

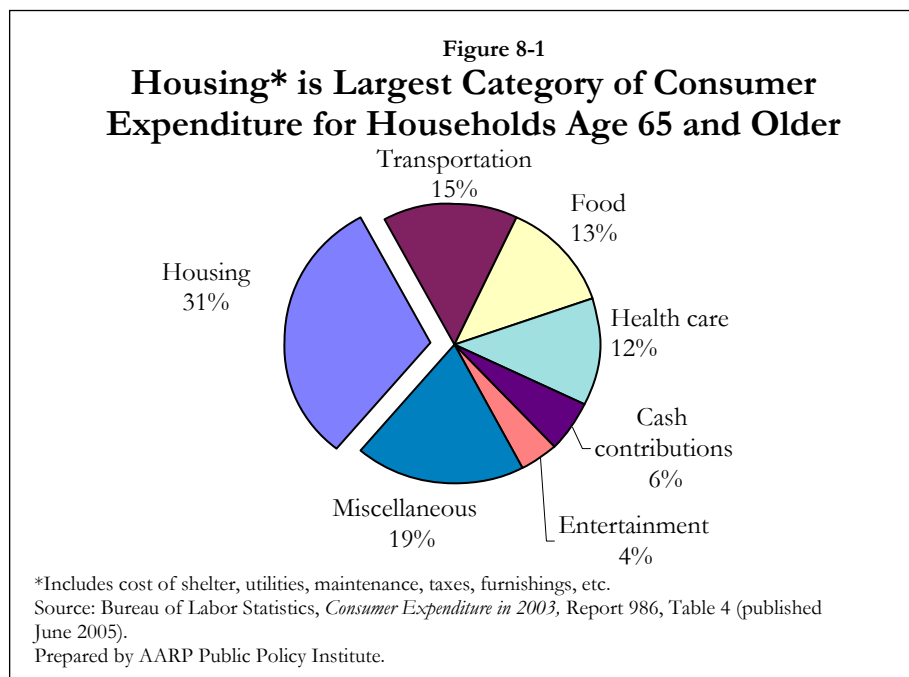
HOUSING . 8

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Housing plays a unique role in the life of older Americans. It serves as shelter and provides a sense of comfort and security. It provides wealth to the approximately 80 percent of Americans age 50 and older who own their home. It figures prominently in quality of life and can affect the ability of an older person to age in place and remain independent.

Yet many older people experience serious housing problems because of housing cost, inappropriateness of the home for aging in place, or challenges to protecting residents' financial interest in the home. In addition enjoying the benefits of home and community may be difficult without improved home and community services programs and legal protections (for further discussion of consumer protection in home loans and home improvements, see Chapter 11, Financial Services and Consumer Products). Further there remain significant problems in the quality of the existing housing stock. Although the number of older people with substandard housing has decreased in recent years, data from the 2003 American Housing Survey indicate that 5 percent of households headed by someone age 65 or older still report moderate or severe housing-quality problems.



Housing is the single largest expenditure category for older households (Figure 8-1), and this cost is a particularly serious problem for those who rent. For many older renters high rents and relatively low incomes add up to high housing-cost burdens. The 2003 American Housing Survey indicates that 50 percent of renter households age 50 and older incurred “excessive expenditures” for housing, compared with 26 percent of owner households

age 50 and older (“excessive expenditures” are housing costs in excess of 30 percent of income). The percentage of older renter households with excessive housing expenditures was higher for renter households headed by individuals age 75 and older (58 percent) and females living alone (59 percent). The affordability crunch experienced by older renters is part of a larger affordability problem affecting renters of all ages who have low incomes, particularly those with very low and extremely low incomes. Among homeowners affordability has been compromised in many parts of the country by escalating property taxes in the face of rapidly increasing property values. In all, Harvard University’s Joint Center for Housing Studies reports that the number of severely cost-burdened households in the lowest income quintile increased by 1.5 million between 2000 and 2003.

For older owners the home is usually their single largest asset. Older people can use this wealth for a variety of purposes: to serve as collateral for the upgrade and repair of the property, to provide economic security in the face of major unforeseen expenses (such as long-term services and support), or to provide shelter or finances to future generations through inheritance. Homeownership is growing: Between 1982 and 2004, for instance, the homeownership rate for households age 65 and older increased from 74.4 percent to 81.1 percent.

Because of the home’s financial importance, protecting an owner’s investment is an important policy goal. Home-repair programs and improved construction standards for manufactured homes can help safeguard this physical asset. Standards for reverse mortgages and other financial instruments can provide reliable options for using the equity in a home.

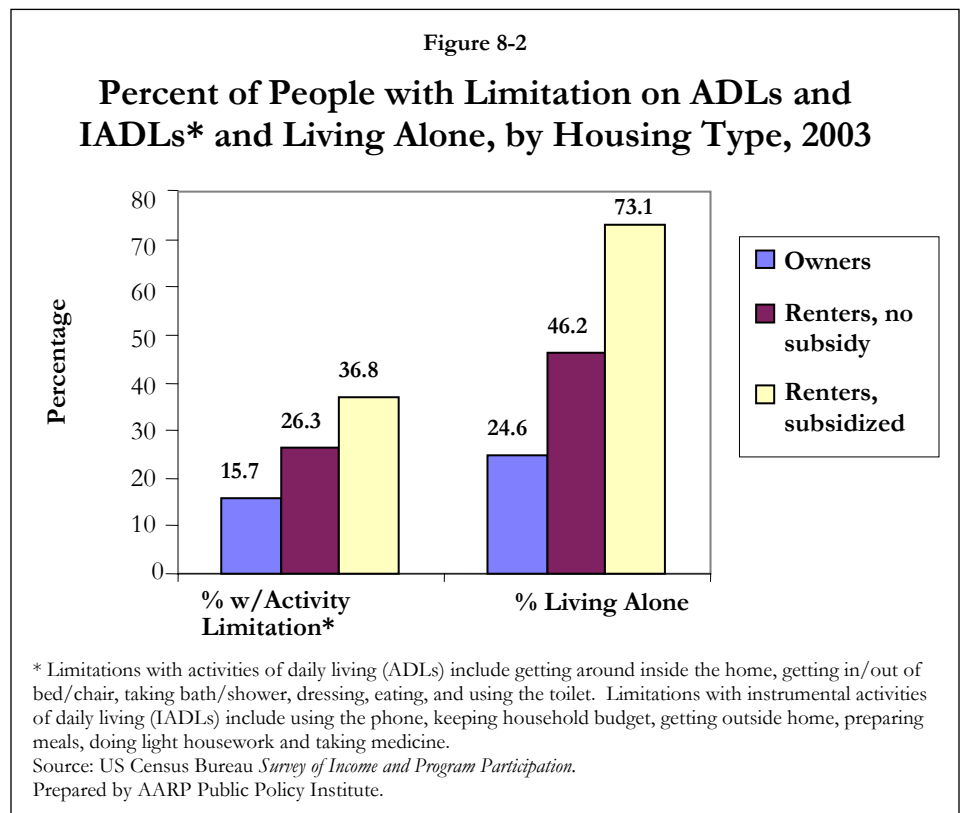
The physical features of housing can be critical to a person’s ability to age in place. Much of the nation’s current housing stock may prove inappropriate as the population ages, especially for those people experiencing increased frailty. Home modification is one method to help meet the changing needs of an aging resident. There is also growing recognition that including adaptable and accessible designs in homes as they are built may generate significant financial and social benefits down the road.

But regardless of a home’s features, many older people, especially those who live alone, eventually need some supportive services to remain independent. However, providing such services may be complicated by the fact that 74 percent of households age 65 and older now live outside central cities and are dispersed in suburbs, small towns and rural areas, according to the 2003 American Housing Survey. Such dispersion presents formidable challenges to the nation’s ability to ensure that an aging population will have access to essential goods, services and facilities. Safe, affordable and convenient means of transportation to and from home will be an important concern, as will provision of in-home or near-home health care, home-delivered meals, neighborhood shopping, and opportunities for socialization. These issues are more pronounced in rural areas, but many older residents in suburban and urban settings can also experience problems. For instance a 2004 AARP survey of persons age 50 and older found that 51 percent of residents in small towns and rural areas gave their community a D or F grade in offering

dependable public transportation, compared to 14 percent in urban settings and 24 percent in the suburbs. Similarly 48 percent of persons age 50 and older in small towns and rural areas gave their community a D or F grade when it came to having a drugstore within a half mile of home, compared to 19 percent in urban and suburban settings.

The growing population of people age 75 and older will present special challenges. Individuals age 75 and older who head households are more likely than those ages 50 to 74 to be renters, live alone and experience poverty, health problems and substandard housing. Meeting these multiple needs will require housing subsidies, more extensive provision of in-home health care, and community support services such as transportation. Infrastructure to provide for supportive technology can also play an important role (see for instance the discussion of broadband access, which can promote health monitoring, in Chapter 10, Utilities: Telecommunications, Energy and Other Services).

Older persons who can no longer stay in their homes will require specialized housing with more extensive services; such arrangements include assisted living, congregate housing and group homes. Unfortunately many older people with moderate or low incomes cannot afford such specialized supportive housing on their own, and current subsidy programs are limited. One crucial challenge for policymakers will be determining how to extend supportive housing opportunities to frail older people with modest means (this chapter focuses on housing as a point of delivery for services; see also Chapter 7, Long-Term Services and Supports). The problem is especially acute for older renters, who not only have fewer financial resources but also are more likely to live alone and have difficulty with everyday activities (Figure 8-2).



AARP PRINCIPLES

The following principles on housing guide AARP's efforts to promote a national housing policy that is flexible and affordable and that meets the needs of the nation's aging population. Each principle includes specific actions to improve the living conditions and housing choices of older Americans.

Create livable communities—Promote appropriate, affordable and accessible housing and other supportive community features and services (such as transportation options, walkable neighborhoods and technology infrastructure) designed to enhance the ability of residents with diverse needs to remain independent and actively engaged in community life.

Provide choice in housing options—Create a policy environment that encourages the private and public sectors to develop a wider range of housing options to meet the diverse needs of older people.

Reform federal programs—Ensure that older residents of federal, state and locally assisted housing can remain in their homes if they choose and that low- and moderate-income households have access to well-designed, high-quality affordable housing.

Increase capacity for public-private partnerships—Reauthorize or create key institutions and programs at the federal, state and local levels so that government can be an effective partner with the private sector in increasing the range of housing choices available to older people.

Promote housing as a financial asset—Promote and expand homeownership options, safeguard the equity of older homeowners, and allow more flexible use of this asset to maintain the independence of older people and improve their quality of life.

Foster service delivery—Encourage the use of housing as a setting for the delivery of services that assist older people in maintaining their independence.

Improve home design—Promote safe, high-quality and accessible housing through home modification and repair, appropriate design features in new homes (such as universal design and visitability), and innovative home products.

BUILDING LIVABLE COMMUNITIES

Background

The manner in which older people interact with their home and community can have important consequences for their ability to age in place safely and to remain actively involved in community life. Barriers between the individual and environment can result in a sense of isolation and can make it difficult for an older person to have the social interaction and independence that contribute to a healthy lifestyle.

A livable community is one that has affordable and appropriate housing, supportive community features and services, and adequate mobility options. Together these facilitate personal independence and the engagement of residents in civic and social life. AARP policy addresses these issues in a number of ways (housing issues are discussed in this chapter; transportation issues are treated in Chapter 9, Transportation; and supportive services appear in Chapter 7, Long-Term Services and Supports).

Housing and land-use issues are a major component of this effort. Either directly or indirectly community planning decisions can affect housing mix, availability, quality and affordability. Among the many issues are:

- smart growth and redevelopment of existing communities,
- state and local housing and community planning programs,
- state and local use of federal housing assistance,
- zoning and residential land use,
- universal design and visitability,
- rent control,
- supportive services in the community, and
- environmental protection.

Other issues include providing assistance for home improvement and maximizing options for housing with supportive services (see Maintenance, Repair and Modification Assistance for Older Homeowners, in this chapter, and for a discussion of transportation issues see Chapter 9, Transportation). Another important issue is how the intergenerational use of public facilities can provide residents with lifelong learning opportunities that contribute to personal growth and economic productivity.

Smart growth and redevelopment of existing communities —Many of the elements of livable communities are influenced by debates over “smart growth.” Typically, state and local smart-growth initiatives address the problem of urban sprawl or development patterns characterized by growth on the fringes of urban areas, a process often accompanied by the underutilization or even decay of infrastructure closer to the city. Although different interests may disagree on what smart growth solutions entail, the smart-growth movement generally believes that development patterns and quality of life are linked. Smart-growth initiatives that broadly address

development patterns have an impact on housing mix and affordability for the community as a whole.

At the same time, many of our older communities are seeking to revitalize their economies and improve their housing and residents' quality of life. Redevelopment efforts provide an opportunity to promote mixed-use development, affordable housing, and other elements of civic design; encourage citizen participation in planning; and promote new approaches to growth issues like gentrification and housing preservation.

State and local programs—States and local governments play essential roles in expanding housing options for older people and protecting their rights as housing purchasers. All states and the District of Columbia have housing finance agencies (HFAs) that issue tax-exempt bonds to finance mortgages for the construction of single-family and multifamily housing. A number of HFAs and state units on aging have special programs to develop congregate housing and assisted-living residences and provide home-repair services and reverse mortgages to older homeowners. In addition 38 states and more than 350 localities have established housing trust funds that support a wide variety of housing activities, including new construction, home repair and rental rehabilitation. States have also established planning and service-provision authority for cities and counties that can have a profound effect on the livability of local communities. A big problem, however, is the inconsistency among coordinating agencies that oversee various activities, such as housing, transportation and social services. These agencies have a diverse and sometimes complex set of funding streams and eligibility criteria; further, they often perceive themselves to have dissimilar constituents and solicit community participation differently.

State and local use of federal housing assistance—States and localities also play an important role in priority setting, policy coordination, and the administration of federal housing programs such as the Home Investment Partnership Program (HOME). Under the Department of Housing and Urban Development's consolidated planning regulations, state and local governments prepare plans that analyze the nature and extent of the housing needs of older people, develop strategies to coordinate various housing and social services, identify regulatory barriers, and develop action plans to improve housing conditions. Priorities established under these plans guide the allocation of funds for key federal housing and community development programs, including HOME, community development block grants, and the Section 202 Supportive Housing for the Elderly program. States are also responsible for allocating federal low-income housing tax credits to meet critical rental housing needs.

Residential land use, zoning and codes—AARP surveys indicate that older people overwhelmingly want to remain in their current homes and communities, a desire often limited by community development patterns. Strategies to expand housing choices for older people increasingly involve changes in state and local regulations and land-use policy. Such changes can include revising building and life-safety codes to accommodate assisted

living; removing zoning barriers to housing alternatives, such as accessory apartments and shared housing; redeveloping existing infrastructure; implementing state and local planning programs to improve the physical design of communities; and including the housing needs of low-income, disabled and older people in state and local development strategies. In addition localities are seeking innovative ways of dealing with age-old community problems, such as housing code violations, parking problems and neighborhood noise and trash.

One enduring issue in land use and redevelopment is the role of eminent domain and its effect on established communities. On the one hand eminent domain enables local government to take private property for important public uses, such as schools or roads, and also for the purpose of eliminating blight. Eminent domain can be a powerful tool for transforming and revitalizing an area. On the other hand its use can have a profound impact on those who are displaced, even though our Constitution requires “just compensation.” Displacement can be particularly problematic for older persons, who may have long-standing social ties and systems of informal support in their community and for whom relocation is frequently physically difficult. Balancing the public interest with the interest of those who lose their home is difficult, but the principles of livable communities help raise several important questions for local decisionmakers:

- To what extent will an eminent domain action allow residents to remain in or return to their community?
- How can public participation and decision by majority be balanced if the larger community benefits at the expense of a few property owners?
- Does the proposed development reduce or expand the supply of diverse and affordable housing options?
- How should the displaced owners be compensated?
- Should there be greater procedural safeguards to prevent the misuse of eminent domain?

Universal design and visitability—Communities may also encourage universal design, which provides a range of housing features such as widened doors, accessible kitchens and bathrooms, and other architecturally friendly features that help people remain independent during different life stages. Visitability features are a component of universal design that deals with access to the main part of the house, such as a zero-step entrance, and access to a toilet facility. These provide benefits to household members and enable others with mobility limitations to visit. Some local jurisdictions have begun promoting these features in new construction through code requirements and incentives to consumers and builders.

Rent control—Studies indicate that over time, rent control increases the disparities in rent burdens among households and does not provide a long-term solution to affordable housing. Although rent control ordinances are not an effective solution to the affordable housing problem in many parts of the country, it may be desirable for states and localities to retain existing rent control ordinances for a limited time in areas with severe housing shortages

or where development pressures result in the significant loss of affordable units.

Supportive services in the community—Communities can promote livability by addressing the needs of older residents for supportive services. These range from personal care services and meals in the home to transportation, caregiver support and senior centers. Many communities supplement the federal funding they receive under the Older Americans Act with state and local funding, as well as by encouraging private-sector involvement. In addition some communities have found it useful to coordinate service activities with other programs. For example, some local housing authorities have coordinated with area agencies on aging to provide common space in federally subsidized housing developments for service coordinators or group meals. Some communities identify concentrations of older people, including naturally occurring retirement communities, known as NORCs, as places to focus limited resources.

Environmental protection—One characteristic of a livable community is its capacity to provide a safe and healthful environment on a sustained basis. Water and air pollution make it difficult for people to conduct everyday activities or use outdoor settings for recreation. Such environmental issues are particularly important for older people, who may have bronchitis or other conditions that affect their independence and quality of life. Federal laws such as the Clean Air Act, the Safe Drinking Water Act, and the Clean Water Act have made major contributions to improving the environment and have influenced decisionmaking at the state and local level regarding pollutants. They have also created a policy setting to assess development patterns and housing decisions based on the environment's ability to support the population and even on the specific habits of residents (such as fireplace use).

But the environment does not stop at the doorstep. Also important, for instance, is air quality inside the home (for indoor-air issues in the workplace, see Chapter 11, Financial Services and Consumer Products—Air Quality in Public Buildings). Indoor-air pollution is a complex problem because it can originate from a variety of sources, including building materials and furnishings. It may even be exacerbated by home designs that increase energy efficiency by restricting the exchange of fresh air.

Whether the environmental problems arise inside the home or outside in the surrounding community, the fundamental philosophy for addressing them is no different from those that target other forms of home and community safety. Just as good home and community designs help people conduct their everyday activities with reduced risk of injury, so too does a clean environment encourage people to remain safe, healthy and independent in their community of choice.

FEDERAL, STATE AND LOCAL POLICY

BUILDING LIVABLE COMMUNITIES

Federal, state and local housing and community development policies should promote the development of livable communities that enhance safety, independence and active engagement in community life, as well as provide residents with lifelong learning opportunities in local institutions of higher education and intergenerational use of public schools and community facilities. These policies should encourage:

- diverse and affordable housing options for households of different income levels, through an appropriate mix of private-market and public initiatives, that do not concentrate poverty within communities;
- home modification and accessible design (e.g., universal design and visitability);
- the use of home products and materials that are safe and of high quality;
- the location of housing within easy walking distance of shopping, recreation, public transportation and services;
- the coordination of planning and development decisions at the local, regional and state levels;
- innovative zoning and code enforcement strategies designed to improve and maintain the livability of communities; and
- the participation of citizens, including older residents, in community planning.

FEDERAL POLICY

BUILDING LIVABLE COMMUNITIES

Congress should require HUD to withhold Home Investment Partnership Program funds from jurisdictions that fail to remove regulatory barriers (such as inappropriate zoning) cited in the consolidated plan.

Congress should strengthen the Community Reinvestment Act of 1977, particularly its consumer protection, disclosure and rating requirements.

HUD should modify its formula for calculating fair-market rents in shared housing to encourage the use of vouchers in such housing by public housing authorities.

Appropriate agencies should investigate products and designs that may contribute to pollution both in the home and the community.

Congress should promote federal research on indoor-air quality and should develop acceptable pollutant-tolerance levels.

America's natural resources should be preserved to ensure the quality of life of future generations. The nation should direct adequate resources toward the resolution of environmental problems and provide technical support and funds to states, localities and regional groups to maintain and enhance environmental protection.

Federal agencies must have sufficient resources to set standards, conduct research and development, perform inspections, monitor compliance, prosecute violators, and assist in remedying violations of environmental laws.

Federal agencies should promote citizen awareness of environmental issues and encourage environmentally conscious behavior and volunteer efforts.

STATE & LOCAL POLICY

BUILDING LIVABLE COMMUNITIES

States should enact comprehensive planning statutes that promote coordination of planning activities and should require localities to plan for affordable housing and provide enhanced opportunities for citizen participation.

State planning laws, where applicable, should require localities to review local plans and zoning requirements periodically to assess their impact on the availability of housing for older people and the livability of communities. The findings of these assessments should be subject to public hearings and comment.

Smart-growth initiatives should ensure the continued supply of affordable and suitable housing options, appropriate community design and infrastructure for older citizens, and the availability of related community services that support independent living.

States should encourage changes in local zoning regulations to permit the development and siting of accessory housing units, manufactured homes, multifamily projects, homesharing, board and care homes, Elder Cottage Housing Opportunities (ECHO) units, and other alternative housing arrangements consistent with neighborhood character, appropriate planning practice and fair housing law. Local zoning ordinances should not use definitions of “family” that exclude housing options for two or more unrelated older people from residential neighborhoods.

States should establish trust funds and development banks for low-income housing services (such as home repair, rehabilitation, rental assistance and new construction of affordable housing) and should prohibit the use of such funds for other purposes.

Surplus state, county, municipal, school district and military properties should be available for development or conversion into housing for low-income families, homeless people, older people and people with disabilities. Converted properties should be properly tested for toxic substances, which must be abated to a safe level before the sites are used for housing.

States and local areas should enact legislation based on AARP’s Accessory Dwelling Units: Model State Act and Local Ordinance to promote appropriate options for accessory dwelling units.

States and local areas should permit the purchase and lease of ECHO units to families who wish to house older relatives.

States should provide additional housing funds and support services for people who are homeless or mentally ill. Greater emphasis should be placed on early intervention, such as emergency assistance to prevent evictions, and the development of a continuum of transitional and supportive housing arrangements.

If state and local governments enact legislation to end rent control, they should provide both a transition period during which rent increases would be limited and continued rent protections for low-income households (those with incomes at or below 80 percent of the area median).

Existing rent controls should be reviewed frequently to evaluate their effectiveness, including the extent to which they create disincentives to affordable housing and maintenance. Such controls should also permit a reasonable return to owners, minimize disparities in rent burdens among households, and prevent exploitation of such controls by those who do not need this assistance.

States should:

- be granted some flexibility to devise methods to assist or reinforce federal efforts to preserve and enhance soil, water and air quality, as well as to maintain and preserve parks, forest lands, agricultural areas and wetlands;
- enact and implement public participation provisions where needed in state health, safety and environmental laws to solicit and include the public's opinion in environmental decisions that affect its health, safety or welfare, particularly in situations involving the siting of waste facilities in minority, rural or low-income areas; and
- develop programs (in areas such as radon detection, asbestos removal, water conservation and recycling) that involve consumers and inform them about the roles they can play in creating and preserving safe, clean and healthy environments.

AFFORDABLE HOUSING

Background

Reform of Federal Programs

The declining private market for affordable housing has increased the importance of federally subsidized housing for older renters with low incomes. It is difficult to measure how many older renters occupy federally assisted housing: The Department of Housing and Urban Development (HUD) does not maintain a comprehensive database and household surveys do not reliably measure various forms of assistance. However based on the surveys that are available and HUD estimates of its own stock, AARP estimates that there are between 1.4 million and 1.7 million older renter households in federally assisted properties. Most of this assistance comes through HUD, but a substantial share is provided by the tax code (through

the Low-Income Housing Tax Credit) or the Department of Agriculture (through Section 515 rental housing). Despite the substantial portion of subsidized housing occupied by older individuals, HUD has no office or personnel dedicated to coordinating the diverse housing programs that serve older people.

Although the Government Accountability Office (GAO) no longer designates HUD as having a high risk for fraud, waste and abuse, the GAO continues to regard the Federal Housing Authority's single-family program and HUD's rental-assistance programs as high-risk areas. Also while many of the changes required by the Department of Housing and Urban Development Reform Act of 1989 have resulted in significant improvements (including reforms to the marketing and rehabilitation of HUD-foreclosed properties), HUD's inspector general remains highly critical of the agency's management reform efforts. The inspector general's reports cite the lack of an integrated financial management system, inadequate monitoring of the Single Family Loan Origination Program, and untrained and inadequate staff. For instance largely due to congressional cutbacks and political pressure, HUD staffing levels declined 12 percent between 1997 and 2003, to 9,300 employees. As a result housing advocates are particularly concerned about the department's ability to meet its program responsibilities.

Additional challenges to providing federally assisted affordable housing occur as a result of congressional budget reductions. For instance there are proposals to convert the housing voucher program to block grants and to give housing authorities discretion to serve fewer extremely low-income renters (who tend to require deeper subsidies). In many markets where housing costs rise faster than inflation, the effect would be to reduce the number of tenants receiving rental vouchers and/or shift assistance away from the neediest renters with the lowest incomes. Of the two million households currently receiving vouchers, 300,000 are headed by someone age 62 or older. Vouchers are used by families to rent privately owned apartments in the market.

In addition to housing affordability, homelessness is a prominent issue. It is estimated that 700,000 people are homeless on any given night, and 3.5 million people a year experience at least a brief period of homelessness. About 8 percent of homeless people seeking community services are 55 and older. By comparison approximately 28 percent of the US population is age 55 and older. The disparity is due partly to Social Security, pensions, Medicare and other programs that help alleviate conditions that might lead to homelessness. But mortality may also have a role: Older homeless people have a higher frequency of health problems and frailty than younger homeless people and are therefore less likely to survive exposure in a severe climate.

Reform of Federal Programs

The Department of Housing and Urban Development (HUD) should:

- establish a high-level office or a designated senior departmental staff officer to develop and coordinate policy on housing and services for older people;
- develop and maintain a publicly available national database of senior housing and promote the use of this information with other agencies and local partners as appropriate (e.g., for planning response to the special needs of this population in times of emergency);
- encourage the use of the McKinney-Vento Homeless Assistance Act of 1987 and other funds to support early-intervention and outreach programs and develop a continuum of transitional and supportive housing arrangements for homeless persons;
- develop multiyear strategic plans, annual performance plans and annual performance reports (consistent with the Government Performance and Results Act of 1993); and
- continue to develop and award points in its competitive bidding process for projects that incorporate features (such as universal design and visitability) that permit aging in place and full access to the community.

Congress should:

- work closely with the HUD secretary and all affected parties to consolidate programs and enable the agency to improve service delivery, safeguard assets and control program costs—Any reorganization of HUD and its programs must include sufficient departmental funding and staff resources;
- ensure that money set aside from the Community Development Block Grant program is available to fund service coordinators and supportive housing arrangements affordable to frail older people with low and moderate incomes;
- provide operating subsidies and modernization funds for public housing, sufficient to maintain units that can be operated in a cost-effective manner;
- authorize the use of funds for modifications to enhance service delivery, accessibility and safety from both accidents and crime for older tenants who are aging in place;
- increase the number of vouchers available to assist renters who have severe rent burdens—Assistance also should be available for payment of security deposits and first and last months' rent;
- develop a national housing trust fund, not at the expense of existing housing programs, that promotes housing opportunities for people of all ages, including the elderly and especially for those with the lowest incomes;

- provide funding to promote the goal of a decent, affordable home and suitable living environment for every American family;
- consolidate and coordinate programs for the homeless; and
- fund assistance to the homeless, as authorized by the McKinney-Vento Homeless Assistance Act, at least at current levels.

Congress should not convert the Section 202 Supportive Housing for the Elderly program or the Section 8 housing voucher program, both of which have a proven track record of good performance, into a block grant. Nor should Congress consider the voucher program as a replacement for the production of specialized supportive housing. However, vouchers may be useful in helping older people whose diminished incomes make aging in place a challenge.

Block grants proposed pursuant to the reorganization of the Department of Housing and Urban Development (HUD) should be designed to support an adequate level of staff and resources for housing development and operation at the state and local levels.

Block grants established under reinvention and housing reform proposals should comply with HUD's consolidated planning requirements. HUD should disapprove any consolidated plan that fails to address the needs of low-income, minority and older people and people with disabilities or that denies citizens reasonable opportunities to participate in plan development.

AFFORDABLE HOUSING

Background

Preservation of Subsidized Housing

Renewals of rental-assistance contracts are taking a growing share of the Department of Housing and Urban Development's (HUD's) discretionary budget. At risk of losing their homes if contracts expire are residents in projects funded under Section 8 rental-assistance contracts (46 percent of whose families are headed by people age 62 and older) and those living in the former Section 221(d)(3) Below Market Interest Rate projects and Section 236 projects (approximately 30 percent of whose families are headed by people age 62 and older). According to HUD about half of all units in both kinds of projects are rented at contract levels below what the landlord could obtain by converting to private-market rents, which explains why many landlords choose not to renew their assistance contract.

Closely related to expiring Section 8 subsidies is the early payment (prepayment) of federally insured mortgages. Most of these insured properties also have a Section 8 rental-assistance contract. Prepayment of the mortgage and opting out of the Section 8 program eliminates low-income-use restrictions on properties and results in displacement of many current tenants. At least a quarter of residents in projects eligible to prepay their mortgages are older people.

Also at risk of loss from the affordable housing stock are projects with rents above the prevailing market level in their area. Though less common, these projects are very expensive for HUD to support. The mark-to-market program, established in 1997 reduces and restructures debt for these projects and renews Section 8 assistance at lower rent levels. Although HUD takes a one-time capital loss from the debt restructuring, HUD subsequently saves money through the lower rent subsidy. But in the course of the program, some residents may be displaced if the landlord declines to participate in the restructured debt program with lower rents.

The Joint Center for Housing Studies reports that more than 150,000 units of affordable housing have left the assisted housing stock since 1997 because owners opted out of rental-assistance contracts. To stem the potential loss of federally subsidized housing, Congress included two provisions in the fiscal year 2000 HUD appropriations bill. The first gave HUD additional discretion to increase allowable subsidies as an incentive to owners to renew their subsidy contracts. The second provision authorized “enhanced vouchers” for older or disabled tenants in projects that elect not to renew their contracts, so that current tenants can afford the new market rents. Although these provisions prevent the loss of many subsidized housing units, and cushion the blow to residents in the remaining properties, they are not a complete solution to the problem. HUD’s current budget does not enable it to retain all the properties renting below prevailing market rents, and tenant-based assistance is less effective than project-based assistance in markets with tight vacancy rates and high rents.

In addition to preserving the private stock of subsidized housing, there is a related issue concerning the preservation of public housing. Since 1993 the HOPE VI program, formerly known as the Urban Revitalization Demonstration Program, has helped public housing authorities modernize their units. In many cases this has meant demolishing and replacing public housing with mixed-use, mixed-income housing. Although many public housing authorities have used HOPE VI grants to provide affordable supportive housing solutions for older Americans, the program can cause displacement and there is no requirement that units are replaced one for one.

FEDERAL POLICY

AFFORDABLE HOUSING

Preservation of Subsidized Housing

Congress and the Department of Housing and Urban Development (HUD) should restructure the existing portfolio of federally assisted housing in ways that are least disruptive to tenants and that exhibit a long-term commitment to improving the portfolio’s quality and viability.

Congress should provide funding adequate to renew all expiring rental-assistance contracts.

Congress should authorize a capital grant and/or loan program to meet the rehabilitation needs of older rent-assisted projects and preserve the availability of prepayment-eligible units for low-income households.

HUD should continue to upgrade its data management systems, including its data on resident characteristics, for its multifamily inventory in order to ensure accurate estimates of funding needed to renew expiring contracts and provide early warning to keep projects out of default.

Congress should establish an operating assistance fund to allow Section 202 projects built after 1974 to continue to serve low-income older people after the expiration of Section 8 contracts. Refinancing options should address the need to retrofit projects to accommodate aging residents and to provide operating subsidies sufficient to serve very low-income households.

HUD should rectify problems in troubled Section 8 New Construction/Substantial Rehabilitation properties. Among other actions, the agency should conduct an impact analysis of troubled projects and the use of recaptured funds to provide rental assistance to tenants.

HUD should consider partnerships with state housing finance agencies, nonprofit housing corporations and tenant organizations to oversee troubled projects.

Congress should provide matching grants to encourage states and localities to preserve their HUD-insured or -assisted housing.

HUD should ensure that older residents displaced from public housing as a result of modernization under the HOPE VI program are provided with alternative, affordable options with appropriate services.

STATE & LOCAL POLICY

AFFORDABLE HOUSING

Preservation of Subsidized Housing

Housing finance agencies in the states should serve as participating administrative entities in the mark-to-market program and form partnerships with localities and nonprofit organizations to preserve assisted housing. State and local housing agency activities could include:

- supervising project restructuring and analyzing the need for project assistance based on the availability of affordable housing and the relative cost of project subsidies and vouchers;
- helping tenant organizations, nonprofit housing corporations and local housing authorities purchase units at risk of opting out of federal subsidy programs and retain them for low-income tenants; and
- using funds from community development block grants and the Home Investment Partnership Program, known as HOME, to support nonprofit community or tenant organizations seeking to purchase or manage units at risk of prepayment.

AFFORDABLE HOUSING

Background

The Section 202 Supportive Housing for the Elderly Program

The Section 202 Supportive Housing for the Elderly program is the principal federally funded construction program for housing designed specifically for people age 62 and older. Having placed residents in more than 300,000 units, the program has played a key role in expanding the range of housing choices available to older people.

For fiscal year 2005 Congress provided \$741 million for the Section 202 program, of which \$48 million was designated for service coordinators, \$20 million for conversions to assisted living, and \$15 million for planning grants to nonprofits and consumer cooperatives to create housing eligible for program funding. Notably, current housing production under the Section 202 program is still well below the levels of the early 1990s, when the program received more than \$1 billion annually. The decline in production is a significant concern in light of continuing demand. According to a 1998 study sponsored by AARP's Public Policy Institute, nine older people are waiting for every vacancy that occurs in Section 202 housing. The average vacancy rate was a low 1.6 percent. Furthermore many housing advocates have grown concerned about the development delays faced by a high percentage of projects receiving funds. A recent analysis by the Government Accountability Office (GAO) found that construction on more than 70 percent of projects did not start within 18 months of the money being allocated, as guidelines from the Department of Housing and Urban Development (HUD) require. Among the reasons for the delays were shortfalls in financing, inadequate training of HUD field staff, and inadequate oversight at HUD headquarters.

The American Homeownership and Economic Opportunity Act of 2000 included a provision to allow sponsors with Section 202 loans to prepay their mortgage as long as they maintain their commitment to serve low-income people and at least 50 percent of the savings is used to help residents. Savings can be used for modernization, construction of an addition to a facility, and supportive services. The act also allows nonprofit sponsors of Section 202 facilities to enter into limited partnerships with for-profit entities in order to qualify for low-income housing tax credits. The credits would help fund rehabilitation and new construction of Section 202 housing and represent an important step toward allowing Section 202 sponsors to leverage other financing sources.

But the existing stock of Section 202 housing also needs additional direct federal funding so sponsors can modernize and retrofit projects to serve increasingly frail residents. According to a 1998 AARP survey, Section 202 managers estimate that more than 22 percent of their residents are frail, up

from 15 percent in a comparable 1988 study. Despite considerable progress in adding service coordinators, many projects lack the staff and supportive features needed to serve the growing number of frail residents who reside in Section 202 housing. Since fiscal year 2000, Congress has been addressing this problem by providing funds to convert some of the Section 202 inventory to assisted-living residences.

In addition, the availability of affordable housing units for the elderly may be further reduced by the potential loss of older Section 202 projects, as Section 8 rental-assistance contracts—and the low-income-use restrictions attached to them—begin to expire.

FEDERAL POLICY

AFFORDABLE HOUSING

The Section 202 Supportive Housing for the Elderly Program

Congress should provide funds and allow innovative financing methods to increase production levels under the Section 202 program and to assist in the rehabilitation of existing units. However, new nonfederal funding methods and requirements should not come at the cost of reduced federal funding.

The Department of Housing and Urban Development (HUD) should encourage increased minority sponsorship of Section 202 projects and provide technical assistance to minority sponsors.

HUD should adopt strategies to reduce the development time for Section 202 housing, including streamlining of procedures and improved training of field staff.

Congress should modify the Section 202 program to encourage the development of service-intensive housing, the development of mixed-use and mixed-income projects, and the adaptive reuse of abandoned, military-surplus, donated or historic properties for congregate housing.

In addition to much needed direct federal funding, Congress should provide for matching grants to states and localities that use nonfederal funds to improve and upgrade Section 202 properties.

HUD should enhance the Section 202 program by working with states and localities to develop greater capacity to serve frail older people and people with disabilities through Federal Housing Administration credit enhancement, existing block grants, matching grants, and improved local planning.

In addressing the renewal of Section 8 rental-assistance contracts associated with Section 202 projects, HUD and Congress should take into account:

- the continuing need to serve older people with low incomes—Income requirements should be relaxed only for projects that can demonstrate either that they are meeting a need for service-enriched housing or that there is no need for housing targeted to people with low incomes;

- the need to recapitalize existing projects for basic modernization; and
- the need to fund capital and staffing costs to offer more supportive services targeted to frail older people.

AFFORDABLE HOUSING

Background

The Low-Income Housing Tax Credit Program

The federal Low-Income Housing Tax Credit (LIHTC), enacted as part of the Tax Reform Act of 1986, provides tax benefits for investing in the production of low-income rental units. According to a 2002 AARP Public Policy Institute report, nearly 25 percent of the 15,400 properties placed into service between 1987 and 1998 primarily house older people. This estimate includes only projects specifically designated to serve older people, not projects that rented individual units to eligible older households.

Demand for units in tax credit properties was high, as demonstrated by long waiting lists and vacancy rates substantially lower than the national average for all rental units. Furthermore, 34 percent of older people in tax credit properties intended primarily for older people were frail or disabled, indicating that a significant resident population may have difficulty aging in place and could benefit from supportive services.

Projects that provide services are eligible for the LIHTC, but payment for mandatory services must be included in gross rent. However, as with other forms of subsidized rental housing, there is a ceiling on the rent a landlord can charge. This ceiling is based on assumptions about reasonable housing costs in the area where the unit is located and does not account for the cost of supportive services in that area. So, including the cost of services as part of a resident's rent can easily push the rent beyond the allowable rent ceiling.

In addition tax credits may be used only for residential rental properties. Because variation in state laws led to inconsistent classification under the federal tax credit program, in 1998 the Internal Revenue Service (IRS) ruled that assisted-living residences may be treated as residential rental property if, among other requirements, there are no continual or frequent nursing services available to residents. The ruling did not consider whether nursing services were optional or required. The IRS also did not establish a threshold for "frequent" availability of nursing services. Some states have been more flexible than others in interpreting the federal guidelines.

Housing providers have recommended several ways to make the credit more useful in developing housing for older people. These include:

- adjusting the calculation of the credit to make projects or units for single-person households more feasible by allowing individual determinations of qualifying income and rent payments for shared living arrangements;

- allowing greater flexibility in the definition of “residential rental property,” so that projects with supportive services may more readily qualify for credits; and
- exempting assisted-living residences from the 30-percent-of-income rent cap.

Embedded in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 2001 were provisions that substantially raised the volume caps on tax credits and private-activity bonds for the first time since 1986. The legislation also indexed the caps for inflation. As a result the program has been able to expand production. In 2004 tax credits were allocated for more than 75,600 units, compared with 62,500 units in 2000. Yet demand for tax credits continues to significantly outpace supply. According to the National Equity Fund many state housing agencies see requests for two to three times the number of available credits.

Projects built with tax credits prior to 1990 must comply with affordability restrictions for 15 years; projects built in or after 1990 effectively have a 30-year compliance period. In 2002 the first properties to use the tax credit reached the end of their restricted-use period, and there is a risk that some property owners will choose to discontinue their low-income occupancy and rental-restriction agreements. Most properties, however, will probably remain affordable because of requirements in other government programs—such as Section 8, rural housing rental-assistance programs, and state and local programs—that were extended to many tax credit properties.

FEDERAL POLICY

AFFORDABLE HOUSING

The Low-Income Housing Tax Credit Program

Congress should modify the Low-Income Housing Tax Credit (LIHTC) to provide greater flexibility in the development of housing projects for older people.

Congress should change the definition of the income rent cap under the LIHTC program for service-enhanced housing, such as assisted living, by either raising the 30-percent-of-income rent cap, which is inappropriate for housing models that include basic services in the monthly rent, or modifying the definition of “rent” so that it does not include the cost of basic services.

STATE POLICY

AFFORDABLE HOUSING

The Low-Income Housing Tax Credit Program

States should encourage development of housing for people with low incomes through state tax credits and the use of state bond proceeds and redevelopment funds.

AFFORDABLE HOUSING

Background

Rural Housing Programs

The Department of Agriculture's Rural Housing Service (RHS) Section 515 program provides low-interest loans to fund the construction of apartments for low-income renters in rural areas. Section 515 units serve an extremely low-income population in need of affordable housing.

In 2004 the RHS published a property assessment report of its Section 515 portfolio. The report found that as of 2003 there were 434,296 Section 515 units in nearly 16,000 properties with an average property age of 23 years. Of the tenants in those properties, 58 percent were age 62 or older and/or disabled. Many of these older people will require personal care services to maintain their independence in a residential environment. Yet physically frail or cognitively impaired Section 515 residents can not receive supportive services from the housing provider (i.e., under a staff model of care) without violating RHS rules, which require residents to be fully independent. Staff models of care can serve residents who lack the ability or support to organize their own care. In addition they often provide the services at a lower cost because of economies of scale.

The Section 515 program has undergone severe cuts since the mid-1980s, and only around 1,500 units were produced in 2003 (compared with 11,500 in 1994). Currently most of the units are produced through rehabilitation; the number of units added through new construction is at a critical low.

Much of the existing affordable Section 515 stock is at risk of being lost as assistance contracts expire and owners convert their units to market rates. In fact, according to the 2004 report, in 2003 the number of units lost through expiring contracts (1,848) exceeded the program's level of production. For another 1,648 properties, prepayment would be economically viable. The consequences of prepayment can be serious for existing residents, who are given priority on the waiting list for Section 515 housing elsewhere but may find that alternative units are simply not available in their area.

To address the aging Section 515 portfolio, and the loss of stock as providers leave the program, the 2004 report contained a number of recommendations. These included tenant protections, such as housing vouchers to help tenants remain in place or seek new housing elsewhere when the property they live in leaves the program. There were also several housing-revitalization scenarios. However, the recommendations have raised concern that they would effectively eliminate existing policy under the Emergency Low-Income Housing Preservation Act, which helps keep older properties in the program. There is also concern that the recommendations would not go far enough in providing tenant assistance when properties leave the program.

The RHS Section 504 program provides home-repair assistance to homeowners in rural areas. It has had four times as many eligible applicants as funds available. Among all homes with moderate or severe physical problems occupied by older households in 2003, 30 percent were located in rural areas.

FEDERAL POLICY

AFFORDABLE HOUSING

Rural Housing Programs

Congress should restore a substantial portion of the funding lost to the Section 515 program during the budget cuts of the past decade, including funds to expand critically needed new construction.

The Rural Housing Service (RHS) should target assistance under the Sections 515 and 504 programs to underserved groups, particularly older farmworkers and older minorities.

The RHS should drop its prohibition against staff models of providing personal care (including medication management).

Congress should increase funding for the RHS Section 504 program to make up for losses in purchasing power due to inflation since fiscal year 1996.

Congress should provide funding for tenant-based housing assistance for those residents who face displacement from Section 515 housing due to expiring assistance contracts or prepayments. Tenants who are displaced should be offered relocation assistance.

Congress should preserve Section 515 properties for low-income individuals by maintaining applicability of the Emergency Low-Income Housing Preservation Act.

AFFORDABLE HOUSING

Background

Providing Supportive Services

Federally subsidized housing programs typically have not offered supportive services, even though such programs provide housing to many people who need services. Approximately 20,000 federally subsidized housing projects serve between 1.4 and 1.7 million older people, whose median age is about 75. Many projects have both an average tenant age of 80 years or more and residents at increasing levels of frailty. The Census Bureau's Survey of Income and Program Participation indicates that in 2002, 38 percent of people age 62 and older in subsidized rental housing were limited in at least one activity of daily living (such as moving around the home, transferring from bed or chair, bathing, eating, dressing, or using the toilet) or one instrumental activity of daily living (such as using the telephone, keeping

track of bills, preparing meals, doing light housework, taking medicine, and getting outside the home). This compares with 26 percent of older people in unsubsidized rental properties and 18 percent of older people in their own homes.

In recent years many housing projects serving older people have expanded their mission by providing supportive services. The Department of Housing and Urban Development has funded thousands of service coordinators in housing projects for older people, enabling many residents to age in place longer. Nonetheless many projects cannot offer services such as congregate meals and help with chores and personal care. In order to provide needed services many projects would require substantial modifications or additions. But there may be financial challenges to doing so: Because fair-market rent guidelines are based on conventional types of rental housing, many projects do not generate enough operating revenue to provide adequate common areas for service-enriched housing. Adding greater service delivery capacity to federally subsidized housing projects would form an efficient network for delivering supportive services to low-income residents, as well as to residents of the communities in which these projects are located.

FEDERAL POLICY

AFFORDABLE HOUSING

Providing Supportive Services

Federal housing policy should concentrate greater resources on frail older people, particularly people who live alone, minorities, people living in underserved rural and inner-city areas, and people with disabilities. Congress should establish a supportive services grant program to replace the Congregate Housing Services program and Housing Opportunities for People Everywhere for Elderly Independence program. Service coordinators should be funded from project operating budgets. Project services should include access to necessary health and social services for residents aging in place.

The Department of Housing and Urban Development (HUD) should initiate a systematic review to identify federally assisted housing projects in which residents are likely to require support services. The agency also should establish central application points at the local level for people needing housing and support services.

HUD and the Administration on Aging should better coordinate their efforts to facilitate client-based data collection and program development regarding residents' service needs, facility retrofitting, development of supportive housing, and the cost-effectiveness of providing supportive housing that maximizes residents' ability to age in place.

Congress should expand programs for support services in congregate housing for both new and existing subsidized projects. Programs should collect client-based data to quantify the cost-effectiveness of a seamless system of housing services that maximizes residents' ability to age in place.

HUD should develop higher fair-market rent standards for assisted-living residences and other service-enriched housing.

SUPPORTIVE HOUSING

Background

Maximizing Options

“Supportive housing” refers to residential settings that offer services such as group meals, transportation and help with housekeeping and personal care. Because the services are provided in a residential setting, there are many housing-related issues that make these settings different from institutions such as nursing homes (policies related to residential issues, such as development financing, affordable rents and design, are covered in this chapter; see Chapter 7, Long-Term Services and Supports, for discussion of supportive services, including staffing, quality-of-care and medication issues).

Supportive housing options increase an individual’s ability to live longer in a community setting and age in place. They are expanding as a result of consumers’ desire to remain outside of institutional settings, policymakers’ desire to provide fiscally responsible quality care for increasing numbers of older people, and providers’ interest in developing new settings for service delivery.

Reflecting the pace of change within the supportive housing industry, definitions of “supportive housing” are continually shifting. Currently no federal guidelines exist to standardize terms and reduce inconsistencies across states. For instance “adult foster home” and “personal care home” generally refer to service provision in smaller settings, but the terms can have considerably different meanings from place to place. Further not all options exist or are regulated in every state. Despite this lack of clarity, basic differences can be described among several common types of supportive housing.

Congregate housing is typically an apartment building for people who are living independently and want common services, such as one meal a day or light housekeeping. Congregate housing does not generally provide personal care or oversight.

Continuing care retirement communities (CCRCs) provide shelter, social activities, health care and support services under a variety of contractual arrangements that often include substantial up-front fees with guarantees of increasing levels of services as needed. They are usually campus-like complexes, with most residents living in private apartment units. CCRC campuses usually include an assisted-living building and a skilled-nursing home.

Assisted-living residences are residential group settings providing personal care to residents who need assistance with daily activities such as bathing,

dressing, taking medication and preparing meals. Assisted-living residences are not licensed as nursing homes and typically house fewer than 100 residents in apartment-like rooms with central dining facilities and activity rooms. Assisted-living residences usually provide more assistance than do other supportive housing options.

The philosophy of assisted living emphasizes providing physically and cognitively impaired older people with personal and health-related services needed to age in place in a home-like environment that maximizes dignity, privacy, independence and autonomy.

At present most legislative and regulatory activity in the supportive housing arena concerns implementing the philosophy of assisted living in the daily lives of residents. Major goals include the following:

- **maximizing the ability to age in place**—State definitions of “assisted living,” as well as implementation of related regulations, vary significantly. Some states require mandatory discharge when a resident’s physical or mental capacities deteriorate beyond a specified level, while other states allow or even require more intensive services.
- **balancing safety and autonomy**—Assisted-living residents may wish to participate in potentially risky activities or behaviors, just as they did before entering the facility. Some facilities use negotiated risk agreements to balance residents’ need for autonomy and independence with the provider’s responsibility to ensure resident safety (and perhaps the family’s peace of mind).
- **maximizing privacy**—Privacy is important for maintaining dignity, and private rooms protect residents’ autonomy. A 1998 AARP study indicates that assisted-living residents and other older people are willing to make considerable sacrifices in amenities and activities in order to have a private room. In a 1997 AARP survey of older Americans, more than 80 percent of respondents indicated that they would rather have a smaller private room than a larger shared room.

Recognizing the important role of assisted living, many states have been active in adopting Medicaid waivers, which help states finance assisted living for residents with limited assets and income (see also Chapter 7, Long-Term Services and Supports).

In 2001 the Senate Special Committee on Aging requested that a number of stakeholders in the assisted-living debate develop recommendations designed to ensure quality assisted-living services. The Assisted Living Workgroup ultimately grew to include nearly 50 organizations, including AARP, and represented assisted-living consumers and providers, health care professionals, accrediting organizations, the disability community, and aging and long-term care organizations. In April 2003 the group completed its report and presented it to the Senate. A two-thirds majority of the group supported many important recommendations relating to a high-quality, supportive and independent environment. Among the issues addressed were building codes, safety and accessibility of common areas. A majority of the

group also signed on to recommendations supporting private rooms. It is expected that this report will play a key role in federal and state policy decisions and will help inform residents, families, regulators and industry.

To continue and expand the work of the Assisted Living Workgroup, 11 organizations, including AARP, founded the Center for Excellence in Assisted Living (CEAL) in 2005. CEAL will promote high-quality, affordable assisted living by disseminating research and information and providing technical assistance.

Financing for new supportive housing facilities is critically important. The Federal Housing Administration (FHA) has played a key role in financing nursing homes, assisted-living residences and board and care homes under its Section 232 program. Indeed the number of projects financed through Section 232 in recent years has exceeded the number of multifamily housing projects insured by the FHA. The agency's financing is especially central in funding projects in underserved areas, smaller projects and projects with not-for-profit sponsors. In addition government-sponsored enterprises such as the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association are playing an increasingly critical role in channeling investment dollars into supportive housing options. But one obstacle to financing affordable assisted-living and other supportive residences is the risk that funding for services will be inadequate or unpredictable, especially from public sources like Medicaid. This can discourage development of such residences. Some states are exploring establishing reserve funds or other guarantees to mitigate this risk.

Statistics on the characteristics of board and care, assisted-living and other supportive housing residents are not available from the Census Bureau. Data on people living in these settings are critical for research and public policy development. Proper data collection will require standard definitions for each type of care setting. Without standard definitions and data collection, estimates of the number of assisted-living residents have ranged from around 800,000 to one million.

With a new generation of supportive housing becoming available, counseling services are more essential to assist older people in evaluating housing options. Preretirement planning can also help older people avoid detrimental decisions made under stress. The Department of Housing and Urban Development funds a modest counseling program, but its involvement in the housing concerns of older people has been limited to reverse mortgages.

FEDERAL POLICY

SUPPORTIVE HOUSING

Maximizing Options

The Department of Housing and Urban Development (HUD) and the Centers for Medicare and Medicaid Services should develop a comprehensive strategy to support home- and community-based housing services for people

of all ages with disabilities, including standard definitions for available options.

The Census Bureau should define and collect data on supportive housing settings, including board and care homes, assisted-living residences, and congregate housing. Survey measures and data reports should recognize the residential nature of these settings and not classify them as nursing homes or other institutions.

Standards, regulations and underwriting criteria for supportive housing should promote resident autonomy and decisionmaking while ensuring quality services.

Federal funding and underwriting criteria for supportive housing should promote residents' privacy and autonomy by requiring:

- adequate private rooms and baths,
- kitchenettes and
- sufficient public rooms for services and community activities.

The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should fund and encourage development of supportive housing facilities for older people. Reform of the Federal Housing Administration (FHA) should include broadening the agency's general authority to develop mortgage products that promote innovation in and expanded access to supportive housing. The FHA should also use risk-sharing authority and technical assistance to develop the capacity of state housing finance agencies, government-sponsored enterprises, and other financial institutions to promote innovative approaches to delivering supportive housing services.

STATE POLICY

SUPPORTIVE HOUSING

Maximizing Options

The philosophy and consumer-oriented approach of assisted living should become the model for all types of supportive housing. Consumer protections must provide basic safety for consumers, encourage a home-like atmosphere, and offer an individualized approach that ensures personal dignity and autonomy.

States should define "assisted living" as supportive housing with:

- a residential setting that provides or coordinates flexible personal care services, 24-hour supervision, assistance (scheduled and unscheduled) with activities of daily living, and health-related services;
- a services program and physical environment designed for aging in place (that is, the facilities minimize the need for residents to move within or from the setting to accommodate their changing needs and preferences);

- an organizational mission, a service program and a physical environment designed to maximize residents' dignity, autonomy, privacy and independence;
- a process for legitimate negotiated risk agreements between facilities and residents, allowing residents to enhance their autonomy and independence and providers to maintain a safe and appropriate environment; and
- private living units—with sleeping and living areas, food preparation and storage facilities, and a bathroom—shared only at the resident's request.

States should permit residents the right to pursue a private right of action when the provider violates their rights under the law.

Providers with existing facilities that need renovations to create private baths, kitchenettes and other improvements should have incentives for making such changes.

As supportive housing services increase, states should examine ways to integrate funding streams to further the development of client-based systems that lead toward a seamless housing and services system.

States should encourage assisted-living developments (as defined above) in order to meet consumer demand. State guarantees should be used to mitigate risks associated with state Medicaid reimbursement policies.

States should provide consumer-based financial assistance, including Medicaid home- and community-based waiver funds, to allow low-income older people access to assisted living. State assistance should be coordinated with federal assistance programs.

Regulations should explicitly recognize a resident's dwelling as a private residence, thus providing residents with the consumer protections enumerated in the Fair Housing Amendments Act of 1988.

To promote innovation, cost-effectiveness and responsiveness to consumer needs, states should foster competition among providers. Certificates of need, license moratoria or other artificial restrictions on the supply of assisted living or other types of supportive housing should not be used. Rigorous license review should be used to promote quality, not restrict supply.

States should require continuing care retirement communities (CCRCs) to provide all services promised to residents in their rental or sales agreement, unless voluntarily modified by a resident or resident council following a specified procedure set out and disclosed prior to admission. States should establish standards for sound financial planning and management practices to ensure the ability of CCRCs to deliver the services promised to older residents. State statutes should address such issues as reserve funding, refund policies, escrow accounts and interest, marketing practices, audits, accounting practices, full disclosures in plain language, and the role of resident councils in administering facilities. States should require CCRCs to notify state licensing agencies of any developments that could lead to bankruptcy or a

change in ownership, with severe penalties for failure to provide required notifications.

MANUFACTURED HOUSING

Background

Manufactured housing provides a major source of unsubsidized housing for low- and moderate-income households. In 2003 there were 6.9 million manufactured homes occupied as a primary residence, of which 3.1 million were owned or rented by someone age 50 or older. In addition there were approximately one million manufactured homes held as vacation or second homes, of which two-thirds were owned by someone age 50 or older. In 2004 the manufactured housing industry produced 131,000 new homes (about 13 percent of the nation's new homes that year).

Manufactured housing plays a critical role in serving the housing needs of older Americans who might otherwise find it difficult to find affordable housing. AARP estimates that the median income of households headed by someone age 50 or older living in manufactured housing in 2003 was approximately \$23,000, compared with about \$40,000 for residents 50 and older in conventional single-family housing. Although about 60 percent of residents 50 and older living in a manufactured home have low incomes, as defined by the Department of Housing and Urban Development (HUD), they typically receive no direct housing subsidy. The affordability issue is complicated by the costs of financing, utilities, maintenance and repair. In all of these areas there is need for significant improvement. Improvements to the Manufactured Housing Construction and Safety Standards can go a long way toward reducing maintenance and repair costs.

A 1999 AARP survey of manufactured housing owners illustrated the repair needs of many units. Nearly eight in ten owners (77 percent) reported having at least one problem with the construction, installation or appliances of their new homes; 57 percent reported multiple problems. Although 95 percent of those surveyed said they had warranties, only one-third (35 percent) of those having major problems reported that the problems had been corrected under the warranty; the remainder were either not fixed at all (30 percent) or fixed at the homeowner's expense (31 percent).

To address such problems the 1994 National Commission on Manufactured Housing made recommendations on modernizing the National Manufactured Housing Construction and Safety Standards Act of 1974. The commission advised:

- creating a balanced consensus committee to update relevant federal construction and safety standards in the HUD code;
- developing an expedited standards adoption process to ensure that changes in the HUD code are made in a timely manner;

- eliminating the requirement that manufactured homes have a permanent chassis; and
- enacting a federal requirement that manufacturers provide one/five-year warranty coverage—one year for all structural defects and five years for certain structural defects that occur during the manufacture, installation and transportation of a home.

Though many of the reforms of the 1994 commission have yet to be addressed, significant progress was made with the passage of the American Homeownership and Economic Opportunity Act of 2000. The act created a 21-member Manufactured Housing Consensus Committee to recommend revisions to the manufactured housing standards. The committee includes equal representation from three groups: industry, consumers and others involved in manufactured housing (such as building code experts). The act calls for the committee to develop minimum national standards for the installation of manufactured homes, which were to be implemented by HUD by the end of 2005, and allows states to develop their own stricter installation standards. In addition states were given five years to adopt a dispute resolution system among manufacturers, retailers and installers regarding responsibility for the repair of defects reported by consumers within one year of installation. If a state does not adopt a dispute resolution system, HUD will administer its own system. In addition the committee can recommend to HUD changes in construction and safety standards, including provisions on investigating and correcting defects. This is particularly important as the committee clarifies (especially in light of new installation standards) which elements of the home are considered the responsibility of the factory and which are the responsibility of the installer or retailer. Current investigation and correction regulations are considered outdated by both consumer and industry representatives.

Other legislative efforts to enact reforms have failed due to opposition from segments of industry. HUD now faces a serious weakening of its ability to oversee the federal manufactured housing standards and enforcement program because of inadequate funding and staffing. These resources are further stretched due to new program responsibilities created by the American Homeownership and Economic Opportunity Act of 2000.

Complicating the issue is the manufactured housing program's unique budget structure. Unlike most other federal programs, which receive money from public funds, this program meets its congressional appropriation by raising money through a per-unit labeling fee. The fee is collected from manufacturers, who in turn pass the cost to purchasers. When production fails to meet expectations, HUD faces a shortfall of funds unless it is able to increase the per-unit fee (a move generally opposed by industry). If production exceeds expectations, any fees collected above the congressional appropriation are held for the following year.

Under the federal program states create administrative agencies to enforce federal construction and safety standards and handle consumer complaints. In addition state licensing requirements, installation standards, warranty

protections and landlord-tenant laws for communities of manufactured homes can provide essential consumer protections for home purchasers. Yet many states lack adequate oversight of manufactured home communities (also known as mobile home parks). As a response, AARP sponsored the development of a model statute by the National Consumer Law Center. This Manufactured Homeowner Bill of Rights covers a variety of issues, including rents, tenant rights, and park conversions. Landlord-tenant issues have become particularly important in many communities where low vacancy rates, a diminishing supply of lots (known as a closed park situation), and rent increases make it difficult to place a manufactured home.

FEDERAL POLICY

MANUFACTURED HOUSING

The Department of Housing and Urban Development (HUD) should strictly enforce the requirement that the Manufactured Housing Consensus Committee should have equal consumer representation. In addition, HUD should respond in a timely manner to the standards recommended by the committee.

HUD should encourage and assist states in developing installation standards and inspection programs. The agency should also foster regional compacts among states where it can be shown that compacts would result in better and more efficient installation standards and inspection programs than the states could achieve individually.

Any effort to extend federal preemption should include a warranty requirement for the home and installation.

HUD should revise the Manufactured Home Procedural and Enforcement Regulations to provide regulatory relief to manufacturers that voluntarily provide purchasers with a five-year warranty, as recommended by the National Commission on Manufactured Housing.

The Federal National Mortgage Association and Federal Home Loan Mortgage Corporation, in cooperation with HUD, the Federal Housing Administration (FHA), the Veterans Administration (VA) and the Rural Housing Service (RHS), should expand access to financing beyond the existing retailer network through the greater use of conventional mortgage financing with more competitive rates.

Warranty and installation requirements under the FHA, VA and RHS mortgage insurance programs for manufactured homes should be upgraded.

Congress should pass legislation to protect the owners of manufactured homes who face bankruptcy proceedings from debt obligations that exceed the current market value of the collateral.

HUD and the administering organization for the Manufactured Housing Consensus Committee should encourage the participation of a variety of interests (including consumer groups) by requiring advance notice of

meetings, timely public postings of transcripts and agendas, and other measures to promote informed involvement.

HUD should ensure adequate funding for its own activities and the activities of state agencies designated to act on its behalf to implement and enforce the new consumer protections being developed in accordance with the American Homeownership and Economic Opportunity Act of 2000.

HUD should strengthen its regulations concerning the investigation and notification of defects, for those cases where the department (or a state agency designated to act on its behalf) receives information that such a defect may exist.

STATE POLICY

MANUFACTURED HOUSING

States should:

- enact legislation to protect the rights of all owners of manufactured homes based on the Manufactured Homeowners Bill of Rights developed by the National Consumer Law Center;
- permit local governments to initiate and enforce rent stabilization programs in manufactured housing parks where a closed park situation exists;
- enforce antitrust statutes regarding retailer tie-ins and restraints of trade;
- establish programs to help residents of manufactured home communities purchase their community and establish cooperative ownership;
- adopt a comprehensive, adequately funded and well-enforced installation standard and inspection program for manufactured housing that goes beyond the minimum federal requirements—States should license retailers and installers and establish education, certification and bonding requirements;
- license manufacturers (both in and out of state) and establish manufactured home recovery funds to assist with warranty repairs if a manufacturer goes out of business or refuses to provide warranty service; and
- establish funding assistance to help owners of manufactured homes who must relocate due to a manufactured home park closure or sale.

MAINTENANCE, REPAIR AND MODIFICATION ASSISTANCE FOR OLDER HOMEOWNERS

Background

Aging in place is the preferred housing option for the vast majority of older people. However, a number of barriers hinder efforts to make this a viable alternative for older homeowners, particularly those with low incomes. These barriers include excessive housing expenditures, inadequate home

maintenance and a low rate of home modifications to accommodate health or mobility limitations.

Home-repair and home-modification programs can eliminate or reduce the barriers to aging in place and help improve energy savings and durability (see Chapter 10, Utilities: Telecommunications, Energy and Other Services: Energy—Low-Income Energy Assistance Programs, for a discussion of weatherization assistance). In addition they offer an effective means of avoiding or delaying costly institutional care while helping to preserve a community's valuable housing stock. But many older homeowners have difficulty getting the home modifications they need. According to a 2000 AARP survey, the leading reasons that homeowners age 65 and older do not make the modifications they would like is that they are unable to do them without help (42 percent) or can not afford them (32 percent).

These problems are particularly acute for older minorities, rural residents and women homeowners who live alone. The study also noted that cities rely heavily on community development block grants, the Home Investment Partnership Program, and other federal programs to operate their programs (see Chapter 11, Financial Services and Consumer Products, on preventing fraud and unscrupulous lending practices regarding home equity loans for home repairs).

Department of Housing and Urban Development (HUD) regulations prohibit home-repair contractors from arranging loans for homeowners under the Federal Housing Administration (FHA) Title I home improvement loan program. HUD investigations have found that contractor- or dealer-originated loans have resulted in a variety of abusive practices, especially against older homeowners. These abusive practices include shoddy and incomplete work, fraudulent billing, kickbacks, and overpricing. In addition, HUD data show that the rate of claims against the FHA's insurance fund was three times higher for dealer-originated loans than for those made directly by a financial institution.

FEDERAL POLICY

MAINTENANCE, REPAIR AND MODIFICATION ASSISTANCE FOR OLDER HOMEOWNERS

The Department of Housing and Urban Development should strictly enforce its regulations governing the Title I home improvement loan program.

STATE POLICY

MAINTENANCE, REPAIR AND MODIFICATION ASSISTANCE FOR OLDER HOMEOWNERS

States and localities should use the Home Investment Partnership Program, community development block grants, and Medicaid waiver funds to repair and modify the residences of low-income older homeowners.

States should establish deferred payment loan (DPL) programs that enable older homeowners to improve the accessibility and habitability of their homes.

State governments should require public utility companies to dedicate some portion of earnings to a weatherization fund that offers grants and DPLs to low- and moderate-income homeowners. Technical assistance should be available to assist older homeowners in making necessary improvements and repairs.

LEGAL RIGHTS IN HOUSING

Background

The home has long been afforded special legal protections in the nation's body of law and is twice recognized in the Bill of Rights for its unique role in providing legal security. Over the years additional legal protections have been clarified through statute and case law.

The needs of residents and the nature of the home continue to evolve, and legal protections for residents are a major policy issue at the federal, state and local levels. In many cases these legal protections concern mortgages and other types of loans that have a direct impact on residents' economic well-being (see also reverse mortgages and the discussion of predatory lending in Chapter 11, Financial Services and Consumer Products). A discussion of other policy issues follows.

Nonelderly people with disabilities in senior housing projects—

Although several public housing authorities have successfully integrated small numbers of younger people with disabilities into housing projects for older people, the increase in nonelderly applicants with disabilities, especially those with mental disabilities and drug and alcohol problems, has raised concerns by older tenants and housing managers about differences in lifestyle, the lack of community mental health services, security, and the ultimate character of projects originally designed to serve older people.

In response to these concerns Congress included in the Housing and Community Development Act of 1992 a provision that owners of housing for older people may restrict the number of younger people with disabilities. To offset the potential loss of housing for younger people with disabilities, the Department of Housing and Urban Development provides designated Section 8 housing vouchers to younger disabled families who are affected by a public housing authority's decision to set aside projects for older people.

Fair housing—The Fair Housing Amendments Act of 1988 requires all new multifamily housing to meet basic accessibility requirements. The act also requires landlords to permit tenants to make physical modifications to their unit or a common area—for example, by installing a ramp or grab bars, or lowering a countertop—subject to certain rules. In addition landlords are required to make certain reasonable accommodations in their rules and

policies to permit tenants full use and enjoyment of the premises. Section 504 of the Rehabilitation Act of 1973 imposes similar requirements on housing programs receiving federal funds and requires that the housing provider pay for necessary physical modifications and reasonable accommodations (the act provides some limits on the financial expenditures required). The Americans with Disabilities Act of 1990 applies to the public areas of buildings, including multifamily residential buildings, such as first-floor public or retail space, laundry areas, and rental offices.

In addition to accessibility, civil rights are an important component of fair housing law. Without protections from unfair treatment on the basis of age, race and disability, it may be difficult for some residents to remain in and active within their community.

Supportive housing—The 1988 fair housing amendments also prohibit landlords from discriminating on the basis of disability in admitting or evicting residents or from otherwise circumscribing a tenant’s rights as long as the tenant complies with the lease. The act has potentially important implications for housing and residential care providers, including those requiring residents to move to a higher level of care when they need a walker or wheelchair, become incontinent, or need a variety of other kinds of assistance. The act could also have major ramifications for local safety ordinances that bar residents from remaining in a facility if they cannot self-evacuate within a specified time. Legal challenges citing discrimination have been and will continue to be mounted against these restrictive policies and will significantly change the character of some facilities.

The housing-for-older-persons exemption to the Fair Housing Amendments Act—In 1996 Congress amended the 1988 act to eliminate an unworkable provision requiring housing facilities to provide “significant facilities and services” in order to qualify as “housing for older persons” and exclude families with children. However, many states that enacted fair housing statutes mirroring the language of the federal law have not yet modified this requirement in light of federal changes.

While age restrictions have played an important role in creating housing solutions for older people, there is increasing awareness of the number of older people who are caregivers for their children or grandchildren. In 1970 about 2.2 million children lived in grandparent-headed households. By 2000 that number had grown to almost four million. In more than a third of these households, neither parent was present. Additionally, older people may have their own children under the age of 18. The age at which females can continue to bear children has risen with improvements in health and medicine. For example, between 1976 and 2002 the number of births among women age 40 to 44 rose from 6.5 per 1,000 to 11.9 per 1,000.

Common interest developments—Many important community decisions are made not at the governmental level, but by “common interest developments” (CIDs). These are distinguished from more informal neighborhood associations by their ability to collect fees and enforce

community rules. CIDs include many homeowner associations, condominium and cooperative associations, and manufactured home cooperative community associations. Because they collect fees from residents to maintain common property and provide common services, they are sometimes characterized as quasi-governmental. However, many basic rights related to voting procedures, free speech, due process for property liens, etc. are not guaranteed within CIDs unless specifically addressed by state laws governing such organizations. AARP estimates there are approximately 12 million households residing in CIDs, of which nearly half are headed by someone age 50 or older.

Pet ownership—The right of tenants to have a pet has been established by two types of laws. The federal Fair Housing Act requires that landlords allow animals as reasonable accommodation for people who have a disability that requires such an animal. For example a visually impaired person may have a service animal (e.g., a Seeing Eye dog). Somewhat less well established is the right of a person with a mental disability to have a companion animal. Further, housing law requires that older people in federally subsidized housing be allowed to have a pet, subject to the reasonable rules and regulations of the housing sponsor.

Advocates of pet companionship point to evidence that older people who have a pet live longer, go to the doctor less often, recover more quickly from illnesses, and have a more positive outlook than those who do not have a pet. Further, expanding the right to own pets increases the stock of housing that pet owners may choose from. For these reasons, in 2001 California became the first state to extend the right of pet ownership to residents of condominiums and manufactured home parks, subject to reasonable rules and regulations.

FEDERAL POLICY

LEGAL RIGHTS IN HOUSING

Congress should provide additional funds to build and modernize public housing in order to provide adequate supportive housing options for people with disabilities, including those with mental disabilities.

The Department of Housing and Urban Development (HUD) should issue regulations that simplify and facilitate public housing authorities' designation of buildings for older people.

HUD should consult with a wide range of individuals working in adaptive housing to develop a hierarchy of adaptable features for different types of disabilities.

HUD's evaluation process should ensure that sites for federally assisted senior housing offer the best possible access to needed support services and allow project residents the opportunity to participate easily in the life of the community.

HUD's cost-containment regulations should not dictate the use of cheaper housing sites at the expense of long-term accessibility for residents.

Civil rights laws must continue to protect the rights of consumers with disabilities to choose from the full range of physical settings and service models available in supportive housing.

HUD should fully enforce the Fair Housing Amendments Act of 1988, Section 504 of the Rehabilitation Act of 1973, and other civil rights statutes for which it has enforcement responsibilities and create an expedited complaint process for cases in which time is of the essence, such as when the alleged illegal denial of housing results in a person being retained in a nursing home or other institution.

Policy toward subsidized housing should be sensitive to the changing family needs of older people who have children and grandchildren.

STATE AND LOCAL POLICY

LEGAL RIGHTS IN HOUSING

States should repeal or modify their fair housing statutes or regulations to conform to federal law, which no longer requires that residential housing offer "significant facilities and services" to qualify as "housing for older people."

States should enact laws to protect the informed ability of residents to meaningfully participate and affect decisionmaking in common interest developments (CIDs), as well as develop procedures to help ensure the rights of residents and protect their home equity during disputes with a CID board or management.

State and local governments should promote policies that allow pets in housing, subject to appropriate rules and regulations affecting health and safety.