Statement of Gideon Anders,
Senior Attorney, National Housing Law Project
House Financial Services Committee
Subcommittee on Housing, Community Development, and Insurance
April 2, 2019

The National Housing Law Project (NHLP) is pleased to submit this statement for the record in support of our testimony to the Housing, Community Development and Insurance Subcommittee of the House Financial Services Committee. NHLP has just celebrated its 50th year of operation. Throughout this time we have operated nationally to advance the housing rights and interests of low- and very low-income households through policy advocacy, litigation, technical assistance, and training. We have focused on improving the manner by which both the Department of Housing and Urban Development (HUD) and the Rural Housing Service (RHS)[1] meet their obligations to provide decent, safe and sanitary housing to low- and very low-income beneficiaries of their programs.

In the 1970s, NHLP successfully challenged RD's 25-year failure to implement its single-family moratorium relief program, and successfully advocated for the establishment of the due process appeals process that is currently available to homeowners and renters in RHS financed single and multi-family housing. In 1987, we promoted the adoption of the Emergency Low-Income Housing Preservation Act of 1978 (ELIHPA), which currently governs the prepayment of RHS rental housing loans. In the 1992, we worked successfully with the Housing Assistance Council (HAC) and other organizations and officials to advocate and promote the creation, and ultimately the establishment, of the RHS National Office of Rural Housing Preservation, currently authorized by 42 U.S.C. § 1490p-1. Since 1989, we have been actively involved in the preservation of RHS Section 515 housing and ensuring that the residents of that housing are not displaced by rent increases caused by the conversion of the RD rental housing to market rate housing. We are proud to report that in each of the prepayment cases in which we have been involved, including three currently pending cases, we have successfully protected the interests of tenants in RHS rental housing and have advanced the goals of ELIHPA. We offer our comments and recommendations about the draft bills that are before you today from the perspective of ensuring that the Section

[1] The RHS has legal responsibility for administering its housing programs nationally. However, RHS staff is located almost exclusively in Washington D.C. Rural Development (RD), a U.S.D.A. mission area, is administering the RHS programs in the 50 states. Accordingly, we make reference to both RHS and RD throughout this testimony.

514 and 515 programs continue to serve the housing needs and interests of low- and very low-income rural households and that residents of that housing are not harmed by increased rents or dislocation due to loan prepayments or maturities.

Before addressing the draft bills that are before you, I urge the Subcommittee to hold oversight hearings on RHS' administration of the prepayment approval process and its administration of the RD voucher program. I make this request because I have reviewed numerous RD prepayment decisions and have not found any case in which RD has properly applied the ELIHPA's imposed prepayment restrictions. For example, ELIHPA requires RD to determine whether a prepayment will have a 'material impact on minority housing opportunities.' 42 U.S.C. §1472(c)(5)(G)(ii)(I). When it does, it obligates RD to require the owner to offer the development for sale to a nonprofit or public agency so that the housing can be preserved and continue to serve households that it was intended to benefit. Notwithstanding this clear statutory requirement, since 2004, when RD modified its prepayment regulations, it has used a disproportional, comparative, standard' to determine a prepayment's impact on minority housing opportunities. This allows RD staff to conclude that a prepayment will not have a disproportional impact on minorities because all residents, including racial and ethnic minorities, will be displaced. It also leads to decisions that there is no differential standard because all displaced residents will receive RD vouchers. These decisions are simply wrong. They result in a greater number of prepayment approvals and leads to the loss of developments that serve minorities and, in accordance with ELIHPA, must be preserved by a sale to a nonprofit or public agency. 42 U.S.C. § 1472 (c)(5)(G)(ii).

RD staff also erroneously advises both owners and residents that if a prepayment is made subject to use restrictions the owner may raise the rent after prepayment and that only RD vouchers will protect the residents against displacement. This is also not true. ELIIHPA requires RD to place use restrictions against prepaid developments in cases when there is no impact on minority housing opportunities but the residents of the prepaid development cannot be relocated to other affordable housing in the community as of the date of prepayment. 42 U.S.C. § 1472(c)(5)(G)(ii)(II). These use restrictions are intended to protect remaining residents against displacement for as long as they choose to remain in their homes and obviate the need for RD vouchers. *See* RD Handbook 3-3560, Chapter 15, Ex. 15-G. Moreover, RD voucher subsidies are inferior to use restrictions because, as I explain later, the voucher subsidy does not cover utility allowances, does not permit adjustments when household income decreases or increases, and permits owners to raise residents' rents after the first year in which the voucher is in place. Because RD is offering and providing vouchers to residents who are not in need of vouchers it is unnecessarily subsidizing owners of prepaid RD housing and thereby encouraging prepayments, something ELIHPA was intended to discourage. This practice has totally undermined the ELIHPA authorized use restrictions, which are intended to protect residents of prepaying development against rent increases and displacement.

Unfortunately, these problems, as well as others, are not only attributable to a handful of misinformed RD employees. They are systemic. Each of the prepayment and voucher decisions that I have reviewed over many years were made by the chief of the multi-family housing division in multiple Rural Development state offices throughout the country. These are the highest multi-family housing officials in each state who should be familiar with the RD prepayment and voucher processes. Moreover, these decisions are made without coordination and review with the RD's National Office of Rural Housing Preservation, which was established to monitor and review RD prepayments. 42 U.S.C. § 1490p-1. Accordingly, I urge that you hold oversight hearings that will review RHS' prepayment approval processes as well as its administration of the RD Voucher Program and that you require RD to correct its outright violations of ELIHPA. Should you decide to hold such hearings, I am prepared to provide the Subcommittee and its staff with numerous documents that clearly show that RD staff fails to follow critical elements of ELIHPA when it reviews prepayment requests and administers the RD Voucher program.

Turning to the proposed legislation that is before you, NHLP enthusiastically supports all of the bills that are before you today and we offer our comments and recommendations in support of the goals that they seek to achieve. Because several of the bills have similar provisions, we will not direct our comments to a particular bill. Instead, we will focus on the provisions that are proposed in these bills. In addition, we have two other legislative suggestions that should be considered by the Subcommittee and, hopefully, included in these or other bills as they come before you. I will discuss these proposals at the end of this testimony.

1. Background

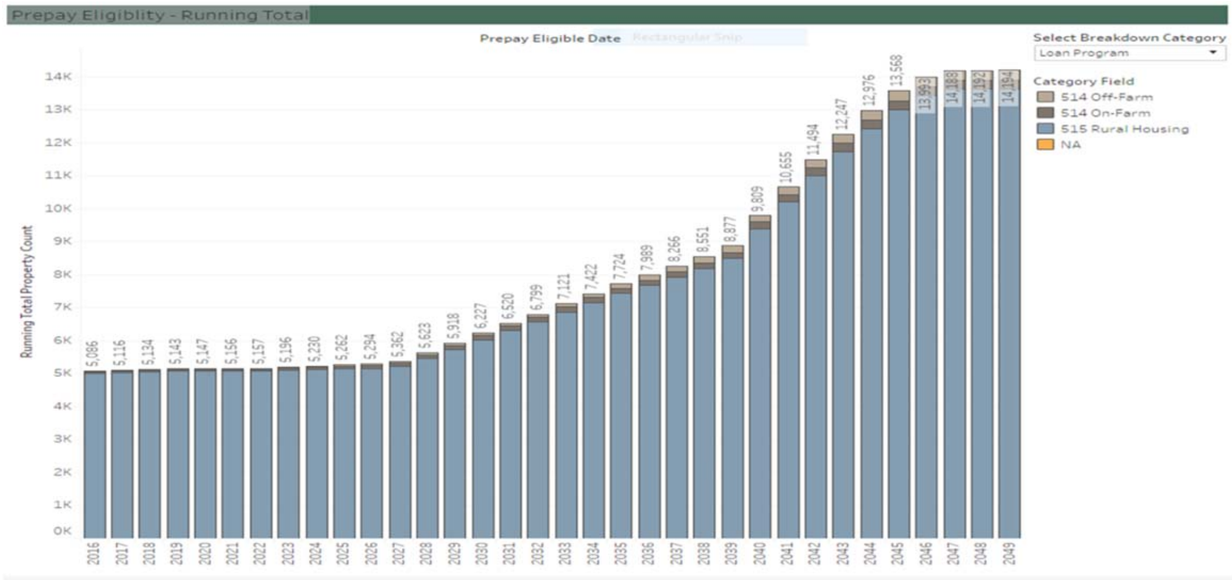
For the past 56 years, RHS has been provided a vital resource to rural communities throughout the country and to low income persons living in those communities by financing the construction and subsidizing the operation of decent and affordable rental housing through its Section 515 rural rental and Section

514/516 farm labor housing programs. Since the inception of these programs, over 530,000 housing units have been financed and subsidized under the Section 515 program and over 14,000 through the Section 514 program. The Federal government has invested tens if not hundreds of billions in financing and operating these developments. Unfortunately, over 100,000 of those units, about 20 percent of the total number of units that have been constructed, have already been lost due to prepayment, loan maturity or foreclosure. We need to take steps to preserve the balance of the units that have been financed under these programs and make sure that they continue to serve very low and low income households as well as the communities in which these developments were built.

Sixty two percent of the residents in the Section 515 program are senior citizens and persons with disabilities. Female-headed households comprise 71% of all households in the program. Racial and ethnic minorities comprise over 34% of the households in the program. As of September 2018, the average income of households living in deeply subsidized Section 515 housing was $10,911. It was slightly higher, $13,112, for all Section 515 households. The Section 514 off-farm labor program serves low and very low income farmworkers. The average income for households living in farmworker housing is $25,073. In many, if not most, communities housing financed under both programs is the only available decent and affordable housing.

At this time the operation of the 515 program is facing a critical crisis that is threatening its continued successful operation and negatively affecting the communities and residents that it serves. Loans that were financed 40 and 50 years ago are maturing, the housing is aging and is in need of rehabilitation, and vulnerable residents are facing displacement. This situation is exacerbated by the fact that practically no new Section 515 housing has been constructed in the last ten years, funding for rehabilitation and revitalization has been limited, some owners are prepaying their loans prior to maturity, and some developments are being foreclosed upon. Unfortunately, to date, RHS has not seriously responded to this crisis.

Approximately 4,000 units are being lost annually due to prepayments and loan maturations. These numbers will increase dramatically over the next decade because the owners of over 5,100 developments, representing approximately 125,000 units, are currently eligible to prepay their loans. As is evident from the following chart this number continues to increase steadily over the next 30 years.



While loan maturations are relatively modest at this time, they will increase gradually until 2027 and then substantially in 2028 and thereafter. RHS and others have predicted that practically all Section 515 housing will leave the program by 2050 due to loan maturation.

Figure 2: Estimated Number of Rural Housing Service Rental Properties and Units That Could Exit RHS's Program between 2017 and 2050, by Year

Year mortgage matures	Properties	Units
2017	69	1,944
2018	74	1,909
2019	41	985
2020	36	774
2021	53	937
2022	61	1,135
2023	95	1,722
2024	102	1,942
2025	110	2,318
2026	94	2,161
2027	163	4,420
2028	450	13,225
2029	561	16,581
2030	623	18,213
2031	610	17,593
2032	554	16,282
2033	648	18,824
2034	712	20,399
2035	791	23,370
2036	806	24,900
2037	640	20,325
2038	680	20,847
2039	725	21,300
2040	925	30,955
2041	835	27,286
2042	832	26,231
2043	744	23,293
2044	729	22,564
2045	590	19,821
2046	458	16,509
2047	253	7,622
2048	4	411
2049	4	271
2050	3	357

Source: GAO analysis of Rural Housing Service (RHS) data. | GAO-18-285

There are several steps that Congress can take to ameliorate this impending crisis. First, it can decouple the Rental Assistance subsidy from the Section 515 loan program. Second, it can extend Rental Assistance contracts from their current one-year term to a twenty year term that is subject to annual appropriations. Third, it can extend eligibility for the Rural Development Voucher Program to persons living in developments with maturing mortgages in both the Section 514 and 515 programs, and modify the voucher subsidy to conform to the subsidies provided by HUD to urban households. Fourth, it can force RHS to conform to ELIHPA's prepayment restrictions when approving prepayments.

2. Decoupling Rental Assistance from the Section 515 and 514 Programs

The RHS subsidy programs are statutorily restricted to Section 514 and 515 developments. That means that when one of these loans is paid off, the subsidy to the owner and residents of the matured loan is terminated and, in practically all cases, residents are displaced because they cannot afford to pay the rent necessary to operate the housing without the RHS subsidy. This is particularly true if the owner secures private financing to rehabilitate properties that will serve higher income households after the prepayment.

This problem can and must be solved to avoid the loss of practically the entire 515 and 514 inventory and the displacement of hundreds of thousands of residents. This can be done by decoupling the Rental Assistance subsidy from the RHS Section 514 and 515 loan programs. Representative Kuster and Senator Shaheen have introduced legislation for the past three years to authorize decoupling. A copy of Representative Kuster's bill is among the bills that you have received in anticipation of this hearing. A demonstration decoupling program is proposed in another of the bills now before the Subcommittee.

HUD uses decoupling successfully in the Project-Based Section 8 program and the General Accountability Office has recommended decoupling for the RD programs in its recent report titled RURAL HOUSING SERVICE, BETTER DATA CONTROLS, PLANNING, AND ADDITIONAL OPTIONS COULD HELP PRESERVE AFFORDABLE RENTAL UNITS (May 2018) (see page 26).

Decoupling will allow RHS to continue to make Rental Assistance subsidy payments on behalf of eligible residents to owners of Section 514 and 515 housing who want to continue to serve low- and very-low income households after their loans have matured. This accomplishes three purposes. First it prevents displacement of residents. Second, it allows owners to secure private financing to repair and rehabilitate their housing. Third, it maintains affordable housing in rural communities that frequently lack other affordable rental housing.

We recommend that RHS be authorized, subject to annual appropriations, to enter into 20-year Rental Assistance contracts with all current owners as well as those whose loans mature. Such contracts are sufficiently secure for financial institutions to make long term loans to rental housing owners. I know this from my own experience as a board member of a 100 unit, 40-year old development in West Oakland, California, that has a HUD Project-based Section 8 contract. Five years after we paid off our first 30 year loan, we decided that the exterior of the development needed complete rehabilitation. To do so we secured a $6.3 million, 30-year, FHA insured loan that allowed us to replace the exterior siding, roofing, and all exterior windows and doors. We are now rehabilitating the interiors of all the units by using operating funds and remaining loan funds.

Decoupled Rental Assistance contracts will allow RHS to continue to monitor and enforce project maintenance, reserves and operations just as it does with current Section 514 and 515 developments. In fact, it may save some funds and staff resources by not having to annually review and approve rent increases or project budgets. RD may also be relieved of its administration of project reserves, which could become the responsibility of private financial institutions.

While we recognize that decoupling of Rental Assistance contracts will ultimately cost more than RD is currently paying for the Rental Assistance program, we strongly believe that increased expenditures are justified to avoid displacement of hundreds of thousands of rural households and the preservation of housing that is critical to rural communities. Moreover, for reasons that we discuss next, we think that the increased costs will not be dramatically higher than the current program costs.

First, the decoupled contract costs will be offset by savings from the current Rental Assistance contracts that will terminate upon the maturation of current 515 and 514 loans. Second, the contract costs will also be offset by the cost of not having to provide RHS vouchers to residents who face displacement due to loan maturation. Third, developments that are rehabilitated should have lower utility costs than those that are currently deeply subsidized by RHS. Fourth, judicious use of the Low Income Housing Tax Credit program and other local and federal funds will reduce the cost of subsidizing preserved developments through the Rental Assistance program. Significantly, we believe that the cost of a decoupled Rental Assistance contracts will not be higher than the subsidy costs RHS currently incurs when it authorizes non-profits to purchase and rehabilitate existing developments as part of a prepayment transaction. Nor will these costs be higher than the rental assistance costs that the agency currently incurs when it approves the purchase and rehabilitation of multiple developments containing hundreds of Section 515 units by private developers.

We have recently made some very conservative estimates of what a decoupling program will cost. These estimates show that for the first five years, expenditures for decoupling will be $4.4 million, $7.9 million, $13.8 million, $19.9 million and $30.6 million. While annual expenditures continue to rise, they will not exceed $100 million until 2028 when the number of RD maturing mortgages increases dramatically. These estimates are conservative because they assume that every RD unit that matures will be assisted under a decoupled Rental Assistance Program, which is not likely to be the case.

For these reasons, we strongly support and urge the committee to approve one of the decoupling programs set out in the draft bills before you. The demonstration program may be preferable and should give RHS an opportunity to gain experience and monitor the decoupling program before expanding it to the entire Section 514 and 515 maturing inventory.

3. Expanding Use of RD Vouchers, Enhancing their Benefits, and Permanently Authorizing the Voucher Program

The RD voucher program was first authorized and funded through the 2005 Agriculture Appropriations Act and has since been annually reauthorized and funded through the annual appropriation process. NHLP supports this program and urges that it be permanently authorized with modifications that address current needs.

Loan maturation was not considered to be a significant issue 14 years ago when the voucher program was first authorized and funded. Unfortunately, this is no longer the case. In its recent report, HAC estimated that 74 properties with approximately 1,788 units will mature each year between 2016 and 2027. RHS and others project dramatic increases in the number of maturing mortgages thereafter. Accordingly, we urge that the Subcommittee approve, as it and the full House did in 2017, the expansion of the voucher program to cover households living in properties with maturing mortgages.

The subsidy authorized by the program since 2005 has been permanently set as the difference between the eligible household's pre-prepayment shelter payment and the post-prepayment RD approved market rent for the same unit. This means that the cost of a utility allowance, if any, is excluded from the voucher subsidy and RD is not authorized to adjust the voucher subsidy when rents increase, household income decreases, or household size increases. These limitations are unfair and cause severe hardships to a significant number of voucher assisted households.

The exclusion of a utility allowance from the voucher subsidy unfairly impacts households that pay part or all of their utility costs. Households living in developments where all the utilities are paid by the owner have all utilities included in their voucher subsidy because it is part of the unit rent. There is no reason why households should be treated differently depending on whether utilities are paid by the owner or the tenant.

The fact that the utility allowance is not included in the voucher subsidy can also cause a hardship to extremely low income residents. It is not uncommon for such households to pay a small amount, such as $90 or less, per month, for shelter costs, which covers both rent and utilities. While such households are receiving Rental Assistance, the cost of utilities is covered by the Rental Assistance subsidy and that cost is excluded from the household's monthly rent payment. Thus, in a development with a $40 utility allowance, the $90 monthly shelter cost is reduced to a $50 rent payment while the remaining $40 is used by the household to pay for utilities. By contrast, when the utility allowance is excluded from the voucher subsidy, the household has to pay $90 to the landlord and an additional $40 to the utility providers. This results in a nearly 70 percent cost increase to the voucher household. In most instances this renders the voucher useless because the household cannot absorb this increase and it is forced to move in with family or friends or even face homelessness.

Hardship is also very likely for a two person elderly household. When that household qualifies for a voucher the subsidy that it receives at the time of prepayment equals the difference between 30 percent of household income and the RD approved market rent for the prepaid unit. This is consistent with the current statutory requirement for the percentage of household income that has to be paid at the time of prepayment. However, in the case of two person elderly households, it is not uncommon for one of the household members to move to medical or other facilities or to pass away. In these cases, assuming that both household members had relatively equal incomes at the time of prepayment, the remaining household member becomes severely overburdened by having to suddenly pay 60 percent of household income, or more, for rent. Clearly, the remaining resident cannot afford to pay the higher percentage of income for rent and, consequently, is forced to move from his or her home.

Another problem created by RD's inability to adjust the voucher subsidy affects voucher portability. Frequently, elderly persons living in RD developments that are about to be prepaid consider using the RD voucher to move closer to family members, friends, or medical or other services. Their capacity to move, however, is limited by the fact that they are unable to move to communities where the market rents are higher than where they currently live. This is because the voucher subsidy is based, in part, on the market rate of comparable rents in the community in which the development is located. If they try to move to a community with higher rents, they will have to pay a higher percentage of household income for shelter. Most often, households, particularly elderly households, cannot afford the higher rents which limit their capacity to move.

All these problems are resolved if RHS can operate the voucher program in accordance with Section 542 of the Housing Act of 1949, which directs RHS to operate its voucher program in the same fashion as HUD. We, therefore, urge the committee to encourage the Agricultural Appropriations Committee to remove the subsidy limitations that are included in the current appropriations act. In the alternative, the committee should permanently authorize the RD voucher program and eliminate the restrictions that are currently included in the program's annual appropriations.

As part of the voucher program changes, RD should be allowed to keep its vouchers active in the community in which the prepaid or maturing loan was located. Prepayment and loan maturation not only impacts residents but also the number of affordable units in the community. To address this problem, RD should be allowed to keep vouchers in the community after the initial voucher holder gives up the voucher. This practice is followed by HUD when Enhanced Vouchers, are issued to tenants displaced from HUD financed housing, are no longer needed by the displaced tenant. HUD converts the voucher to a regular Housing Choice Voucher that remains in the community and is administered by a local housing authority. RHS should do the same thing.

Making these changes should not increase the cost of the voucher program over the next several years if the Subcommittee directs RD to only issue vouchers to households that are facing actual financial hardship or dislocation from prepayments. Currently, RD actively encourages all residents of prepaid developments to apply for vouchers by informing them that unless they secure vouchers they will experience rent overburden or displacement. In fact, in the course of litigation in which NHLP is representing residents of a Section 515 development whose owner has applied to prepay the RD loan, the agency admitted that most of the vouchers that it issues go to households that have remained in developments prepaid subject to use restrictions that are intended to protect the remaining residents against displacement. Congress did not intend these households to receive vouchers when a development is prepaid.

In the Joint House and Senate Report issued with the 2006 Agricultural Appropriations Act the conferees made it clear that sufficient funding was provided to "provide adequate funding for vouchers **as a safety net** to prevent displacement of low-income rural tenants that currently reside in Section 515 projects that are subject to prepayment." Hse. Report 109-255, p. 92 (Oct. 26, 2005) (emphasis added). The report goes on to state that passage of the voucher program was not intended to "alter prepayment restrictions or intend vouchers to be used in a property that would not be eligible or able to prepay without the use of such voucher." *Id.* RD clearly understands Congress' intent. Each year when it publishes a notice in the Federal Register outlining the purpose and administration of the voucher program, it opens the notice with the following statement:

> The [Rural Development Voucher Program] is intended to **offer protection to** eligible Multi-Family Housing (MFH) **tenants** in properties financed through RD's Section 515 Rural Rental Housing Program (Section 515 property) **who may be subject to economic hardship due to the property owner's prepayment of the RD mortgage.**

82 Fed. Reg. 21972 (May 11, 2017) (emphasis added).

Unfortunately, in administering the program RD ignores the fact that residents of prepaid RD developments prepaid subject to use restrictions, who received Rental Assistance prior to the prepayment, do not need protection against economic hardship beyond that which is provided by the restrictions. The restrictions obligate owners to protect residents living in these developments as long as they choose to remain in their homes.

ELIHPA and RD regulations make that clear. Section 502(c)(5)(G)(ii) obligates owners who prepay subject to use restrictions "to ensure that tenants of the housing and related facilities financed with the loan will not be displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of the prepayment." RD regulations underscore this requirement when they require the owner to operate the development after prepayment in conformance with Section 515 regulations and agree "to set rents, other charges, and conditions of occupancy to meet these restrictions." 7 C.F.R. § 3560.662.

RD can save more than half of the annual voucher program appropriations by stopping the issuance of vouchers to residents that do not need them for protection. Stopping this illegal practice will also slow prepayments because owners who prepay subject to use restrictions will no longer be assured of a stream of income generated by vouchers during the period that they are transitioning their developments from subsidized to market rate housing. Accordingly, we support the provisions, included in two of the bills before you, that limit the use of vouchers in projects prepaid subject to use restrictions.

We also endorse the extension of RD vouchers to residents in prepaid farm labor housing. There simply is no reason why residents of farm labor housing are not included as eligible voucher recipients when a farm labor housing loan is prepaid. Farm labor housing residents, who are among the lowest paid workers in the United States, are in as much, if not greater, need of RD vouchers as any other household in RD rental housing that is prepaid.

Lastly, we support the provisions in Representative Gonzalez's bill, which subjects the RD voucher program to the provisions of the Violence Against Women Act (VAWA). We believe that the drafters of the VAWA legislation were not familiar with the RD voucher program and overlooked it when drafting the statute. Extending VAWA to the RD voucher program will not place additional burdens on RD because the program currently operates using the HUD's Housing Assistance Payment contract, which already requires owners to comply with VAWA. As we expect RD to publish its own regulations and RD voucher contracts, we believe that Section 41411(a) of VAWA be modified to include the RD voucher program among the programs covered by the act.

4. RD Reporting Bill

One of the bills before you requires RHS to submit to the Subcommittee a preservation plan that addresses the loss of Section 515 and 514 housing due to the large number of maturing mortgages. It also requires RHS to annually report, to the Subcommittee, progress that is made under the plan and to make recommendations, including suggestions for new legislation, that may further improve the preservation of the RD rental housing stock. The bill also requires RD to provide the Subcommittee with details about on-going prepayments, the use of vouchers, letters of priority entitlement, and the preservation of the existing housing stock. This bill also requires RD to implement the GAO recommendations contained in its May 2018 report and to provide the public with more information about the prepayment of loans and administration of the RD voucher program. We endorse this bill and ask the Subcommittee to adopt it.

5. Facilitating the use of the Low Income Housing Tax Credit Program with the Farm Labor Housing Loan Program.

NHLP also supports Representative Panetta's proposed bill that directs RHS to explore ways in which the federal Low-Income Housing Tax Credit program can be used to construct or rehabilitate farm labor housing. The bill proposes to facilitate the use of the tax credit program by allowing farm labor housing to be sponsored by private partnerships, which are the only entities that are eligible for tax credits, if they are controlled by a nonprofit general partner.

6. RD Direct Single Family Loan Program Amendments

We request that the Subcommittee consider two amendments, not currently before you, to the RD single family direct loan program that will help homeowners retain their homes when facing hardships. Under Section 505(a) of the Housing Act of 1949, RD is authorized to extend a moratorium on payments to homeowner-borrowers whenever the borrower is unable to continue to make mortgage payments for reasons beyond the borrower's control without unduly impairing his or her standard of living. In cases of extreme hardship, RD is also authorized to forgive interest accrued on the loan during the moratorium period in order to facilitate the borrower's capacity to resume making mortgage payments. In spite of this provision, mortgage payments of borrowers who have completed a moratorium are always higher than what they were before the moratorium. This is because, even when interest is forgiven, the principal amount of the loan that was deferred during the moratorium has to be added to the outstanding balance of the loan and the new, and higher, loan balance has to be reamortized over the remaining loan term, now shorter than it was before the moratorium.

Borrowers who face hardship, such as the loss of a job or a medical emergency, are frequently unable to resume making regular mortgage payments at the end of a moratorium, let alone make higher mortgage payments. Accordingly, we recommend that Section 505 of the Housing Act of 1949 be amended to require RD to extend the remaining term of the loan to a point where the post-moratorium mortgage payment becomes affordable to the homeowner. Specifically, we recommend that the second sentence in Section 505(a) be revised to read:

> Whenever, at the end of a moratorium, a borrower is required to pay more than 25 percent of household income for principle, interest, taxes and insurance, the Secretary must cancel the interest that accrued during the moratorium and, in order to reduce the borrowers' monthly payments for principle, interest, taxes and insurance costs to 25 percent of household income, to extend the outstanding term of the loan for a period that will allow the borrower to meet housing related costs at no more than 25% of household income.

Second, we propose that Section 505(b) also be amended by adding the following sentence at the end of the section: "Acceleration of the promissory note and initiation of foreclosure sale proceedings shall not terminate a borrower's eligibility for a moratorium, loan reamortization, special servicing, or other foreclosure alternatives."

We make this recommendation because RHS, in conflict with Section 505(a), currently takes the position that all special servicing options, including moratoria and loan modifications, are cut off upon acceleration of the note. This position is contrary to case law and rules that apply to FHA, GSE, and other loans and is not in line with RESPA procedures that contemplate loss mitigation throughout the foreclosure process. It is particularly troubling because in the direct loan program the government is the lender of last resort. It should extend all possible forms of assistance that will help borrowers to retain their homes. In addition to helping borrowers, this amendment should also prevent unnecessary agency losses because the losses typically incurred by a foreclosure will be mitigated if the borrower continues to be a successful homeowner.

I am pleased to inform you that the National Consumer Law Center, which works with and advocates on behalf of households that face foreclosure, also endorses these amendment to the servicing of RD single-family loans.

* * *

I thank you for the opportunity to submit this statement and look forward to working with the Subcommittee in advancing these proposals that are before you. Should anyone on the Subcommittee, or its staff, need clarification or have any questions about this testimony, please feel free to contact me at ganders@nhlp.org.