

REPEAL THE FAIRCLOTH AMENDMENT

Background

The Faircloth Amendment was a provision of the Quality Housing and Work Responsibility Act of 1998. It amended the Housing Act of 1937, which authorized federal financial assistance to help states and housing authorities provide housing for low-income people. This amendment prevented any net increase in public housing stock.

Under the amendment, HUD is barred from funding the construction or operation of new units with its Public Housing Capital Fund or Public Housing Operating Fund if the construction of those units would result in a net increase from the number of units as of October 1, 1999.

Simply put, the Faircloth Amendment sets a cap on the number of units any public housing authority (PHA) could own and operate, effectively halting new construction of public housing. It's an artificial barrier that prevents policymakers from using a vital tool, building more permanent affordable housing, to address our nation's growing housing and homelessness crisis.

Public housing is the oldest and, until recently, largest housing subsidy program in the country. Today's 1.1 million units of public housing, operated by over 3,000 local public housing agencies, serve 2.2 million residents. Not to be confused with other housing subsidy programs, public housing is housing stock that is owned by HUD and administered by local PHAs.

Impact of the Faircloth Amendment Today

Housing authorities now operate under "Faircloth Limits," the number of units eligible for federal funding under the amendment. In 1999, the federal Faircloth Amendment blocked housing authorities from adding more public housing units than allocated for that year, so housing authorities were restricted by the "Faircloth Limits."

New public housing buildings have been built since 1998, but for the most part, these have been so-called "replacement units", that is, replacing recently demolished or decommissioned public housing that left many tenants displaced.

In the two decades since the Faircloth Amendment passed, rent costs have skyrocketed while average incomes have not. The median inflation-adjusted rent has increased 13.0 percent since 2001, while the median inflation-adjusted renter's income has only increased 0.5 percent during that same period. This obstacle in creating more affordable housing that the amendment created, is happening while there is a \$70 billion backlog in funding for maintenance and repairs to existing public housing stock.

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Impact of the Faircloth Amendment Today (Pt. 2)

By HUD's latest count, America's public housing authorities have 227,000 fewer units of housing now than they did in 1999—units they could rebuild without hitting the limits imposed by the Faircloth Amendment.

But even though they can legally build new units, housing authorities have built a negligible amount of new housing over the past few decades, according to HUD. Part of the problem is a lack of funding available for new construction. HUD's public housing mixed-finance program can provide some funding, but development is expensive and public housing authorities must rely on outside financing such as [Low Income Housing Tax Credits \(LIHTC\)](#) and traditional debt.

Public housing serves a critical role in the nation's rental market, providing stable, affordable homes for over 2 million Americans with low incomes. The families who live in public housing include some of the nation's most disadvantaged citizens, including older adults, people with disabilities, and families with young children.¹ The Faircloth Amendment limits the number of public housing units that federal authorities could build and has resulted in many people being left without a home.

Repeal the Faircloth Amendment

The private market alone cannot provide adequate affordable, safe, decent, and accessible housing. Repealing the Faircloth Amendment will allow increased production of public housing units especially in areas with housing markets where it can be challenging for voucher holders to find suitable, affordable housing, and there is a pressing need for public or other deeply subsidized housing units. HUD has already issued [new guidance on using Rental Assistance Demonstration \(RAD\)](#) to finance construction of new Faircloth units, replacing the units lost to redevelopment and demolition. But repealing the Faircloth Amendment altogether would allow PHAs to go beyond that limit to provide enough deeply affordable housing units to meet the growing and urgent need.

Repeal the Faircloth Amendment Act H.R. 659 by Rep. Alexandria Ocasio-Cortez (D-NY14)

[Repeal the Faircloth Amendment Act H.R. 659](#) by Rep. Alexandria Ocasio-Cortez (D-NY14)

The Repeal the Faircloth Amendment Act would overturn the 1998 law, so there would no longer be a federal limit on creation of new public housing. It was introduced in the House as H.R. 659, by [Rep. Alexandria Ocasio-Cortez \(D-NY14\)](#), which would repeal the Faircloth Amendment, releasing the ban on the construction of new public housing in the United States. Unfortunately, efforts to repeal the Faircloth Amendment are weakened by the lack of knowledge from policy makers.

It's important to note that repealing the amendment won't be a silver bullet for revitalizing affordable housing in the United States. Remaining public housing is massively underfunded, which is specifically addressed by the [Public Housing Emergency Response Act](#) proposed by Elizabeth Warren.

¹Popkin, Susan J., Benny Docter, Mica O'Brien, Martha Galvez, Diane K. Levy, and Maya Brennan. 2020. "The Future of Public Housing: Confronting the Challenges Facing the Public Housing Program." Washington, DC: Urban Institute.

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Repeal the Faircloth Amendment Act H.R. 659 by Rep. Alexandria Ocasio-Cortez (D-NY14) (cont'd)

It is not an either fully fund current public housing OR repeal the Faircloth Amendment to create new public housing, it is an AND Repeal Faircloth to remove the barrier to create new public housing AND fully fund PHAs to properly maintain safe, decent, accessible, and affordable housing units that they currently hold.



PC: New York Legal Assistance Group

Repealing the Faircloth Amendment would not only eliminate a physical ban that has barred access to affordable housing for more than twenty years, but it would also allow for communities, tenants and PHAs to reimagine how building more public housing with permanent affordability could create opportunities for seniors to rest and families to thrive. Intentionally designing and planning to have public housing integrated in the community where residents thrive in their neighborhoods, where they have access to opportunity, where there's jobs, resources and public parks can be accomplished, but first Faircloth must be repealed.

Action

Efforts to repeal the Faircloth Amendment are diminished by the general lack of knowledge regarding the matter, including Congressional members. Now is the time for those who are directly impacted by the lack of available safe, decent, accessible and affordable housing, those who are unhoused, tenants, advocates and all those who know that our country can live up to its calling to ensure that housing is a human right must mobilize and rally around Rep. Ocasio-Cortez's bill to Repeal the Faircloth Amendment.

Due to the leadership of Congresswoman Ocasio-Cortez and Chairwoman Waters, new housing funding available through Build Back Better will not be subject to the Faircloth Amendment and includes a soft repeal. Priority advocacy should be towards Congress passing the essential "Build Back Better Act" housing investments in any final reconciliation bill.

Talking Points to Share with Your Congressional Office:

- Build Back Better is a once-in-a-lifetime opportunity to address homelessness and put the country on a path towards universal housing assistance. We are asking you to get Build Back Better to the finish line to ensure these investments in rental assistance, public housing, the national Housing Trust Fund are included and enacted in the final reconciliation bill. We can't Build Back Better unless EVERYONE is better, including those who are unhoused and those who are in desperate need of affordable housing.

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Action (Cont'd)

- While few funds are currently dedicated toward new public housing construction, lifting the prohibition from the Faircloth Amendment lays the groundwork for a net increase in the supply of public housing, a crucial step in increased aggregate housing supply.
- Repealing the Faircloth Amendment would not only eliminate a physical ban that has barred access to affordable housing for more than twenty years, but it would also allow for communities, tenants and PHAs to reimagine how building more public housing with permanent affordability could create opportunities for seniors to rest and families to thrive.
- It is not an either fully fund current public housing OR repeal the Faircloth Amendment to create new public housing, it is an **AND**. Repeal the Faircloth Amendment to remove the barrier to create new public housing **AND** fully fund PHAs to properly maintain safe, decent, accessible, and affordable housing units that they currently hold.
- Repealing the Faircloth Amendment will allow for intentional designing and planning to have public housing integrated in the community where residents thrive in their neighborhoods, where they have access to opportunity, where there's jobs, resources and public parks can be accomplished, but first Faircloth must be repealed.

Racialization of Public Housing

Beginning with the Great Depression of the 1930s and into the early 1950s, working- and middle-class white as well as African American families faced a serious housing shortage. In the Depression only the affluent could afford to purchase homes or rent new apartments, so builders couldn't be induced to provide housing for others. World War II exacerbated the shortage because all construction material was appropriated for military purposes. Working- and lower-middle-class families doubled up with relatives, stayed in apartments that were too small for their growing families, or remained in emergency Quonset huts that had been put up toward the end of the war for returning veterans. In response, President Franklin D. Roosevelt's New Deal created the nation's first public housing for civilians who were not engaged in defense work. Race determined the program's design. The administration constructed separate projects for African Americans, segregated buildings by race, or excluded African Americans entirely from developments.

Public housing has been historically maligned, basically because of its racialization. Public housing got its start in the federal Housing Act of 1937 which frequently demolished integrated neighborhoods in order to create segregated public housing. This flourished well into the 1970s as a tool of segregation, promoting public housing in Black neighborhoods while bestowing private developers with funding to build homes in white neighborhoods. White families could graduate from public housing with the support of federally insured mortgages denied to low-income Black families, who were left concentrated in increasingly neglected public housing projects. These redlining tactics undercut financial opportunity — through housing policy — for generations of Black Americans.

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Racialization of Public Housing (cont'd)

In 2019, U.S. Rep. Earl Blumenauer (D-Portland) released his report “Locked Out,” outlining the racist and discriminatory history of the nation’s housing policies. Among numerous reforms to end racist practices and meet the demand for affordable housing, Blumenauer calls for the creation of a new \$10 billion Public Housing Construction Fund to build 5 million new homes to cover the national public housing waitlist and expand public housing eligibility beyond the most vulnerable and into middle-income households, to discourage s egregating poverty.

Once the Faircloth Amendment is repealed, it is critical for cities and PHAs to create an equity framework when developing new public housing, which will help to increase access to quality, permanent affordable housing while concurrently addressing the on-going impacts of exclusionary housing policies and practices.



PC: LA Tenants Union #PHIMBY

Climate Change

Climate change and affordable housing crises are inextricably linked. Our housing stock is a major contributor to climate change: residential buildings account for 20 percent of greenhouse gas emissions.

It would be critical that creation of new public housing would include incentives and regulations for climate resilient and energy efficient buildings. Furthering HUD’s Energy Action Plan by promoting energy conservation improvements aimed at PHAs would be a critical piece towards the goals of the National Energy Policy. Local PHAs should work with community members to develop and promote environmentally sound housing construction and maintenance to address the effects of climate change.

About National Coalition for the Homeless

The National Coalition for the Homeless is a national network of people who are currently experiencing or who have experienced homelessness, activists and advocates, community-based and faith-based service providers, and others committed to a single mission: To end and prevent homelessness while ensuring the immediate needs of those experiencing homelessness are met and their civil rights are respected and protected.