

November 15, 2005

To: Sen. Bill Frist (R-TN)
Sen. Harry Reid (D-NV)
Sen. Richard Shelby (R-AL)
Sen. Paul Sarbanes (D-MD)

Dear Senator,

We write to express our strong opposition to any anti-advocacy language directed at nonprofits within a Government Sponsored Enterprises (GSE) regulatory reform bill. This letter is signed by organizations that support the creation of an Affordable Housing Fund in the GSE legislation and by organizations that oppose restrictions on nonprofit speech.

There is a nationwide shortage of 4.6 million housing units that are affordable and available to the lowest income families. These families desperately need the resources that an Affordable Housing Fund would provide to develop and preserve homes that they can afford.

However, language creating such a fund was included in a bill recently passed by the House of Representatives that contained such egregious anti-democratic provisions that we were forced to oppose it. To summarize, the bill passed by the House:

- Disqualifies from eligibility to receive a grant any non-profit organization that has done any non-partisan voter work in the last 12 months, including displaying voter registration forms in the rental office or driving residents to the polls on Election Day.
- Forbids any non-profit organization that receives a grant from engaging in non-partisan voter work throughout the duration of the grant. This is not simply a restriction on the use of grant funds, which advocates want to be only for housing construction, but on all other funds that the organization receives.
- Prohibits the dispersal of grants to organizations that lobby, except certain nonprofit organizations. Prohibits the broadcasting of any ad, whether free or paid, that refers to federal candidates within 60 days of a general election or 30 days of a primary, even if the election is not mentioned. This would include public service announcements, public education and grassroots issue advocacy communications. If an affiliate of the applicant does any of the above, the applicant is ineligible to receive grants under the Affordable Housing Fund. The definition of affiliation in the House bill is quite sweeping. "Affiliations" include organizations that share resources, have overlapping boards or staff, or receive too much money from one entity. Once affiliated, the actions of the affiliated entity can disqualify the nonprofit from receiving money under the Affordable Housing Fund. For example, if a private company donates office space or equipment to a housing group, the two entities are now affiliated. If the private company lobbies or endorses a candidate for federal office, the housing group would be barred from receiving money under the Affordable Housing Fund.
- Requires that housing be the primary purpose of a non-profit organization to be considered for a grant, thereby excluding participation by most faith-based and multi-service organizations that develop housing for low income people, but for whom housing is not their primary purpose.

The above restrictions apply only to nonprofit organizations. For-profit companies are exempt. Clearly, these provisions would irreparably damage the ability of nonprofits to develop the thousands of affordable housing units they otherwise could with this resource. The need for an Affordable Housing Fund is clear. However, exclusion of the nonprofit sector would severely hamper its success.

We cannot support a fund with the inclusion of provisions like those that passed the House on October 26. We urge you to support an Affordable Housing Fund only if it is in a bill that does not contain any of these "poison pill" provisions.

Moreover, while this language is targeted to applicants of the Affordable Housing Fund, it also sets a negative and unwarranted precedent for the broader nonprofit sector. The provision restricts the speech rights of nonprofit organizations even when such speech is paid for with private funds. This is unacceptable. Nonprofits should not be asked to decide between providing services or speaking out on issues and engaging in voter registration. Additionally, existing laws and regulations already prohibit nonprofits from using federal funds to lobby, support or oppose a candidate for elected office. These rules are enforced through audits and work effectively.

While we are confident the Senate would not endorse these proposals, we wanted to make sure you were informed of their broad, unnecessary and likely unconstitutional reach and our desire to ensure that any legislation regarding a new Affordable Housing Fund not contain these egregious provisions.

Sincerely,

The National Low Income Housing Coalition