000 in 1980 to 205,000 in 1998). In part, the increase is related to consumer demand for more and better amenities, particularly community green space. In addition, however, localities are increasingly requiring developers to provide such open space, together with other traditionally municipality-provided, cost-intensive infrastructure such as roads and stormwater management systems, as part of their residential development. Maintenance responsibility for such infrastructure is then passed on to the homeowners' association.

HOUSE JOINT RESOLUTION 744: COMMUNITY ASSOCIATIONS

ISSUE

House Joint Resolution 744 requests the Virginia Housing Study Commission to study the provisions of certain municipal services to homeowners by their common interest community associations and the localities in which such associations are located. The Commission Chairman appointed Delegate Franklin P. Hall, a Commission member who also co-chairs the House of Delegates Committee on Counties, Cities and Towns, to chair the Commission Subcommittee addressing HJR 744. Subcommittee members included local government officials and representatives of common interest communities. Representatives of the Virginia Association of Realtors and the Home Builders Association of Virginia also attended meetings.

House Joint Resolution 744 notes that such associations, which are the fastest growing segment of the housing market in the nation, have been established and operating in the Commonwealth to serve and administer condominiums and cooperatives as well as townhouses and single family housing in subdivisions governed by homeowners' or property owners' associations. The Resolution also notes that community associations function as quasi-governmental bodies providing such services to their members as snow and trash removal, landscaping, and recreational facilities which are traditionally provided by local governments. In addition, the Resolution sets forth the crux of the study issue: that owners of property in common interest communities pay real property taxes as well as assessments for services provided by these communities, while such services may be provided by localities to taxpayers not residing in such communities at no cost other than the payment of local real estate taxes.

BACKGROUND

At the first meeting of the Commission Subcommittee, a representative of community associations provided an overview of such associations, including types, characteristics and functions of associations; an historical overview of associations; a profile of association homeowners; and trends and expectations relating to associations. Subcommittee members also reviewed an issue paper setting forth suggested study premises, distinctions between community association ownership and the more traditional form of single family residential property ownership, legal issues, and issues for discussion. Subcommittee members clarified that the study should focus only on issues relating to those associations in which membership is mandatory. In addition, in preparation for the next meeting, members reframed and agreed upon key issues for consideration.

At its second meeting, Subcommittee members received a report from local government representatives on local government revenue and expenditure trends. Members also received a summary from community association representatives of findings derived from their survey of Virginia localities relating to community associations. In addition, members received a report from association representatives profiling statutory relief provided association homeowners in other jurisdictions. Finally, the Subcommittee addressed the following queries:

- What types and numbers of community associations exist in Virginia today? What is the range of services provided by such associations?
- What factors have contributed to the growth in the number of such associations?
- Are there certain services that most such associations provide? For example, what percentage of such associations in Virginia provide private roads?

- Do community associations provide the same services and the same level of such services to association homeowners as those services and level of such services provided by local governments to homeowners not living in associations?
- Do local governments provide the same services and the same level of services to all taxpayers (i.e., residential, commercial) within their jurisdictions?
- Are homeowners living in community associations being assessed for tax purposes by their localities in the same way as homeowners not living in such associations?
- Do localities deny services to homeowners living in community associations if such services are provided to homeowners not living in such associations?
Do localities have the legal authority for such denial of services?

Subcommittee members discussed at length the tremendous diversity, not only in number of homeowners but also in services provided, among community associations in the Commonwealth. Associations range in size from a two-unit condominium to less than a dozen members (whose assessments may cover such relatively minimal expenditures as association entry sign maintenance) to planned unit communities with up to 60,000 residents (where services provided may include road maintenance, snow and trash removal, street lighting and cleaning, security patrols, extensive landscaping and playing fields, and stormwater management, including ponds and lakes). According to a recent survey of associations by the Community Associations Institute, a national trade association, associations provide the following services: 77 percent – snow removal; 64 percent – garbage collection; 54 percent – street cleaning; 53 percent – street lighting; 12 percent – security patrols.

Subcommittee members acknowledged the dramatic increase in numbers of residential developments governed and managed by community associations (nationwide, from 36,000 in 1980 to 205,000 in 1998) and discussed at length the reasons for such increase in association developments. In part, the increase is related to consumer demand for more and better amenities, particularly community green space (some open and undeveloped, some used as recreational facilities). Thus, such development is market-driven in that developers build to meet consumer demand. In addition, however, localities are increasingly requiring developers to provide such open space, together with other traditionally municipality-provided, cost-intensive infrastructure such as roads and stormwater management systems, as part of their residential development. Maintenance responsibility for such infrastructure is then passed on to the homeowners' association (i.e., the homeowners themselves) by the developer, who is increasingly required under proffers contracts with the local governing jurisdiction (which contracts are recorded together with the association declaration) to provide for such maintenance. Ironically, because property values of homes served by associations tend to remain more stable and increase faster than values in non-association developments, community association homeowners not only pay monthly assessments to maintain their neighborhoods, they also pay higher real property taxes reflecting the local tax assessments on the higher value of their homes.

At its third meeting, Subcommittee members also discussed at length the ever-expanding challenges facing local governments: provision of infrastructure and services to (at least in the urban crescent) a growing population despite reduced sources of revenues. Across the Commonwealth, many localities large and small struggle to provide their residents with the services they have traditionally provided. The struggle stems not only from changing demographics but also from erosion of traditional local tax bases. While localities are relying more on revenues they can generate through their own taxing sources, locally-generated revenue (including resources from the BPOL, real property, tangible personal property, sales, and consumer use taxes) has declined from 11.4 percent annually in the 1970s to slightly more than five percent today.

RECOMMENDATIONS

At its final meeting, the Subcommittee discussed the following issues:

- whether community associations have helped to increase the availability of *affordable housing*
- whether there are *financial solutions* to concerns raised by representatives of community associations (as outlined in previous sections of this report)
- whether there are *nonfinancial solutions* to such concerns raised by representatives of community associations
- whether *charges assessed* against a member of a homeowner association by the member's association for violations of association declarations or rules and regulations should be allowed to continue to accrue even after such member has initiated action in a court of law opposing such association ruling
- whether a buyer of a residential property subject to governance by a homeowner association has *adequate notice* both of such governance and of the charges assessed monthly/annually by such association during the offer-acceptance process relating to such property.

Affordable Housing

Representatives of community associations provided the Executive Director of the Commission with information highlighting the important role a homeowner association can play in preserving affordable housing units in the Commonwealth. Specifically, where mortgage work-outs are concerned, the creation of an association of homeowners (former tenants) can prove the financial key to unlocking not only the door to housing preservation but also to more affordable homeownership. Association representatives referenced such information in the Subcommittee discussion.

In addition, the Subcommittee noted that higher density provisions (such as those prescribed in local affordable dwelling unit (ADU) ordinances) can lower initial rental and homeownership costs. Reston, a community association of some 20,000 member households, was cited as having one of the largest percentages of affordable housing units among Fairfax County residential developments. (The Subcommittee also noted potential environmental benefits of community association developments, in that in many cases substantially more open space is preserved than in non-community association developments.) The Subcommittee also noted, however, that in a limited number of community association developments, primarily in Northern Virginia, such developments have absolutely no connection to affordable housing. The Subcommittee concluded that, while community associations definitely have played and continue to play a role in increasing affordable housing in the Commonwealth, it is difficult to quantify the level of such role largely due to the diversity (e.g., number of members, association services provided) among associations.

Financial Solutions

Specifically, the Subcommittee discussed whether a state income tax credit or deduction should be made available to homeowners living in community associations in recognition of the expenses paid by such individuals for the provision of services, such as those related to public safety (including rescue squad response), recreation, and public works, typically provided by localities. Community association representatives cited, for example, the local government "double standard" applied to neighbors by at least one Northern Virginia locality. In older residential developments, the locality imposes no extra charges on

homeowners for provision of fire and rescue squad service. Some such homeowners choose to make a charitable contribution to the local nonprofit organization that provides fire and rescue service. Such deductions may then serve as contributions for purposes of federal and Virginia state income tax deductions. In newer residential developments, however, homeowners are assessed locally-imposed charges for fire and rescue service. Such charges are not deductible for federal and state tax purposes.

Representatives of local governments were strongly opposed to the provision of such a state income tax credit or deduction on public policy grounds. More specifically, city and county government representatives pointed out that the assumption that resource and expenditure line items could be budgetarily aligned could in turn create a precedent that could effect funding for public education, public roads, and other publicly-funded services. It was suggested that such fiscal carve-outs are indicative of a “me, rather than we, mentality,” and that an initial carve-out for association homeowners would indeed be a step down a potentially “slippery slope” of carve-outs for other services. It was also suggested that such a credit or deduction ultimately would transfer the inequity of double payments from one group of citizens (members of some associations) to another group of citizens (taxpayers in general).

Other local government representatives argued that while, for example, members of certain associations are assessed for association costs to maintain playing fields located within association geographic boundaries but also used by members of the general public, the provision of such playing fields is “a fair swap” for the costs incurred by localities for the infrastructure (e.g., schools, water and sewer lines, and roads) requisite to support residential development. A representative of the Virginia Association of Realtors repeatedly asserted that, ultimately, homeowner association assessments reflect impact fees and proffers demanded by localities of residential developers and then passed on to the association and to its members. Local government representatives did not dispute this assertion but pointed to costs of infrastructure attendant to development and borne by localities.

In addition to public policy concerns, local government representatives also expressed concerns regarding the development, quantification, uniform application, and enforcement of standards for costs and levels of services provided by associations. Again citing the great diversity among associations statewide, Subcommittee members suggested that, for any such recommendation of a financial solution to association concerns to be successfully received, such recommendation must be very narrowly focused, not only as to qualifying services but also as to qualifying associations. Members also suggested that any successful proposal must also provide a compelling local reason for such financial relief as well as the cost of such relief in locality by locality, statewide.

Nonfinancial Solutions

Specifically, Subcommittee members discussed the nonfinancial remedy proposed in legislation introduced in the 1999 Session of the General Assembly of Virginia. Such legislation would exempt from the Virginia Public Procurement Act contracts for the maintenance of public highways located within certain condominium or property owners’ associations when i) such association seeks to negotiate with the Department of Transportation to perform such maintenance and ii) the Department is satisfied that awarding such contract to a requesting association is in the public interest. Subcommittee members noted that such legislation is a step toward criteria suggested in its discussion relating to financial solutions, discussed above, particularly given its narrow focus on road maintenance.

There is tremendous diversity, not only in number of homeowners but also in services provided, among community associations in the Commonwealth. Associations range in size from a two-unit condominium to planned unit communities with up to 60,000 residents (where services provided may include road maintenance, snow and trash removal, street lighting and cleaning, security patrols, and extensive landscaping and playing fields). Indeed, due in large part to the diversity among such associations across Virginia, Commission members were unanimous in concluding that no one solution would be appropriate to address the challenges facing such diverse constituencies.

Charges Assessed

Recently in the Commonwealth, a homeowner member of a Property Owners' Association (POA) disputed the finding by her POA that she was responsible for a violation of the POA declaration or rules and regulations. In turn, she refused to pay the \$10.00 per day charge assessed against her by the POA for such violation. Her case was tried in General District Court and appealed to Circuit Court. Meanwhile, the \$10.00 per day charge continued to be assessed by the POA and, when the matter was brought to the attention of the Virginia Housing Study Commission, the charges assessed were in excess of \$10,000.

Virginia *Code* Section 55-513(B) (Adoption and Enforcement of Rules) of the POA Act provides that the board of directors of a POA shall have the power, to the extent expressly provided by the POA declaration or rules and regulations, to assess charges against any member for any violation of the declaration or rules and regulations for which the member or his or her family, tenants, guests, or other invitees are responsible. (Before such charges may be imposed, the member must be given the opportunity to be heard and represented by counsel before the board or other such tribunal specified in the POA documents. Notice of such hearing must be hand delivered or mailed by registered or certified mail to the member at least fourteen days prior to the hearing.)

The POA Act further provides that the amount of such charges assessed shall be limited to the expense or damage to the association caused by the violation, but shall not exceed \$50.00 for a single offense or \$10.00 per day for any offense of a continuing nature. Such charges shall be treated as an assessment against the member's lot as provided in Code Section 55-516 (Lien for Assessments). That Section provides that the association shall have a lien on every lot for unpaid assessments levied against such lot. Once perfected, such lien shall be prior to all other subsequent liens and encumbrances except i) real estate tax liens, ii) liens and encumbrances recorded prior to the recordation of the declaration, and iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of such lien.

Subcommittee members representing community associations unanimously registered negative opinions regarding the continuing daily charges assessed by the POA in question even after the initiation of litigation by the homeowner. Reston representatives noted that, in the association's 30-year history, charges resulting from violations had been assessed only twice. Another industry representative noted that, in his experience during the past fifteen years with some 150 associations, such charges had been assessed only 20-30 times. Still another representative suggested that, while such charges may serve as an effective compliance tool for POA declarations and rules and regulations, opportunity does exist for an association to misuse the tool punitively and as a profit-grossing mechanism.

Accordingly, Subcommittee members unanimously recommended that the Virginia Housing Study Commission consider recommending that the Virginia Real Estate Board consider imposing a time cap on such charges. The Subcommittee further unanimously recommended that an appropriate cap could be the date action on point is initiated in a court of law by a homeowner who has been assessed such charges by a POA following the finding by the POA of a violation by such homeowner of the POA declaration or rules and regulations. The Commission in turn unanimously adopted the recommendations of the Subcommittee relating to charges assessed.

Adequate Notice

Citing his personal experience in purchasing a home in a POA as an example, a representative of the Virginia Association of Realtors opined that current Virginia statutes do not provide for adequate notice, during the offer-acceptance process, to buyers of homes located in such associations not only of the fact that the home is governed by an association but also of the monthly/annual charges assessed by the association against the property. Virginia *Code* Section 55-512 (Contents of Association Disclosure Packet; Other Requirements) of the POA Act currently provides that, prior to closing of a sale of residential property located in a POA, the seller or his or her agent must request from the POA and pay for the association disclosure packet (frequently a lengthy and complex document), which packet must then be delivered to the purchaser. However, under Virginia *Code* Section 55-508 (Applicability) and Section 55-509 (Definitions) of the POA Act, associations which assess annual charges of less than \$150.00 per lot are exempt from such disclosure packet provision requirements. (Such requirements also are not applied retroactively to associations whose declaration was recorded prior to July 1, 1991.)

In response to the concerns stated, the Subcommittee unanimously recommended that the Virginia Housing Study Commission consider recommending that the Virginia Real Estate Board consider the development of a one-page form, to accompany the association disclosure packet in the homebuying process as described above, which form would include the salient features of the packet, including but not limited to the monthly/annual charges assessed by the POA against the lot as well as that portion of such assessment which is directly tied to expenses borne by the association for provision of municipal-type services. The Commission in turn unanimously adopted the recommendations of the Subcommittee relating to notice.

CONCLUSION

Members of the Virginia Housing Study Commission HJR 744 Subcommittee expressed appreciation for the opportunity to gain a better understanding of fiscal and organizational challenges facing localities and common interest community associations alike in the provision of critical municipal services and infrastructure pursuant to increasing residential development in the Commonwealth. While the above-stated Subcommittee suggestions and recommendations address such challenges tangentially, no comprehensive solution emerged during lengthy and intense Subcommittee deliberations. Indeed, due in large part to the diversity among such associations across Virginia, Subcommittee members were unanimous in concluding that no one solution would be appropriate to address the challenges facing such diverse constituencies.

In closing, there was broad agreement that, as localities are further stressed by services and infrastructure requirements related to residential development (particularly such development that requires higher levels of services), costs for the same likely will be passed on to tens of thousands of home purchasers (the vast majority of whom will be residing in neighborhoods governed and served by associations). In turn, those very homeowners will experience increasing frustration resulting from the ongoing costs they will mandatorily bear directly related to the fiscal realities of residential development.¹

¹The Virginia Housing Study Commission and its Executive Director gratefully acknowledge the assistance of Ms. Betty Long, Deputy Director, Virginia Municipal League, and Lucia Anna Trigiani, Attorney at Law, Mays & Valentine, and President, Metropolitan Washington Chapter, Community Associations Institute, in its study relating to House Joint Resolution 744.

Carbon monoxide (CO) is a colorless, odorless, poisonous gas resulting from incomplete combustion of such fuels as natural or propane gas, oil, wood, and coal. While heating systems and certain gas-fueled appliances are designed to vent CO into the outside atmosphere where it disperses harmlessly, problems may occur where the system or appliance is installed incorrectly, is blocked or deteriorated, or has inadequate draft or ventilation.

HOUSE JOINT RESOLUTION 747: CARBON MONOXIDE SAFETY

ISSUE

The 1999 General Assembly of Virginia adopted House Joint Resolution 747 in response to recent deaths of individuals resulting from carbon monoxide poisoning related to heating appliances. Two unrelated persons died in a January 1999 Richmond incident involving separate units in a multifamily property and a family of four persons died in a Norfolk incident in December 1995.

The Resolution requests the Virginia Housing Study Commission and the Virginia Department of Housing and Community Development to study whether changes relating to carbon monoxide (CO) poisoning and life safety matters should be made to the Virginia Uniform Statewide Building Code to reflect more closely National Fire Protection Association Code provisions addressing chimneys, fireplaces, vents, and solid fuel burning appliances. In addition, the Resolution requests the Commission and the Department to study the need for certification of those who inspect and repair chimneys, fireplaces, and vents for the same.

The Commission and the Department jointly assembled a panel of experts, including nationally recognized codes and systems professionals, to consider these issues and make recommendations to the Commission. The Commission Chairman appointed Commission member Delegate Donald L. Williams to chair the HJR 747 Subcommittee. The Chairman also requested that Nancy A. Bright, a member of the Board of Housing and Community Development Codes and Standards Committee, serve as Vice Chair of the Subcommittee.

BACKGROUND

Carbon monoxide is a colorless, odorless, poisonous gas resulting from incomplete combustion of such fuels as natural or propane gas, oil, wood, and coal. While heating systems and certain gas-fueled appliances are designed to vent CO into the outside atmosphere where it disperses harmlessly, problems may occur where the system or appliance is installed incorrectly, is blocked or deteriorated, or has inadequate draft or ventilation.

Carbon Monoxide-Related Deaths and Poisonings

Because its initial symptoms (e.g., headache, dizziness, nausea, fatigue, difficulty concentrating) may mimic such common illnesses as colds or influenza, CO is sometimes known as “the silent killer.” However, these early warnings soon give way to loss of consciousness, coma, and death. The ultimate health effects of CO depend upon its concentration in the air, length of exposure, blood concentration, and general physical condition of the victim. Even if the CO poisoning victim survives loss of consciousness, some neurological effects may be irreversible. Hence, while prompt medical attention is critical to reduce the risk of such effects, a 1998 report from the U.S. Consumer Product Safety Commission (CPSC) suggests that victim delays in receiving such immediate treatment are compounded because medical professionals may fail to recognize CO poisoning symptoms for what they actually are.

The report states that nationally, from 1991 to 1995, an average of 220 persons died from unintentional, non-fire CO poisoning related to products over which the CPSC has jurisdiction. While an average of 74 percent of those fatalities were associated with heating systems, other products associated were gas water heaters, ranges, charcoal grills, and camping equipment.

The CPSC report also states that, nationally, from 1993 to 1997, an average of 10,700 persons were treated annually in hospital emergency rooms for non-fire, non-fatal CO poisoning injuries associated with consumer products, excluding incidents involving automobile exhaust. The number of hospital-treated CO injuries increased during that time period, a statistic the CPSC suggests may result from increased public awareness, on the part of both patients and medical professionals, of CO poisoning and its symptoms.

In conjunction with the HJR 747 study, the Virginia State Fire Marshal surveyed local fire departments regarding 1996-1998 carbon monoxide-related responses. Only fifteen departments – all rural, with the exception of the Newport News department – responded to the survey. Of a total of 56,890 responses by the rural departments, 595 (about one percent) were CO-related. Of the 29,131 responses by the Newport News Fire Department, 467 (about 1.6 percent) were CO-related. Medical attention was required in 64 of the rural departments' CO-related responses. In Newport News, eight such calls required that persons be transported to receive medical attention for injuries attributed to CO poisoning. In responses by the rural fire departments and the Newport News Department, the vast majority of CO call sites were single or two-family housing units as opposed to multifamily dwellings. Seventy percent of rural fire department CO-related responses involved homes ten to 25 years old, with the remaining responses nearly equally divided between homes newer or older than that. Newport News Fire Department data did not include age of homes at CO-related response sites.

Carbon Monoxide and Consumer Products

Where inadequate exterior venting of heating systems and certain appliances occurs, CO may vent into an interior space, with potentially deadly results, rather than harmlessly outside. Potential venting problems include:

- chimneys partially or completely blocked by bricks or mortar falling within the deteriorated chimney structure
- chimneys partially or completely blocked by creosote or soot build-up
- chimneys partially or completely blocked by debris, such as leaves or nests of birds or animals
- chimneys or vents improperly sized, with resultant inadequate draft
- venting systems improperly installed
- inadequate clearance between the appliance or venting system and combustible materials (a problem sometimes masked by enclosing walls).

While the Consumer Product Safety Commission suggests, as noted, that the increase in CO-related deaths and poisonings may stem from increased public recognition of CO poisoning symptoms, some Virginia certified chimney safety professionals suggest that the increase may result from other factors, as well, including:

- installation of high efficiency replacement appliances in systems designed for lower efficiency units (with resulting acidic condensate within the chimney which accelerates the deterioration of the chimney system)
- possible inadequate inspections of the chimney/venting systems prior to installation of replacement appliances to determine if that system can adequately meet ventilation demands or if there is an adequate supply of air to the combustion area.

Uniform Statewide Building Code (USBC) Provisions Relating to Carbon Monoxide Safety

The Virginia USBC contains provisions for building construction and building maintenance. Under the *Code of Virginia*, localities are mandated to enforce the Construction Code. However, localities have the option of choosing to enforce provisions of the Maintenance Code. To date 62 localities, including most larger cities and urban

counties and some smaller cities, have chosen to enforce the USBC provisions. Under the USBC, a building remains subject to the edition of the Construction Code in effect at the time the building was constructed. Therefore, only those items required by the Construction Code remain subject to the Property Maintenance Code.

At least three sections of the Building Officials and Code Administrators (BOCA) 1996 National Property Maintenance Code apply specifically to chimneys and flues. (Most BOCA Code provisions, including the following, are incorporated in the USBC by reference.) Those sections are:

- PM-304.12 Chimneys and towers
All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- PM-603.1 Mechanical equipment
All mechanical equipment, fireplaces, and solid fuel-burning appliances shall be properly installed and maintained in a safe working condition and shall be capable of performing the intended function.
- PM-603.4 Flue
All fuel-burning equipment and appliances shall be connected to an approved chimney or vent. Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

Several sections of the BOCA 1996 National Building Code relate to fireplaces, chimneys, and flues. These construction provisions include but are not limited to: Section 721 (Fireblocking and Draftstopping), Section 1405.3.10 (Flashings), Section 1609.9(4) (Wind Loads), and Chapter 21 (governing the design, installation, maintenance, repair, and approval of concrete and masonry fireplaces and masonry chimney flues).

In addition to the above-referenced provisions, Section 3401.2 of the 1996 USBC provides that the building owner "shall be responsible for the maintenance and repair of structures in accordance with the [Code]." Section 3401.2 further provides:

Equipment, systems, devices, and safeguards relating to the construction of the structure and equipment therein, to the extent which were provided when constructed, shall be maintained. Such structures, if subject to the state fire and public regulations in effect prior to March 31, 1986, shall also be maintained in accordance with those regulations.

Section 3401.1 states that the provisions of Chapter 34 "shall control the alteration, repair, addition, and change of occupancy of existing structures."

National Fire Protection Association (NFPA) Related Provisions

The USBC Building Maintenance Code allows local governments to inspect buildings to ensure owner compliance with Code provisions. The Maintenance Code is silent on the issue of mandatory inspections of specific building systems or appliances. However, NFPA Code 211 10-2 provides:

Chimneys, fireplaces, and vents shall be inspected at least once a year for soundness, freedom from deposits, and correct clearances. Cleaning, maintenance, and repairs shall be done if necessary.

The NFPA Code 211 10-4 provides:

Before replacing an existing appliance or connecting a vent connector to a chimney, the chimney passageway shall be cleaned, lined, or repaired as necessary.

The NFPA Code 211 10-8 provides:

When inspection or an operating malfunction shows that an existing chimney, fireplace, or vent is damaged, unsuitable, or improperly sized, it shall be repaired, rebuilt, or resized to the construction and functional requirements of [the referenced standard].

At the local level within the Commonwealth, at least jurisdiction – the City of Norfolk– requires written certification that an inspector of a chimney has found the appliance to be “operable and free and clear of any obstructions” at the time of the inspection. Norfolk also requires written certification that a new flue liner has been installed and “is operable and constructed in accordance with [USBC provisions].”

Other NFPA Code provisions related to carbon monoxide safety include: Section 31 (Standard for Installation of Oil-Burning Equipment, Section 54 (National Fuel Gas Code), and Section 101 (Life Safety). The NFPA standards relating to chimneys, considered by some experts to be more prescriptive than the BOCA Code provisions, have not been adopted by BOCA.

Certification of Chimney Safety Professionals

While the Commonwealth of Virginia requires licensure for many trades professionals, Department of Professional and Occupational Regulation (DPOR) Tradesman Rules and Regulations specifically exempt from requisite certification installers of wood stoves, masonry chimneys, or pre-fabricated fireplaces. More specifically, tradesmen dealing in these life safety matters are unregulated by the Commonwealth.

Although the National Guild of Chimney Sweeps, the trade association of chimney safety professionals, is unable to provide comprehensive, state-by-state information relating to jurisdictional requirements for regulation of chimney safety professionals, at least four states – Michigan, Oklahoma, Maine, and Vermont – reportedly currently require such certification or compliance with NFPA Code provisions. Michigan reportedly requires licensure for individuals assembling or disassembling chimney systems, including liners for the same. Oklahoma reportedly requires licensure for individuals assembling or disassembling heating systems. Maine adopted NFPA 211 as state law (as differentiated from regulation) in 1972 and subsequent updated 211 revisions through 1988. The Maine statute reportedly requires that any person who for compensation constructs, installs, or maintains chimneys, fireplaces, vents, or solid fuel-burning appliances shall do so in accordance with state-adopted NFPA 211. Similar statutory language also has been adopted by Maine relating to oil and gas appliances. Vermont reportedly requires that any person working in any building other than an owner-occupied, single family dwelling as a chimney sweep must be certified by the Chimney Safety Institute of America (CSIA), a national membership association of chimney safety professionals.

RECOMMENDATIONS

Members of the HJR 747 Subcommittee considered possible recommendations relating to carbon monoxide safety in six discussion areas:

- increased public awareness
- certification of chimney safety professionals
- chimney inspection standards
- carbon monoxide detectors
- chimney inspections at time of sale, change of occupancy, or change of fuel source
- amendments to the Uniform Statewide Building Code.

The Commission unanimously agreed on recommendations in two areas: public awareness, including continuation of the HJR 747 study in 2000 with a final report to be submitted to the Governor and 2001 General Assembly, and mandatory state certification of chimney safety professionals.

The Subcommittee unanimously agreed on recommendations in two areas: public awareness and certification of chimney safety professionals. In two other areas, a majority of members recommended delaying recommendations pending widely anticipated amendments to the NFPA Code 211 (chimney inspection standards) and possible amendments to the national model building code (CO detectors). In the final two discussion areas (chimney inspections and USBC amendments), the Subcommittee was in agreement as to the importance of obtaining additional information on the magnitude of carbon monoxide-related poisonings and deaths in the Commonwealth. A summary of Subcommittee recommendations follows.

Increased Public Awareness

The Subcommittee unanimously recommended the creation and implementation of a public information program designed to increase public awareness of carbon monoxide safety hazards and requested that a task force comprised of members discuss strategies for initiating and implementing the same. At their first meeting, task force members noted that a majority of Subcommittee members had indicated that additional data would be helpful in discussions and that all members had indicated that such data could be critical to the success of a public awareness campaign.

Accordingly, the task force and, subsequently the HJR 747 Subcommittee, unanimously recommended that the Virginia Housing Study Commission consider recommending the following:

- That the HJR 747 study be continued in 2000 with final recommendations to be submitted to the Governor and the 2001 General Assembly. (The Subcommittee noted that, among other data, additional information on chimney inspection standards and CO detectors would be available in 2000.)
- That, in the course of the continuing study, additional statistics on carbon monoxide poisonings and fatalities be provided in cooperation with, at a minimum, the Virginia State Health Department, the Virginia Poison Center at the Medical College of Virginia, the Virginia Hospital Association, and the national Consumer Product Safety Commission. (The Subcommittee noted that the responses provided to the survey conducted by the Virginia State Fire Marshal (and referenced previously in this report) were from largely rural locales and were not necessarily indicative of the overall CO poisonings and/or fatalities in the Commonwealth.)
- That the essence of the public awareness campaign be the recommendation of annual inspections of heating appliances and chimneys by licensed heating/ventilating/air conditioning (HVAC) contractors and/or chimney safety professionals certified by the Chimney Safety Institute of America (CSIA). The Subcommittee recommended that components of the campaign could include the following: coordination with Fire Safety Week, Chimney Safety Week, and Building Safety Week; distribution of informational flyers through mailings by public utilities, gas companies, and home heating companies; and the addition of a staff person, charged with public awareness efforts, in the Office of the State Fire Marshal. The Subcommittee also noted that members of pertinent trade associations, such as chimney safety professionals, heating, ventilating, and air conditioning professionals, homebuilders and remodelers, building code officials, fire safety professionals, realtors, and others could work within their industries and with the public media and the general public to enhance public awareness of carbon monoxide safety issues.

The Commission in turn unanimously adopted the recommendations of the Subcommittee relating to public awareness.

Certification of Chimney Safety Professionals

The Subcommittee unanimously recommended that the Virginia Housing Study Commission consider recommending that the Virginia Department of Professional and Occupational Regulation (DPOR) consider mandatory certification of chimney safety professionals as part of the DPOR contractor licensure program. [One option for implementation of such requirements would be for DPOR to accept certification by the Chimney Safety Institute of America. The CSIA maintains the only nationally recognized training and testing program for chimney safety professionals. According to the CSIA Executive Director in July 1999, CSIA could provide regional training seminars in the Commonwealth if guaranteed ten to twelve attendees. The cost for CSIA certification would likely total approximately \$300 for home study materials and testing. Fees for seminar attendance would be an additional \$150.] The Commission unanimously adopted the recommendation of the Subcommittee relating to certification of chimney safety professionals.

Chimney Inspection Standards

Amendments to NFPA 211 relating to the inspection of existing chimneys and proposed by the National Chimney Sweep Guild were, in December 1999, expected to be approved and issued January 14, 2000. Such amendments set forth three levels of chimney inspections, and include the scope, degree of access required, circumstances, and indications for each level of inspection. In other words, such information would provide clear guidelines to chimney safety professionals (and property owners alike) in response to the question: "What will this inspection include?" The Virginia Chimney Safety Guild strongly recommended that the Subcommittee recommend adoption of the proposed amendments (with regulatory implementation through the Virginia USBC) in advance of the anticipated January 2000 approval and issuance of such amendments by the NFPA. Although the Subcommittee was reluctant to recommend adoption of provisions not yet adopted by the NFPA, members agreed that the issue should be revisited in a timely manner following the anticipated approval and issuance of the NFPA 211 proposed amendments.

Carbon Monoxide Detectors

The Subcommittee considered at length the merits and shortcomings of carbon monoxide detectors, with discussion revolving around information published in the July/August 1999 edition of "The Code Official," the national periodical for building officials and code administrators. The article notes that, while the Consumer Product Safety Commission recommends that at least one CO detector be installed in every home, such detectors are apparently not as reliable as today's widely recommended (and sometimes required) smoke detectors. The article points to the unreliability of CO detectors (particularly in their sounding of false alarms), the excessive and unnecessary calls to fire departments resulting from CO false alarms, the still-developing technology of CO detectors, and the treatment of CO detectors as optional by national model building and safety codes.

Fire safety and chimney safety professionals serving on the Subcommittee, as well as a representative of the natural gas industry, pointed out that the article states: "[CO] detectors are not a substitute for proper installation, use, and routine maintenance [of fuel-fired appliances and equipment], but can be beneficial should problems occur." Fire safety

professionals also noted that CO detectors are routinely installed in many local fire stations. Therefore, these representatives argued for Subcommittee recommendations for mandatory installation of CO detectors (each costing a minimum of \$33 retail) for all new residential construction and for multifamily rental properties covered under the Virginia Residential Landlord and Tenant Act (VRLTA). They also argued to recommend authorizing local governments to mandate CO detectors in all buildings constructed prior to 1973. However, Subcommittee representatives of the homebuilding and realty industries, as well as code officials, expressed concern about the unreliability of CO detectors, the developing technology of the same, and the lack of nationally recognized CO response standards (all as referenced above). A majority of Subcommittee members declined to make recommendations regarding CO installation pending technological improvements and adoption of CO-related recommendations in national building and safety model codes, which improvements and recommendations are anticipated in the next several years. Subcommittee members agreed, however, that Department of Housing and Community Development staff should monitor this emerging issue and make recommendations to the Commission and the HCD Board as appropriate.

Inspection at Time of Sale, Change of Occupancy, or Change of Fuel Source

Fire safety and chimney safety professionals serving on the Subcommittee recommended inspection of chimneys in rental units covered under the VRLTA at the time of sale of the property, at change of occupancy, change in fuel source, or annually. (Inspection rates for single family dwellings vary among chimney safety professionals, with some charging as much as \$75.00 and others providing complimentary inspections.) Pointing to data from the State Fire Marshal CO survey which indicated that, by far, most CO poisonings involved single family dwellings, a majority of Subcommittee members declined to make such recommendation.

Fire safety and chimney safety professionals serving on the Subcommittee also recommended inspection of single family dwellings, whether owner-occupied or non-owner occupied, at the time of a change in fuel source. However, citing the need for additional data on CO-related poisonings and deaths in Virginia, a majority of Subcommittee members also declined to make such recommendation.

Adoption of More Prescriptive USBC Regulations

Fire safety and chimney safety professionals serving on the Subcommittee recommended that the Board of Housing and Community Development consider the adoption of generally more prescriptive USBC regulations relating to chimneys, fireplaces, vents, and solid-fuel burning appliances, particularly such regulations as are likely to be included in the 2000 edition of NFPA 211. Again citing the need for additional data on CO-related poisonings and deaths in Virginia, as well as their reluctance to recommend adoption of provisions not yet included in model codes, a majority of Subcommittee members declined to make such recommendation. However, the Subcommittee agreed that DHCD staff should monitor the issue and make recommendations to the Commission and the HCD Board as appropriate.¹

¹The Virginia Housing Study Commission and the Virginia Department of Housing and Community Development and their Executive Directors gratefully acknowledge the assistance of the following in their study relating to House Joint Resolution 747: Dr. William J. Ernst, Associate Director, DHCD, for compiling and analyzing data pursuant to the State Fire Marshal's survey of local fire departments; Mr. Kevin Stewart, President, Dominion Chimney, for providing information for use in drafting HJR 747; and Mr. James Brewer, General Manager, Magic Sweep Corporation, Mr. John Storch, President, Chimney Chap, and Ms. Jeannine Peters, Vice President, Advanced Chimney Solutions, for providing information for use by the Subcommittee, the Commission, and the Department.

HOUSE JOINT RESOLUTION 760: CREATING A FINANCING ENTITY TO PRESERVE AFFORDABLE HOUSING

ISSUE

House Joint Resolution 760 (1999) requests the Virginia Housing Study Commission to study the most efficient and advantageous method of and structure for the establishment of an entity to foster the preservation of affordable housing, and to proceed with the establishment of such an entity. The Commission Chairman appointed Delegate James M. Scott, chief patron of the legislation, to chair the Commission HJR 760 Subcommittee, which included a broad spectrum of interested parties, including representatives of the public sector, private sector, trade associations, and nonprofits.

BACKGROUND

Affordable Rental Housing in Virginia

Although the Commonwealth and the nation as a whole are enjoying unparalleled prosperity, the blessings of such abundance are not, for the most part, being shared among Virginia's lower income tenants. Higher incomes and low levels of unemployment have translated in the past decade into steadily increasing rents and fewer available rental units that are safe, sound, and affordable.

To compound this trend, as of September 1999, the Virginia Housing Development Authority (VHDA) reports that owners of more than 8,000 affordable rental units in Northern Virginia, Tidewater, Central Virginia, Roanoke, and the Shenandoah Valley regions have filed notice with the U.S. Department of Housing and Urban Development (HUD) indicating their intention to pre-pay mortgages or opt out of federally assisted housing programs. In other words, these units and thousands more – probably totaling more than 13,000 units – will likely be lost from the state affordable rental housing inventory.

Virginia Housing Partnership Friends (1997)

In 1997, Delegate Scott convened a series of informal meetings among "Virginia Housing Partnership Friends" – representatives of the private, public, and nonprofit sectors concerned not only about the potential loss of federally-assisted rental housing units but also the lack of state funding for the Virginia Housing Partnership Fund. Those meetings led to Delegate Scott's House Joint Resolution 208 (1998), which requested the Housing Study Commission to study the feasibility of establishing a foundation or nonprofit corporation to preserve affordable housing.

Commission Recommendations Relating to HJR 208 (1998)

In December 1998 the Commission unanimously adopted the recommendations of its HJR 208 Subcommittee, which called for a new financing entity to preserve affordable rental housing in Virginia. The recommendations, which were crafted following extensive Subcommittee meetings, cited not only the need for such an entity but also the interest of potential investors in the same. An outline of those recommendations follows.

The Commission unanimously recommends that the Executive Directors of the Commission and the Department of Housing and Community Development work together with the Executive Director of the Virginia Housing Development Authority and her staff to establish a new Community Development Financial Institution to preserve affordable housing in the Commonwealth. A goal of July 1, 2000, was set for the new entity to be operational.

Purpose

The entity would be created to provide a source of debt financing for and – secondarily – investment in the preservation and rehabilitation of existing affordable multifamily housing. Such housing units likely would not be preserved in the affordable housing inventory without the entity-provided gap financing, which would consist of highly leveraged, subordinate, low-interest, equity-like loans. Such investments would be the “last” component of the financing package for intended preservation projects.

Structure and Governance

The entity could be created as a nonprofit, 501(c)(3) organization which could receive government, corporate, foundation, or private funding and could also borrow funds. The entity was initially conceived as one “statutorily chartered” and a creation of the Governor and General Assembly, with a board of directors comprised of gubernatorial and legislative appointees. However, as discussions continued, key potential investors suggested their preference in investing in an entity that has been designated a Community Development Financial Institution (CDFI) by the U.S. Treasury. (Such entities – which may be banks, credit unions, loan funds, or venture capital funds – provide mortgage loans, commercial loans, loans for community facilities, or financial services in markets that may not have been adequately served by traditional financial institutions.)

Subcommittee members agreed that structuring the entity so that it would be eligible to receive CDFI status could be useful, if not essential, given the interest of NationsBank (now Bank of America) and possible other investors in investing funds with a CDFI-designated organization. In addition, the CDFI Fund itself is an excellent source of capital for the new entity. In a competitive application process, the Fund has allocated to any one applicant loans or grants of up to \$2.5 million for a one-year time frame and up to \$5 million over three years.

Under federal regulations, a CDFI organization must have as its primary activity that of lending. Further, the board of directors of a CDFI may not have as a majority of voting members persons who are governmentally-appointed. For example, CDFI regulations would require at least six non-governmental appointees on a board of ten members. Thus, CDFI guidelines would preclude majority appointments by the Governor and General Assembly.

Relationship with Commission, DHCD, and VHDA

Initially, the Subcommittee had looked to the possibility of establishing the new entity under the auspices of an existing agency – either the Department of Housing and Community Development (DHCD), the state agency charged with administering the Virginia Housing Partnership Fund and myriad other federal and state housing and community development programs, or VHDA, with its nationally recognized financing and loan underwriting and management expertise. However, the board structure of both agencies (a majority of which members of both boards are appointed by the Governor) would preclude either from serving as a home to an entity with CDFI status.

The Subcommittee recommended that the Executive Directors of the Commission, DHCD, and VHDA remain involved in launching the entity, and suggested that the new entity could be governed by a Board of Directors comprised of representatives of the Commission, VHDA, DHCD, and investors. Underwriting and investment counsel could be provided under contract with VHDA, particularly given the efficiencies evident in providing financing to projects referred by VHDA staff to the new entity for financing that

would allow such projects to move forward. In such cases, much of the underwriting effort already would have been completed by VHDA prior to such referrals.

An additional option suggested by the Subcommittee: seek the expertise of a prominent, nationally recognized, CDFI-certified nonprofit organization in launching and/or managing the new entity. In exploring this option, Subcommittee representatives met with a senior official of The Enterprise Foundation who enthusiastically expressed interest in such a partnership.

Sources of Investment Funds

Revolving, low-interest loans from private financial institutions were initially contemplated as the primary source of entity funds. Assuming a maximum loan of \$1 million to each of ten projects, \$10 million was identified as a reasonable first-year investment goal. NationsBank (Bank of America) indicated interest as a 20 to 25 percent partner with an initial investment of \$5 to \$7 million. Other sources of investment funds might include the Fannie Mae or Freddie Mac corporations and other financial institutions such as Merrill Lynch (which in late 1998 announced \$10 million in affordable homeownership loans as part of a larger \$77 million southern California financial opportunities program). Secondary sources might include project fees, foundation loans or grants, and proceeds from sales of 501(c)(3) bonds. More recently, CDFI funds have been identified as a possible funding source.

Fund Investments

In its first year of operation, the entity could establish a goal of lending to or investing in ten (or fewer) projects. With a loan cap of \$1 million per project, the average loan might total \$750,000. A subordinated, highly-leveraged, cash flow-supported debt position could be assumed under the loan terms, and the entity could take a minority equity position in a project in consideration of its investment in the same. Over time, such loans and investments would revolve both for reinvestment in other projects and, through project participation, produce returns for the same purpose.

HJR 760 Subcommittee Deliberations

The Commission recommendations relating to HJR 208, as outlined above, served as a strong foundation for the deliberations of the HJR 760 Subcommittee, which included representatives of at least three key potential investors: Bank of America, Crestar, and First Union. At its initial meeting, HJR 760 Subcommittee members readily agreed that the new entity should be structured as a 501(c)(3) nonprofit organization with CDFI status. Preference was suggested for an entity that could, with a minimum of organizational, underwriting, and management expenses, foster the investment of up to an initial \$30 million in affordable housing preservation projects.

Subcommittee members agreed that, in such a scenario, investors could receive a return of four percent annually with a modest up-front fee, and developers could borrow funds at a rate of five percent annually, also with a modest up-front fee, which fee could be mortgageable. Loan terms would likely be ten to fifteen years with 30-year amortization or no amortization. Loans would likely be second mortgage loans for affordable housing preservation projects. Subcommittee members noted that there is a significant need for such loans in preserving not only federally assisted properties but also older, non-federally assisted properties, particularly in central cities, inner suburbs, and rural areas.

The VHDA proposal included organizational and fiscal elements suggested by the Commission HJR 760 Subcommittee, including: nonprofit 501(c)(3), CDFI-certified status; initial annual investments from major financial institutions totaling \$30 million; a four percent annual return to investors plus one percent up-front fee; a five percent annual lending rate plus 2.5 percent up-front fee (mortgageable); loan terms of ten or fifteen years with 30-year amortization or no amortization; and loans, to be directed through a nonprofit board of directors, initially expected to be second mortgages for affordable housing preservation projects, with VHDA lending project funds for the first mortgage.

Discussions with The Enterprise Foundation

Given a November 23 deadline for financial institutions to submit their Bank Enterprise Award (BEA) Program proposals to the U.S. Treasury Department for the coming year, it was further agreed that Subcommittee representatives should gauge the continuing interest of The Enterprise Foundation in assisting in the creation of the statewide CDFI entity contemplated pursuant to HJR 760 as well as – at least initially – serving as a “vehicle” for helping to deliver CDFI-certified funds (grants and loans) in 2000.

In a subsequent meeting with Subcommittee representatives, Enterprise officials noted that, while Enterprise would like to enhance its affordable housing presence in Virginia, there is no desire on its part to create a new underwriting and loan management infrastructure in the Commonwealth. Hence, a contractual relationship, in which Enterprise (an established CDFI) would serve as a pass-through entity by which financial institutions could invest CDFI funds dedicated for use in the Enterprise-established Virginia Fund, could work very well for all parties. Once the new entity contemplated under HJR 760 were established as a 501(c)(3), CDFI-certified nonprofit, the Enterprise relationship could be re-visited, per the agreement of all of the parties.

With this concrete expression of interest on behalf of Enterprise in launching and serving as a funding pass-through vehicle for the new Virginia entity, Delegate Scott requested that representatives of Bank of America, Crestar, and First Union, in submitting their 1999 BEA Program proposals, consider an investment of \$8 - \$10 million each in the new entity contemplated under HJR 760 and/or the contemplated Enterprise CDFI Virginia Fund. It was suggested that the terms of such investment would be ten-fifteen years with up to a four percent annual return. Delegate Scott also requested that the financial institutions consider contributing at least a portion of the fifteen percent credit reimbursement they would receive for their CDFI investment in the Virginia Fund as a grant to the contemplated Virginia CDFI for start-up and administrative expenditures.

Discussions with VHDA

In addition to requesting that Enterprise be contacted regarding possible interest in a partnership with the new Virginia entity, Subcommittee members also requested that VHDA representatives develop a proposal reflecting their expression of interest in partnering with the new entity (whether through loan underwriting and management or other avenues). Following the meeting of Subcommittee representatives with Enterprise officials, senior staff of VHDA proposed to the HJR 760 Subcommittee that VHDA staff could perform all staff functions of the new entity, including those of an executive director, as well as loan underwriting and servicing, and payment of principal and interest to investors, on a fee basis, as needed. Under this approach, there would be no fixed organizational expenses, such as salaries and benefits, office furnishings, and office equipment and supplies.

The VHDA proposal included organizational and fiscal elements suggested by the HJR 760 Subcommittee, including: nonprofit 501(c)(3), CDFI-certified organization; initial annual investments from major financial institutions totaling \$30 million; four percent annual return to investors plus one percent up-front fee; five percent annual lending rate plus 2.5 percent up-front fee (mortgageable); loan terms to be ten or fifteen years with 30-year amortization or no amortization; and loans, to be directed through nonprofit board of directors, initially expected to be second mortgages for affordable housing preservation projects, with VHDA lending project funds for the first mortgage.

The Subcommittee noted that, while first mortgages could be originated through sources other than VHDA, such loan structure would be adjusted to reflect decreased

VHDA loan underwriting and management efficiencies. Mindful that lower interest rates to developers should translate to lower rents for tenants, the Subcommittee also encouraged VHDA to be as creative as possible in lowering the point spread between interest paid to investors and interest paid by borrowers. In addition, the Subcommittee encouraged VHDA to seek investors from a broad spectrum rather than from strictly financial institutions.

Subcommittee members enthusiastically embraced the VHDA proposal for several reasons. First, VHDA's national stature as a \$6 billion financial institution and its expertise in loan financing and investments inspire confidence among potential investors and developers alike. In addition, VHDA enjoys a close and positive working relationship with other state housing agencies, such as the Commission and DHCD, and as a Virginia institution the Authority is well aware of housing issues and challenges in all regions of the Commonwealth. Furthermore, VHDA staff leadership of the new financing entity presents opportunities for exciting organizational and fiscal efficiencies given not only the Authority's longstanding relationships with for-profit and nonprofit developers but also given the probability that a large percentage of CDFI funds would be utilized in conjunction with VHDA financing.

RECOMMENDATIONS

The Virginia Housing Study Commission unanimously adopted the unanimous recommendation of its HJR 760 Subcommittee that the Executive Directors of the Commission and DHCD work together with the Executive Director of VHDA and her staff to establish a new CDFI to preserve affordable housing in the Commonwealth. A goal of July 1, 2000, was set for the new entity to be operational, and the basic organizational and fiscal CDFI structure is based on the VHDA proposal submitted for consideration of (and subsequently embraced by) the HJR 760 Subcommittee (with such changes recommended by the Subcommittee and noted above).

The Commission further unanimously adopted the unanimous recommendation of the Subcommittee that the Commission consider recommending that the initial board of directors of the new CDFI include: the Executive Directors of the Commission, DHCD, and VHDA, together with one representative from each of three key potential investors, such as Bank of America, Crestar/Suntrust, and First Union. Those six board members will then request three additional board members (perhaps representatives of other investors, the housing industry, or nonprofit housing advocates) to join the board. (Among other issues, such as how loan losses would be borne – whether through a reserve fund or other arrangement – the board will determine if a partnership arrangement with The Enterprise Foundation is desirable.) The Commission noted that no legislation is needed to create the new CDFI.¹

Commission members embraced the VHDA proposal for several reasons. First, VHDA's national stature as a \$6 billion financial institution and its expertise in loan financing and investments inspire confidence among potential investors and developers alike. In addition, VHDA enjoys a close and positive working relationship with other state housing agencies, such as the Commission and the Department of Housing and Community Development.

¹The Virginia Housing Study Commission and its Executive Director gratefully acknowledge the assistance of Messrs. James Edmondson, President, Cornerstone Housing Corporation, and Richard W. Hausler, President, KSI Services, Inc., in its study relating to House Joint Resolution 760.

Recommended by the Housing Study Commission in 1987 and created and capitalized by the 1988 General Assembly, the Partnership Fund was designed to complement existing local, state, and federal housing opportunities for lower income Virginians. Administered by DHCD and VHDA, the Fund was designed to accomplish this goal, according to statute, by "preserving existing housing units, producing new housing units, and assisting persons with special needs to obtain adequate housing."

VIRGINIA HOUSING PARTNERSHIP FUND

ISSUE

The 1999 Virginia Appropriations Act requests the Virginia Department of Housing and Community Development (DHCD) and the Virginia Housing Study Commission, with assistance from the Virginia Housing Development Authority (VHDA), to study and report on the impact of the Virginia Housing Partnership Fund in the Commonwealth. The Commission Chairman appointed Commission member Delegate James F. Almand to chair the study Subcommittee which included representatives of the public, private, and nonprofit sectors.

Recommended by the Housing Study Commission in 1987 and created and capitalized by the 1988 General Assembly, the Partnership Fund was designed to complement existing local, state, and federal housing opportunities for lower income Virginians. Administered by DHCD and VHDA, the Fund was designed to accomplish this goal, according to statute, by "preserving existing housing units, producing new housing units, and assisting persons with special needs to obtain adequate housing." The Fund targeted homeownership opportunities for those at or below 80 percent of area median income and rental opportunities for those at or below 50 percent of area median – namely, those households VHDA programs could not necessarily target because of its fiduciary obligations to its bondholders. The Partnership Fund was initially capitalized at about \$20 million annually with a goal of self-sufficiency in ten years if allocations of \$20 million were allocated each year during that time frame.

BACKGROUND

Although the Partnership Fund was an umbrella for up to nine specific housing programs during parts of the past decade, in recent years the General Assembly has appropriated funds specifically to several of those program components, effectively establishing them as categorical activities distinct from the loan activities associated with the Virginia Housing Partnership Revolving Loan Fund. Federal funds have also provided a large share of support to such state housing programs as indoor plumbing and weatherization, and certain programs addressing homelessness. The Partnership Fund focused specifically on the loan activities associated with the revolving loan fund (which fund has received no new state appropriations during the past two biennia) and their relationship to the original mission of the Fund. In assessing the performance of the Fund, four key features that were its hallmarks as originally conceived were examined:

- flexibility
- strategic investing and leveraging
- local partnerships
- long-term support for affordable housing.

Flexibility

To foster otherwise unavailable housing opportunities, flexible underwriting policies were adopted for Partnership Fund programs. Over the past decade, the Fund has assisted in financing a wide range of housing projects in more than 110 Virginia localities (Tables 1 and 2).

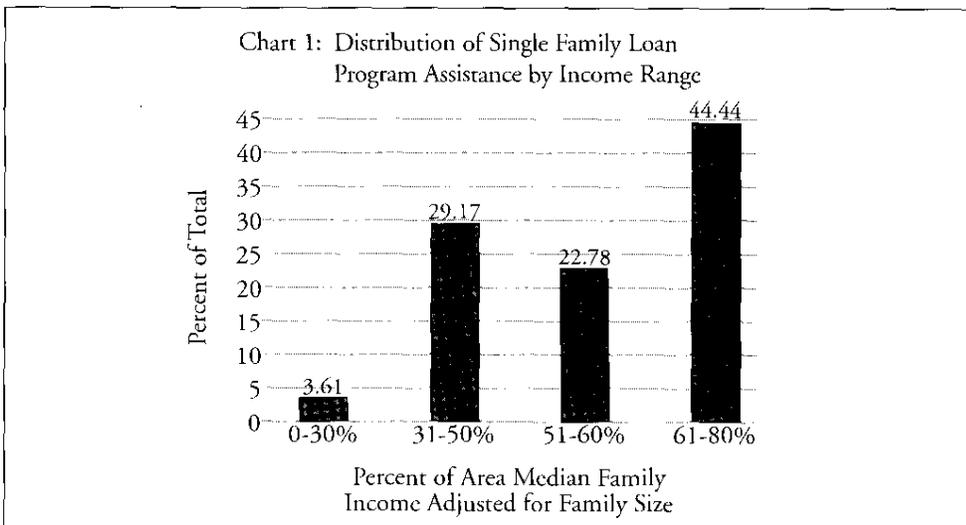
Planning District	Percent of 1998 State Population	Percent of Multifamily Loan Units	Planning District	Percent of 1998 State Population	Percent of Multifamily Loan Units
1	1.3	.13	10	2.8	1.90
2	1.8	.48	11	3.3	.86
3	2.7	.20	12	3.6	.15
4	2.3	4.74	13	1.3	.22
5	3.8	5.33	15	12.2	11.46
6	3.6	1.92	16	3.4	3.20
7	2.6	1.99	19	2.4	.46
8	25.1	23.11	22	0.6	.82
9	1.9	2.83	13[20&21]	22.0	40.20

Note: Appendix A provides a list of the counties and cities included within each Virginia planning district.

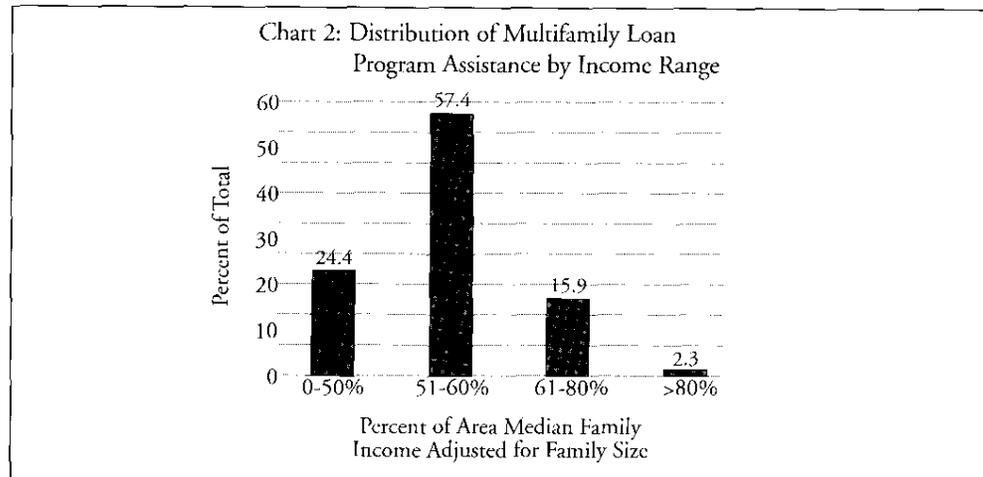
The geographic distribution of single family program loans examined from the sample data base follows a different pattern since it is based on program regions that do not conform completely with the boundaries of planning district commissions. Nonetheless, single family loan activities are also widely dispersed.

Region	Percent of Sample	Region	Percent of Sample
1: PDC 1,2,3,4 Part of 5	11.63	9: PDC 12, 13	4.99
2: Part of PDC 5	7.76	10: PDC 19	4.71
3: PDC 6	.28	11: PDC 15	9.70
4: PDC 8	5.82	12: PDC 17, 18	5.82
5: Part of PDC 8	2.49	13: PDC 16	9.42
6: PDC 9	2.77	14: PDC 23 [20&21]	18.84
7: PDC 10	11.08	15: PDC 22	1.94
8: PDC 11	2.77		

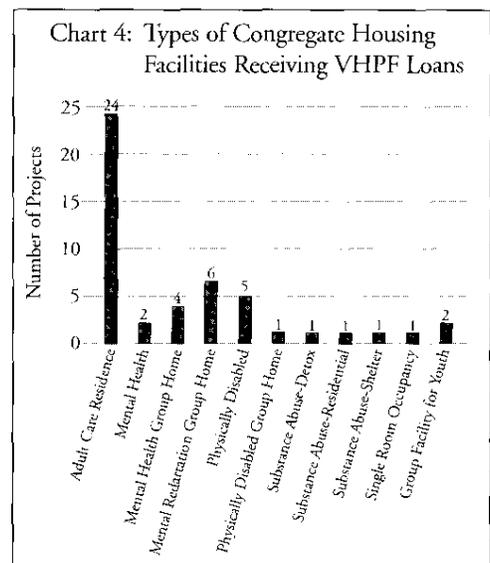
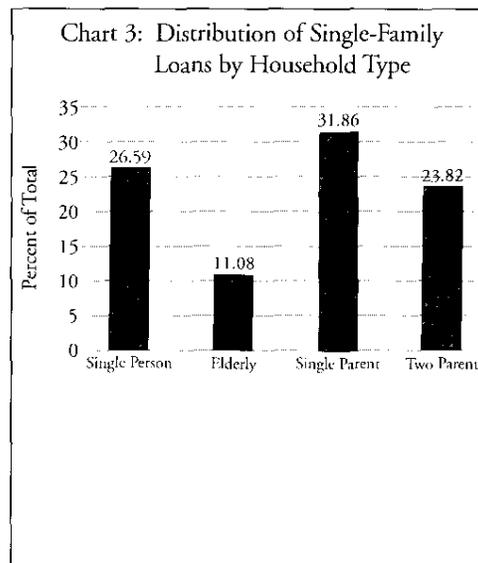
The DHCD analysis database contained a 30 percent random sample (360 loans) in the single family program and a 100 percent sample of multifamily program loans. The single family sample indicated that all households benefitting from the loans fell below 80 percent of area median, and well over half fell below 60 percent of area median (Chart 1).



In the multifamily loan program, four-fifths of households had incomes at or below 60 percent of median (Chart 2).



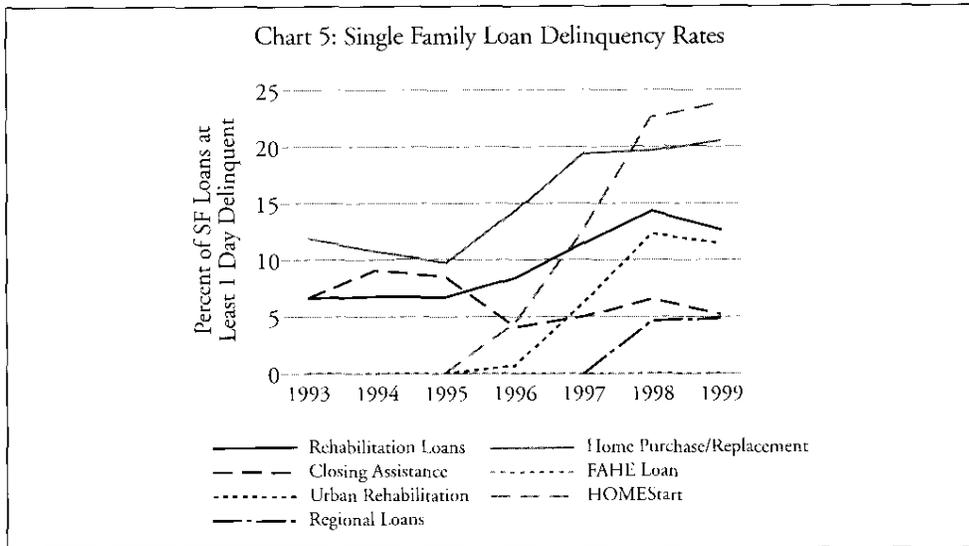
In sum, the Partnership Fund has demonstrated its ability to serve a variety of households (two-parent and single parent households, single persons, the elderly, and those with special needs) with incomes well below prevailing medians in diverse communities across Virginia (Charts 3 and 4).



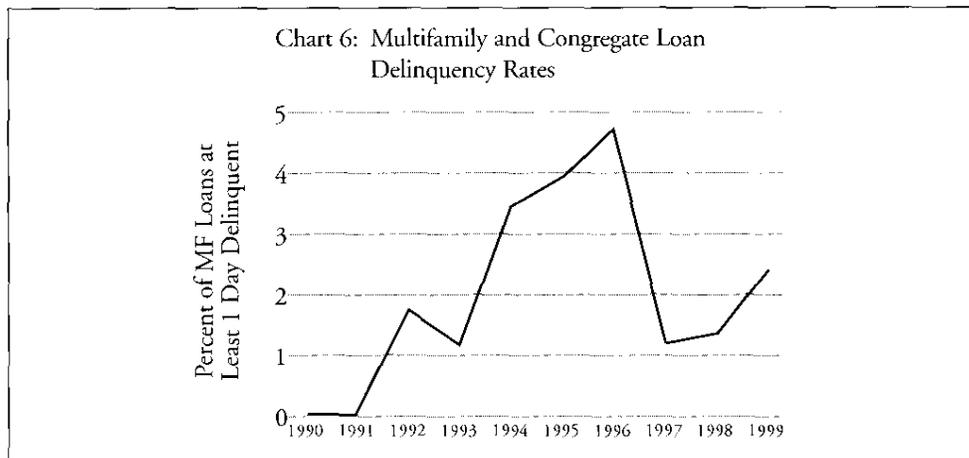
Strategic Investment and Leveraging

Because only limited new Partnership Fund allocations were anticipated, the ability of Fund investments to leverage additional private or public sector funds was a major program assumption. The experience of both single family and multifamily program components validate that expectation. Each single family loan dollar leverages an additional \$5.67 in other monies; each multifamily loan dollar leverages \$4.68 in additional monies. In addition, the housing opportunities created by the Partnership Fund have also leveraged other benefits for Virginia communities, including revitalization, enhanced real property, income, and sales tax bases, and sales of varied products as residents equip, furnish, and landscape their homes. (In addition, because Fund allocations have focused on housing preservation, local investments in infrastructure have been efficiently utilized.)

The Partnership Fund was conceived as a vehicle that could literally leverage the homeownership ability of those who were typically excluded, by virtue of their incomes, from owning their own homes. Accordingly, highly leveraged loans made to homeowners in this category were expected to carry certain delinquency and default risks. However, according to VHDA's monthly status reports, the foreclosure rate has been virtually zero for all of the various Partnership Fund single family loan programs since their inception (Chart 5).



The Fund multifamily program default rate stands at less than one percent, with only three project foreclosures (Chart 6).

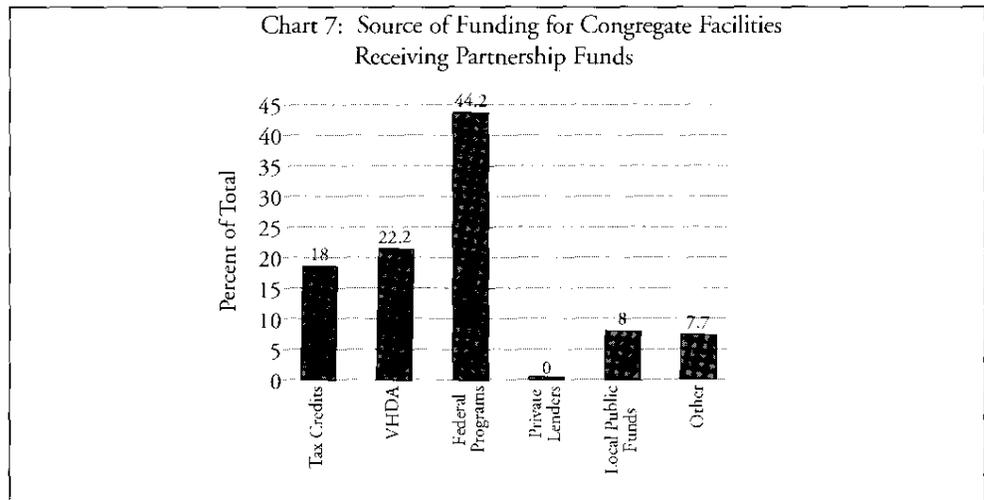


Local Partnerships

Partnership Fund initial assumptions included substantial reliance on local partners for such activities as assessing local needs, developing local responses, and cultivating local sources of additional project capital. An examination of Fund databases indicates that, indeed, reciprocal relationships have been a hallmark of the program. In the single family component, 33 different sponsors accounted for the 360 sample units; in the multifamily component, 81 different sponsors developed 157 individual projects. Virtually all multifamily sponsors responding to a DHCD study-related survey indicated that Partnership Fund monies were absolutely essential to their projects.

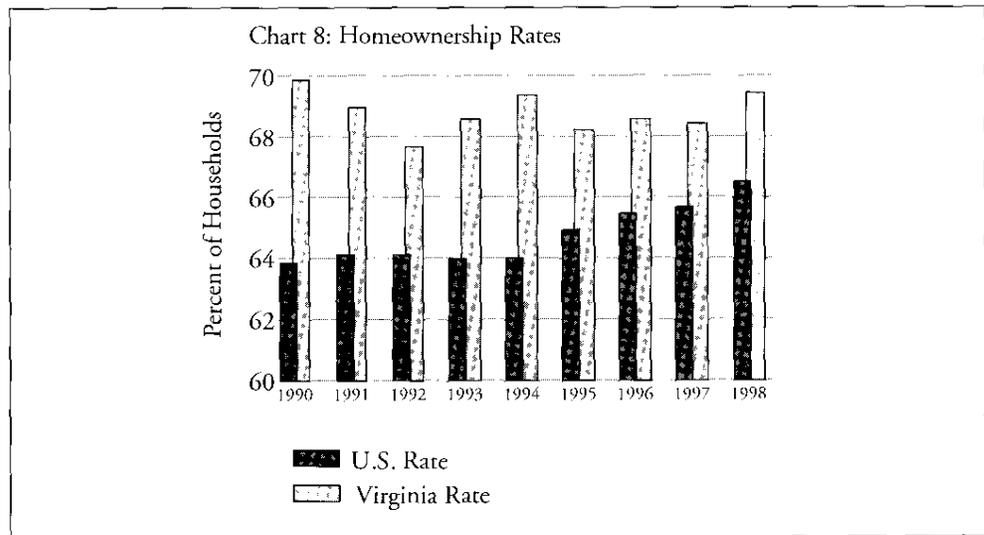
Long-Term Support for Affordable Housing

As noted, the Partnership Fund was initially conceived as a self-supporting entity after ten years of allocations. While the General Assembly has continued to allocate funds for certain individual housing programs, the revolving loan component of the Fund has in recent years relied solely on recycled program funds (interest and repayments), and loan supply has lagged demand (Chart 7).

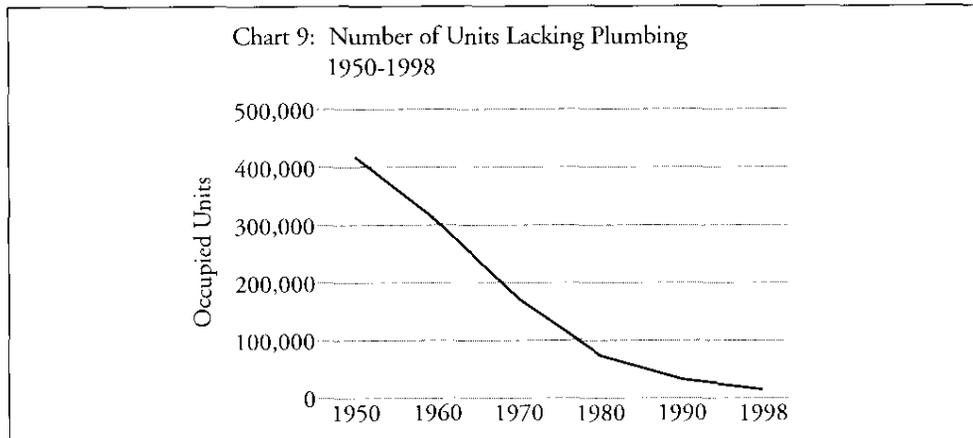


Though it is reasonable to state that Virginians are better housed than at any time in the history of the Commonwealth, housing needs continue to challenge the capacity of conventional financing mechanisms. Key areas of current and/or future needs include:

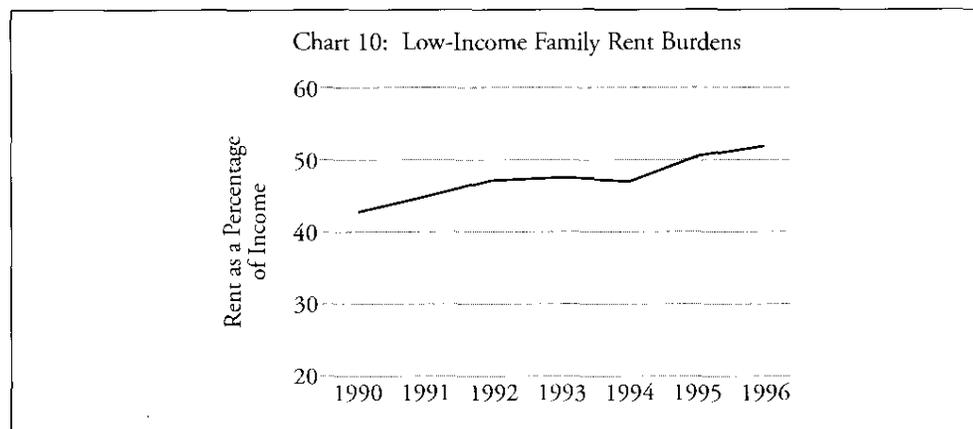
- homeownership opportunities, particularly in central cities (Chart 8)



- indoor plumbing, with at least one percent of Virginia's housing stock – some 18,400 units, and possibly up to 30,000 units – still without such basic facilities as running water safe for consumption (Chart 9)



- housing for disabled Virginians, particularly those relying on Supplemental Security Income (SSI)
- housing for Virginia's seniors, particularly those needing assistance with activities of daily living, such as bathing, dressing, and taking medications
- affordable rental housing, particularly in light of increasing rents, decreasing vacancies, a continuing decline in federally subsidized units, and the possible expiration of contracts linked to the earliest round of federal Low Income Housing Tax Credit allocations, with such units now in their eleventh year of 15-year contracts (Chart 10).



ALTERNATIVES

A limited number of alternatives appeared to be available for responding to those portions of the current and future housing needs mentioned above that may not be addressed successfully through conventional housing markets. Alternatives include:

- Identify sources of funding aside from the state general fund (e.g., nongeneral or special funds) to support additional capitalization of the Partnership Fund.
- Seek additional categorical funds from competitive federal housing programs as they become available, allowing federal priorities to shape the state's response to housing needs.

- Continue the status quo of the Partnership Fund while continuing to appropriate general funds for specific housing program areas, shaping the state's response to housing needs through the appropriations process.
- Enhance the capitalization and flexibility of the Partnership Fund loan programs through appropriations from the general fund and continue to expand the use of available funds as they revolve in the future.

The Partnership Fund Subcommittee and, subsequently, the Commission noted that alternatives to the Partnership Fund do not provide a viable option for responding to housing needs in the critical 30-50 percent of median income sector. The Partnership Fund has been an essential tool because of its overall flexibility and focus on this income group. Other alternatives lack comparable flexibility or cannot be counted on to provide a reliable source of funding from year to year.

RECOMMENDATIONS

The Partnership Fund Subcommittee noted the continued presence of significant and highly varied housing needs as well as the limited range of funding alternatives available to address them. In view of the information included in the Subcommittee report, the Department of Housing and Community Development recommended that the Partnership Fund continue to address the affordable housing needs identified in Section 36-142 of the *Code of Virginia*. The Subcommittee concluded its review of the program by unanimously recommending that the Virginia Housing Study Commission consider recommending to the General Assembly that up to \$20 million in new funds be appropriated in each year of the new biennium to support the activities of the Virginia Housing Partnership Fund. In addition, the Subcommittee unanimously recommended that the Virginia Housing Study Commission consider recommending to the General Assembly that up to \$5 million in additional funds be appropriated annually in each year of the new biennium to foster the provision of indoor plumbing in housing across the Commonwealth. The Commission accordingly unanimously adopted the recommendations of its Partnership Fund Subcommittee.¹

¹The Virginia Housing Study Commission and the Virginia Department of Housing and Community Development and their respective Executive Directors gratefully acknowledge the assistance of the following in their study relating to the Virginia Housing Partnership Fund: Dr. William J. Ernst, DHCD Associate Director, for comprehensively compiling data, creating charts, and drafting the report of the Partnership Fund Subcommittee, and Ms. Carol Abramson, DHCD Program Administrator, Dr. J. Edwin Deane, DHCD Policy Analyst, Mr. Ron White, DHCD Program Manager, Ms. Nina Nolley, VHDA Multifamily Division Assistant Director, Ms. Robin Nooney, VHDA Multifamily Collections Officer, and Mr. Millard Fountain, VHDA Loan Servicing Manager, for compiling and analyzing Partnership Fund financial data.

APPENDIX A: COMPOSITION OF VIRGINIA'S PLANNING DISTRICTS

PDC 1: LENOWISCO

Lee
Scott
Wise
Norton City

PDC 2: CUMBERLAND

PLATEAU

Buchanan
Dickenson
Russell
Tazewell

PDC 3: MOUNT ROGERS

Bland
Carroll
Grayson
Smyth
Washington
Wythe
Bristol City
Galax City

PDC 4: NEW RIVER VALLEY

Floyd
Giles
Montgomery
Pulaski
Radford City

PDC 5: FIFTH

Alleghany
Botetourt
Craig
Roanoke
Clifton Forge City
Covington City
Roanoke City
Salem City

PDC 6: CENTRAL

SHENANDOAH

Augusta
Bath
Highland
Rockbridge
Rockingham
Buena Vista City
Harrisonburg City
Lexington City
Staunton City
Waynesboro City

PDC 7: LORD FAIRFAX

Clarke
Frederick
Page
Shenandoah
Warren
Winchester City

PDC 8: NORTHERN VIRGINIA

Arlington
Fairfax
Loudoun
Prince William
Alexandria City
Fairfax City
Falls Church City
Manassas City
Manassas Park City

PDC 9: RAPPAHANNOCK- RAPIDAN

Culpeper
Fauquier
Madison
Orange
Rappahannock

PDC 10: THOMAS JEFFERSON

Albemarle
Fluvanna
Greene
Louisa
Nelson
Charlottesville City

PDC 11: CENTRAL VIRGINIA

Amherst
Appomattox
Bedford
Campbell
Bedford City
Lynchburg City

PDC 12: WEST PIEDMONT

Franklin
Henry
Patrick
Pittsylvania
Danville City
Martinsville City

PDC 13: SOUTHSIDE

Brunswick
Halifax
Mecklenburg
South Boston City

PDC 14: PIEDMONT

Amelia
Buckingham
Charlotte
Cumberland
Lunenburg
Nottoway
Prince Edward

PDC 14: RICHMOND REGIONAL

- Charles City County
- Chesterfield
- Goochland
- Hanover
- Henrico
- New Kent
- Powhatan
- Richmond City

PSC 18: MIDDLE PENINSULA

- Essex
- Gloucester
- King and Queen
- King William
- Mathews
- Middlesex

PDC 23: HAMPTON ROADS

- Isle of Wight
- James City County
- Southampton
- York
- Chesapeake City
- Franklin City
- Hampton City
- Newport News City
- Norfolk City
- Poquoson City
- Portsmouth City
- Suffolk City
- Virginia Beach City
- Williamsburg City

PDC 16: RADCO

- Caroline
- King George
- Spotsylvania
- Stafford
- Fredericksburg City

PDC 19: CRATER

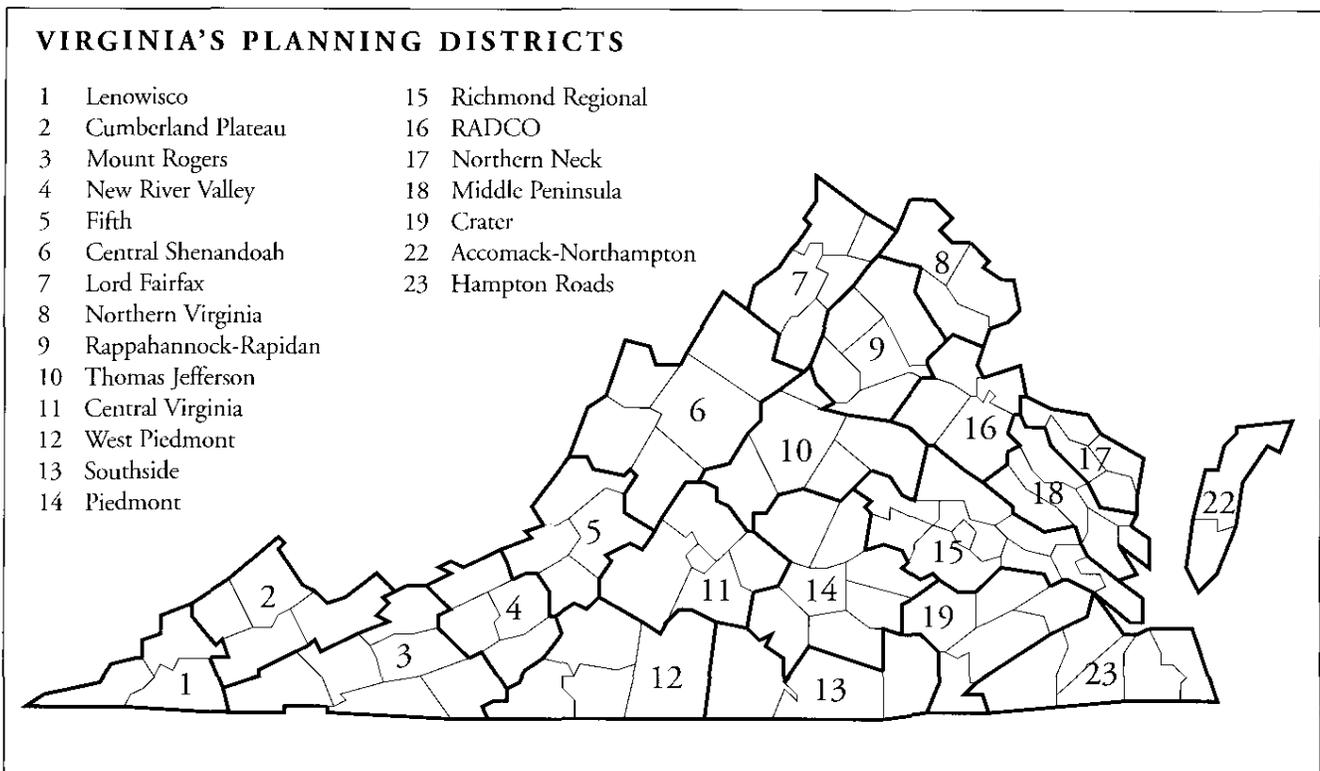
- Dinwiddie
- Greensville
- Prince George
- Surry
- Sussex
- Colonial Heights City
- Emporia City
- Hopewell City
- Petersburg City

PDC 17: NORTHERN NECK

- Lancaster
- Northumberland
- Richmond
- Westmoreland

PDC 22: ACCOMACK-NORTHAMPTON

- Accomack
- Northampton



VIRGINIA HOUSING STUDY COMMISSION 1999 SUBCOMMITTEES

SUBCOMMITTEE ON HJR
739: VIRGINIA
RESIDENTIAL LANDLORD
AND TENANT ACT AND
HB 1454: VIRGINIA
MANUFACTURED HOME
LOT RENTAL ACT

The Honorable James F. Almand
Chairman
Virginia House of Delegates
Arlington

Ms. Tracey S. DeBoissiere
Executive Director
Northern Virginia
Apartment Association
Arlington

Brandon Beach, Esquire
Staff Attorney
Virginia Poverty Law Center
Richmond

B. Grimes Creasy, Esquire
Johnson, Ayers & Matthews
Roanoke

Thomas J. Dillon, III, Esquire
Hirschler, Fleischer, Weinberg,
Cox & Allen
Richmond

Ms. Barbara R. Fubank
Executive Director
Virginia Apartment and
Management Association
Richmond

Mr. Douglas Gray
Director of Public Policy
Virginia Association of Realtors
Glen Allen

Alex R. Gulotta, Esquire
Executive Director
Charlottesville-Albemarle
Legal Aid Society
Charlottesville

Ms. Merry Beth Hall
Executive Director
Richmond Apartment
Management Association
Richmond

Mr. Thomas R. Hyland
Vice President of Governmental
Affairs - Virginia
Apartment and Office Building
Association of Metropolitan
Washington
Vienna

Mr. Michael Newsome
Clark-Whitehall Enterprises
Virginia Beach

Mr. R. Schaefer Oglesby
President
O&M Properties
Lynchburg

Ex Officio

Maria J. K. Everett,
Attorney at Law
Division of Legislative Services
Richmond

SUBCOMMITTEE ON HJR
744: COMMUNITY
ASSOCIATIONS

The Honorable Franklin P. Hall
Chairman
Virginia House of Delegates
Midlothian

The Honorable William C. Mims
Virginia State Senate
Leesburg

The Honorable Jane H. Woods
Virginia State Senate
Fairfax

Mr. Bradford L. Brady, PCAM
President
Community Group, Inc.
Newport News

Ms. Christine O. Bridge
Director
Intergovernmental and
Community Relations
City of Newport News
Newport News

Mr. Robert E. Brosnan
Planning Director
Arlington County
Arlington

Kenneth E. Chadwick, Esquire
Chadwick, Washington, Oltsers,
Moriarty & Lynn, P. C.
Glen Allen

Mr. W. Rand Cook
Legislative Liaison
Spotsylvania County
Mechanicsville

Ms. Mary Beth Coya
Director of Governmental Affairs
Northern Virginia Association of
Realtors, Inc.
Fairfax

Michael A. Inman, Esquire
Inman & Strickler, P.L.C.
Virginia Beach

Mr. Ronald P. Kirby
President
Community Management
Corporation
Fairfax

Ms. Betty Long
Deputy Director
Virginia Municipal League
Richmond

Michael Long, Esquire
Senior Assistant County
Attorney
County of Fairfax
Fairfax

Jan L. Proctor, Esquire
Deputy City Attorney
City of Chesapeake
Chesapeake

Larry Spencer, Esquire
Assistant City Attorney
City of Virginia Beach
Virginia Beach

Lucia Anna Trigliani
President, Washington
Metropolitan Chapter
Community Associations
Institute
Attorney at Law, Mays &
Valentine
McLean

Ms. Victoria Wingert
Executive Vice President
Reston Association
Reston

SUBCOMMITTEE ON HJR
747: CARBON MONOXIDE
SAFETY

The Honorable Donald L.
Williams Chairman
Virginia House of Delegates
Norfolk

Ms. Nancy A. Bright
Vice Chair
Board of Housing and
Community Development
Dittmar Company
Vienna

Ms. Tracey S. DeBoissiere
Executive Director
Northern Virginia Apartment
Association
Arlington

Mr. Walter J. Parker
Office of Community Relations
Norfolk State University
Norfolk

Mr. David Bailey
Executive Director
Plumbing and Mechanical
Professionals of Virginia
Richmond

Mr. Benedict P. Burbic
Vice President, Local 794
Newport News Fire Fighters
Association
Newport News

Mr. Ashley H. Eldridge
Director of Technical Services
National Chimney Sweep Guild
Ashland

Ms. Barbara R. Fubank
Executive Director
Virginia Apartment and
Management Association
Richmond

Ms. Susan Gaston
Director of Governmental Affairs
Peninsula Association of Realtors
Newport News

Mr. Thomas R. Hyland
Vice President of Governmental
Affairs - Virginia
Apartment and Office Building
Association of Metropolitan
Washington
Vienna

Mr. David S. Johnston
Senior Codes and Standards
Specialist
Washington Gas
Springfield

Mr. James E. Morris, II
Chairman, Virginia Board
for Contractors
Pace Construction and
Development Corporation
Virginia Beach

Mr. Emory R. Rodgers
Inspection Services Division
Chief
County of Arlington
Arlington

Mr. John M. Storch
President, Virginia Chimney
Safety Guild
President, Chimney Chap
Richmond

Mr. Guy Tomberlin
Virginia Plumbing and
Mechanical Inspectors
Association
County of Fairfax Mechanical
Field Supervisor
Fairfax

Mr. R. Lee Ware, Jr.
Virginia Fire Prevention
Association
Fire Marshal, City of
Newport News
Newport News

Ex Officio

Mr. C. Edward Altizer
State Fire Marshal
Virginia Department of Housing
and Community Development
Richmond

Mr. Phil Paquette
Virginia Fire Services Board
Toano

Mr. Jack A. Proctor
Deputy Director
Virginia Department of Housing
and Community Development
Richmond

SUBCOMMITTEE ON HJR
760: PRESERVATION OF
AFFORDABLE HOUSING

The Honorable James M. Scott
Chairman
Virginia House of Delegates
Merrifield

The Honorable James F. Almand
Virginia House of Delegates
Arlington

The Honorable Donald L.
Williams
Virginia House of Delegates
Norfolk

The Honorable Jane H. Woods
Virginia State Senate
Fairfax

Developers

Mr. Robert J. Adams
Director of Operations
VMH, Inc.
Richmond

Mr. James Edmondson
President
Cornerstone Housing
Corporation
McLean

Mr. Richard W. Hausler
President
KSI Services, Inc.
Vienna

Mr. Marvin Mazur
President
Beacon Construction
Newport News

Financial Institutions

Mr. Charles R. Henderson, Jr.
Senior Vice President
Bank of America
Norfolk

Ms. Jane N. Henderson
Senior Vice President
Community Reinvestment
Director
First Union Corporation
Charlotte

Ms. Brenda L. Skidmore
First Vice President
Government and Regulatory
Affairs
Crestar Bank
Richmond

Mr. William G. Smith
Senior Vice President
Community Development
Lending
First Union Corporation
Durham

Other

Ms. Greta J. Harris
Program Director
Local Initiatives Support
Corporation
Richmond

Mr. William L. Hawkins, Jr.
Executive Director
Newport News Redevelopment
and Housing Authority
Newport News

Mr. Thomas R. Hyland
Vice President of Governmental
Affairs - Virginia
Apartment and Office Building
Association of Metropolitan
Washington
Vienna

Ms. Paula C. Sampson
Director
Department of Housing and
Community Development
County of Fairfax
Fairfax

Ex Officio

Ms. Susan F. Dewey
Executive Director
Virginia Housing Development
Authority
Richmond

Mr. H. Larkin Goshorn
Director of Multi-Family
Development
Virginia Housing Development
Authority
Richmond

Mr. William C. Shelton
Director
Virginia Department of Housing
and Community Development
Richmond

Mr. Conrad K. Sterrett
Director of Finance
Virginia Housing Development
Authority
Richmond

The Honorable Robert E.
Washington
Deputy Executive Director
Virginia Housing Development
Authority
Richmond

SUBCOMMITTEE ON THE
VIRGINIA HOUSING
PARTNERSHIP FUND

The Honorable James F. Almand
Chairman
Virginia House of Delegates
Arlington

The Honorable Jackie T. Stump
Virginia House of Delegates
Oakwood

The Honorable Stanley C.
Walker
Virginia State Senate
Norfolk

Mr. F. Gary Garczynski
President
National Capital Land and
Development Company
Woodbridge

Mr. Don Bosserman
Board of Housing and
Community Development
Project Manager
Wilson Trucking Corporation
Fishersville

The Honorable Hilda M. Barg
Board of Supervisors
Prince William County
Woodbridge

Mr. Wendell Franklin
Senior Vice President
S. I. Nussbaum Realty
Company
Norfolk

Mr. Edmund E. Garcia, III
Executive Vice President
One Valley Bank -
Central Virginia N.A.
Lynchburg

Ms. Susan Gaston
Director of Governmental Affairs
Peninsula Association of Realtors
Newport News

Mr. Richard C. Gentry
Director of Public Housing
Local Initiatives Support
Corporation
Washington, DC

Mr. William L. Hawkins, Jr.
Executive Director
Newport News Redevelopment
and Housing Authority
Newport News

Mr. Vernard W. Henley
Chairman of the Board
Consolidated Bank &
Trust Company
Richmond

Mr. Thomas R. Hyland
Vice President of Governmental
Affairs - Virginia
Apartment and Office Building
Association of Metropolitan
Washington
Vienna

Mr. Philip M. Morton
Senior Vice President
Wachovia Bank
Charlottesville

Mr. Earl B. Reynolds, Jr.
President, Virginia Municipal
League
City Manager
Martinsville

Mr. T. K. Somanath
Executive Director
Richmond Better Housing
Coalition
Richmond

Ms. Theresa Tapscott
President, Virginia Housing
Coalition
Executive Director, Albemarle
Housing Improvement
Program
Charlottesville

Mr. Walter Webdale
Executive Director
Arlington Housing Corporation
Arlington

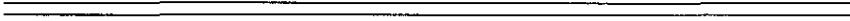
Mr. David S. White
President
SWA Corporation
Richmond

Ex Officio

Nancy M. Ambler, Esquire
Executive Director and Counsel
Virginia Housing Study
Commission
Richmond

Ms. Susan F. Dewey
Executive Director
Virginia Housing Development
Authority
Richmond

Mr. William C. Shelton
Director
Virginia Department of Housing
and Community Development
Richmond



For more information please contact:

VIRGINIA HOUSING STUDY COMMISSION

601 South Belvidere Street
Richmond, Virginia 23220
804.225.3797
www.legis.state.va.us/vhsc/housing.htm

