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Solving Texas Housing Problems: An Intergovernmental Approach

Austin, Texas
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FOREWORD

The Texas Advisory Commission on Intergovernmental Relations has devoted attention during the past three years to various intergovernmental dimensions of housing policy in Texas. Previous reports have been concerned with the administration of housing codes (*Housing Code Administration: Proposals for Texas,* 1973) and with the development and future of public housing authorities (*Public Housing in Texas: Past, Present and Prospective,* March 1974).

This report examines the impact of federal housing programs on the conditions and supply of housing in Texas. It also explores the need for and approach to more vigorous intergovernmental action on housing problems in the state, particularly in view of the latest changes in federal housing policies. These changes, quite apparently, attempt to shift a greater share of public responsibility for housing programs to the state and local levels of our federal system.

The study reported in this publication was conducted from the summer of 1974 through the winter of 1975. The report was adopted by the Commission in the spring of that year. Its subject and general content appear likely to remain pertinent to public policy deliberations on housing problems in the foreseeable future.

T. Patrick Hamilton, now director of community development for the City of Urbana, Illinois, was the principal researcher and writer on this study, under the direction of N. David Spurgin, the Commission's director of research. Richard M. Jones, currently associated with the Attorney General's staff, assisted with legal research and drafting.

Austin, Texas
February 1976

Tom J. Vandergriff
Chairman

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CONCLUSIONS AND RECOMMENDATIONS

The development and maintenance of adequate shelter for Texas families and individuals has depended historically upon public policies and programs at the federal and local levels. Texas state government has played a passive role while other states in recent years have taken a more active part in trying to assure decent housing for their residents. The state's own 1971 survey of housing conditions in Texas indicated the inadequacy of federal and local government programs at that time to meet housing needs. The Texas Research League study that prompted this survey, furthermore, foresaw the likelihood that housing conditions would worsen unless federal policies were changed and local programs were supplemented by a state effort to save as much marginal housing as possible.

This study relies upon the state's findings in 1971 and at the same time brings up to date the earlier analysis of the prospective impact of federal policies by examining the new federal Housing and Community Development Act adopted in 1974. It also surveys the housing role assumed by several states in the last few years and examines program options for Texas state government. The report concentrates special attention on state-sponsored housing rehabilitation but considers possible solutions to other housing problems as well.

Based upon the findings of this study, the Texas Advisory Commission on Intergovernmental Relations reaches 10 basic conclusions and offers three major recommendations for state and federal action.

CONCLUSIONS

- Since 1973 the Texas housing industry has not been producing new housing at the rate required to meet projected demands in the conventional market.
- Housing finance agencies created since 1960 by over 30 other states have been able to supplement the production of new housing in the conventional market, but assistance for low-income families has been provided only when direct federal subsidies have been added onto federally tax-exempt bond financing.
- Current federal housing assistance programs are not adequate to meet the needs of the approximate 15 percent of the Texas population who reside in marginal or totally inadequate housing and have annual incomes too low to afford decent housing in the conventional market.

- Low-income residents of totally inadequate housing in urban areas are dependent on the new federal rental assistance program for improved housing because federal housing assistance programs no longer promote homeownership for households eligible for assistance or the construction of additional public housing.

- State-sponsored new housing construction could expand the availability of rental units for low-income Texans if it couples tax-exempt financing with housing payments provided by the new federal rental assistance program, part of which has been earmarked for state agencies.

- Low-income renters in marginal, deteriorating but salvageable housing must rely on the new federal rental assistance program to provide either alternative shelter or to serve as a source of rehabilitation assistance to present landlords; but new or rehabilitated housing that might be developed under the program, while potentially substantial, would not be able to accommodate all qualifying households.

- Direct federal rehabilitation assistance is no longer available to low-income owner-occupants of marginal housing, but community development block grants authorized under the Housing and Community Development Act of 1974 may be used in part by Texas cities for rehabilitation assistance.[1]

- While owner-occupants of marginal housing in cities of 50,000 or more may be assisted by community development funds authorized by the new federal law and Farmers Home Administration programs could supply needed funds in cities and towns under 20,000 population, federal government assistance is unlikely to meet the full needs for rehabilitation assistance in all the metropolitan areas of the state.

- A state program designed to provide housing rehabilitation assistance to low-income owners of marginal housing could substantially augment available federal and local programs and provide an assured source of rehabilitation funding.

- The extent of housing needs in Texas and the low incomes of a great number of families in inferior shelter suggest that only a significant expansion of overall federal housing assistance, including private market support, can provide enough money to meet all the shelter needs of the state.

RECOMMENDATIONS

RECOMMENDATION 1

THE COMMISSION RECOMMENDS THAT THE TEXAS LEGISLATURE ENACT A STATE HOUSING REHABILITATION PROGRAM FOR OWNERS OF MARGINAL HOUSING UNABLE TO SECURE REHABILITATION LOANS AT AFFORDABLE COSTS FROM PRIVATE FINANCIAL SOURCES.

The new state program should be capitalized initially through appropriation of state funds in the amount of approximately $10 million placed in a revolving fund created with the state treasury. Loans should be made at interest rates and terms which would require a reasonable amount of family income to be spent for housing costs. A first or second lien should be acquired to assure that principal and interest due could be recovered upon sale or inheritance of the property. Maximum interest charged should be no higher than the rate allowed by the state constitution on real estate loans (currently 10 percent), and maximum terms should be 20 years.

The program should be administered locally through cities and counties on the basis of an area development plan submitted by the local government to the state. Within reasonable rules and regulations prescribed by the state, local governments should be able to handle loan approval and processing and the setting of individual loan terms and conditions. Locally, it should be possible to contract applicant and financial administration to existing financial institutions or to other agencies selected by the local government.

The Texas Department of Community Affairs should administer the program at the state level. State funds for administration should be appropriated by the legislature. State approval of housing codes used in the program should be provided only where no local code exists, and environmental improvements should be permitted. State approval of materials, contract standards, and contractor qualifications and bonding requirements also should be required in the program.

RECOMMENDATION 2

THE COMMISSION RECOMMENDS THAT THE STATE ESTABLISH A PROGRAM OF LEASED-HOUSING CONSTRUCTION LINKED TO THE NEW RENTAL ASSISTANCE PROGRAM OF THE FEDERAL GOVERNMENT.

The program should be financed through federally tax-exempt revenue bonds or the newly authorized taxable bonds with federal interest subsidy. The agency should be empowered to sponsor section 8 (rental assisted) housing under the new federal law and to utilize any other federal housing subsidy programs for low- and moderate-income families. Sponsored projects, however, should not require or contemplate complete occupancy by subsidized families.

While there should be no limit to the bonding authority of the agency, its programs should be financially self-supporting, including federal subsidies where applicable. Administrative costs should be financed from agency fees or charges and should not require legislative appropriation except for start-up monies. Local financial administration should be handled through existing financial institutions wherever feasible.

RECOMMENDATION 3

THE COMMISSION RECOMMENDS THAT THE FEDERAL GOVERNMENT MAKE SUFFICIENT FUNDS AVAILABLE FOR THE CONSTRUCTION AND LONG-TERM FINANCING OF HOUSING FOR MODERATE- AND MIDDLE-INCOME FAMILIES.

The serious depression of the housing industry has placed inordinate demands upon the states to finance new housing for these families. The states are incapable of meeting these demands adequately. Moreover, in attempting to provide some assistance the states have found it necessary to resort to the federal treasury to finance their programs through the use of federally tax-exempt bonds. While the states may properly augment federal housing policies to fit their several particular needs, the federal government with its superior revenues and responsibility for national economic policy must continue to establish the principal housing policies of the nation to meet the needs of all American families.

CURRENT TEXAS HOUSING NEEDS AND PROSPECTS

		Federal Government	State and/or Local Government	
		Section 8	New Construction	Rehabilitation
Marginal Units	Renters	Below Median-Income Families	No Assistance	Optional
	Owners	No Assistance	No Assistance	Optional
Inadequate Units	Renters	Below Median-Income Families	Assistance When Combined With Section 8	No Assistance
	Owners	No Assistance	No Assistance	No Assistance
Moderate- and Middle-Income	Renters	No Assistance	New Housing	Apparently Not Needed In Most Cases
	Owners	No Assistance	New Housing	

NOTE: Read, for example: Renters in marginal units may be assisted by the federal section 8 program if they have incomes below the median level.

NOTES

[1]The legal authority apparently needed by Texas cities for this purpose was provided by SB 734, Tex. Laws 1975, ch. 677, at 2058.

1

HOUSING PROBLEMS IN TEXAS

Prior to 1971 virtually all data pertaining to the conditions of housing in Texas were developed by the Bureau of the Census of the U.S. Department of Commerce. In 1970 the Texas Research League issued the first of a two-volume study of Texas housing problems requested by former Governor Preston Smith. Because of deficiencies in federal definitions used in each previous decennial census, the league recommended that "Texas . . . act immediately to determine the extent, degree, and location of its housing problems."[1] The categories of "sound," "deteriorating," and "dilapidated" used by the Census Bureau were found to neglect some important indicators of quality, both structural and environmental. Methods employed, moreover, were excessively subjective and resulted in wide disparities in structural appraisals between enumerators. This recommendation launched the first and only attempt by the state to collect and study its own data on housing conditions in Texas.

DEFINING THE PROBLEMS

With the aid of private funding from the Brown and Moody foundations, the Governor's Office contracted with the private research firm of Louis, Bowles and Grace, Inc., to survey the state's housing stock. The results of this survey were published in January 1972 in the *Texas Housing Report*. In addition to structural appraisal, the study focused on environmental surroundings and occupant attitudes in order to provide a more comprehensive housing picture than traditional census techniques. The Texas Research League incorporated the findings of the *Texas Housing Report* in the second volume of its housing study, *Housing for Texans: A Rational Response to Texas' Housing Needs*. For purposes of that report and this discussion, the five quality rating groups used in the *Texas Housing Report* were combined into three categories of "adequate or better," "marginal," and "inadequate."

Structural Characteristics

By far the largest segment of the housing stock in Texas was found to be of good quality and to require no special attention, private or governmental. Out of a total of 3.4 million occupied units, about 85 percent were estimated to be adequate or better in quality. As indicated in Table 1, page 8, however, a significant number--372,000--of the housing units in Texas were marginal. These units, while providing minimum shelter, were judged to be in a state of continuing deterioration that without

substantial improvement would lead to total inadequacy within a short period of time. *Housing for Texans* estimated in 1971 that 178,000 of these units would need rehabilitation within five years and the remaining 194,000 within 10 years. The remaining 148,000 units of occupied housing in the state were classified as clearly inadequate and in need of immediate demolition and replacement.

Location of Problem Housing

Marginal and inadequate housing is found in every part of Texas, but one-half of the inadequate housing in the state is located in urban centers. Of the remainder, better than one-fourth is in rural towns and about one-fifth is in nonurban cities. Significantly, only 3,000 inadequate units are found in urban fringe (suburban) areas.

The distribution of the state's marginal housing stock resembles the pattern of inadequate stock. Something over 50 percent is found in urban centers with nonurban cities and other rural towns accounting for 22 percent and 20 percent respectively. Suburban areas, again, contain only a small proportion of the total marginal housing in the state (see Table 2, page 9).

Table 1

OCCUPIED HOUSING UNITS IN TEXAS BY QUALITY, 1971

Quality	Occupied Housing Units: Number (in thousands)	Occupied Housing Units: Percent
Adequate or better	2,912	84.8%
Marginal	372	10.9
Inadequate	148	4.3
TOTAL	3,432	100.0%

SOURCE: Texas Research League, Housing for Texans: A Rational Response to Texas' Housing Needs, vol. 2 (Austin: TRL, 1972).

Table 2

MARGINAL AND INADEQUATE HOUSING UNITS
IN TEXAS BY QUALITY AND SIZE OF PLACE

	Inadequate		Marginal		Total	
	Number (in thousands)	Percent	Number (in thousands)	Percent	Number (in thousands)	Percent
Central urban cities of 50,000 or more population[a]	75	50.7%	199	53.5%	274	52.7%
Urban fringe[b]	3	2.0	16	4.3	19	3.6
Nonurban cities of 10,000 but less than 50,000 population	29	19.6	75	20.2	104	20.0
Rural towns of less than 10,000 population	41	27.7	82	22.0	123	23.7
TOTAL	148	100.0%	372	100.0%	520	100.0%

SOURCE: Texas Research League, Housing for Texans: A Rational Response to Texas' Housing Needs, vol. 2.

[a]A total of 38 cities that includes 11 central cities with less than 50,000 population.

[b]Urbanized areas outside central city or cities (suburbs).

Low-quality housing is much more prevalent in rural Texas than in other areas of the state. Nearly one-fourth of all homes in rural areas are either inadequate or marginal, while approximately 15 percent of housing in both urban centers and larger nonurban cities is low-quality. In suburban areas 7.2 percent of the dwellings are low-quality although only 1.2 percent need replacement.[2]

Occupant Characteristics

Not only is the incidence of low-quality housing greater among blacks and Mexican-Americans than among whites, but more of the total amount of low-quality housing is occupied by minorities than by whites. Some 9 percent of the white population resides in low-quality housing; comparable figures for blacks and Mexican-Americans are 36 percent and 32 percent respectively.[3] Blacks and Mexican-Americans live in two out of every three inadequate dwellings, but white households are found in almost half of the marginal units (see Table 3).

Perhaps more telling than any other factor related to low-quality housing is the integral relationship between housing and income. Although not all households residing in marginal or inadequate housing have low incomes, there is a strong and obvious relationship between low-income families and low-quality housing. Over 90 percent of households in inadequate housing and about 90 percent of households in marginal housing had incomes in 1971 of less than $8,000 per year. Over four out of five households living in inadequate shelter and fully three out of four in marginal dwellings had annual incomes under $6,000 (see Table 4, page11). The incidence of unemployment and matriarchal families increases with the decline of housing quality. However, the majority of households in low-quality housing do not have these additional problems. For these families the principal problem appears to be a lack of money.[4]

Table 3

MARGINAL AND INADEQUATE HOUSING UNITS BY ETHNIC GROUP

Ethnic Group	Inadequate Units		Marginal Units	
	Number (in thousands)	Percent	Number (in thousands)	Percent
Whites	54	36.5%	179	47.9%
Blacks	48	32.4	97	25.9
Mexican-Americans	46	31.1	98	26.2
TOTAL	148	100.0%	374	100.0%

SOURCE: Texas Research League, Housing for Texans: A Rational Response to Texas' Housing Needs, vol. 2.

Table 4

PERCENT DISTRIBUTION OF INADEQUATE AND MARGINAL HOUSING BY QUALITY AND HOUSEHOLD INCOME, 1971

Annual Income	Inadequate Housing: Percent	Inadequate Housing: Cumulative Percent	Marginal Housing: Percent	Marginal Housing: Cumulative Percent
Less than $2,000	44.2%	44.2%	24.2%	24.2%
2,000 to 3,999	26.5	70.7	28.2	52.4
4,000 to 5,999	14.0	84.7	24.3	76.7
6,000 to 7,999	7.6	92.3	11.4	88.1
8,000 or more	7.7	100.0	11.9	100.0

SOURCE: Texas Research League, Housing for Texans: A Rational Response to Texas' Housing Needs, vol. 2.

Ownership and Property Value

Occupancy of housing by the owner increases with housing quality. Even among those units in Texas that are clearly inadequate about 46 percent are owner-occupied, and of the state's 372,000 marginal units 57 percent are owner-occupied.[5]

The *Texas Housing Report* sought to establish the value of owner-occupied housing. Since on-site appraisals by qualified personnel were not feasible, owner-occupants were asked to estimate the sale value of their homes. Thus, the information shown in Table 5, page 12, is only as accurate as the occupant's assessment; however, it does provide some indication of the value of low-quality housing in Texas.

Not surprisingly, the value of most owner-occupied marginal and inadequate units was reported to be quite low. Over 80 percent of owners of marginal homes and 90 percent of owners of inadequate homes reporting estimated the resale value of their homes at less than $10,000. Over four out of five inadequate homes and two out of three marginal units were estimated to be worth less than $7,500.

Table 5

PERCENT DISTRIBUTION OF OWNER-OCCUPIED INADEQUATE AND MARGINAL HOUSING UNITS BY ESTIMATED SALE VALUE, 1971

Sale Value Specified by Owners Reporting	Inadequate Housing		Marginal Housing	
	Percent	Cumulative Percent	Percent	Cumulative Percent
Less than $5,000	68.6%	68.6%	37.1%	37.1%
5,000 to 7,499	14.4	83.0	30.1	67.2
7,500 to 9,999	7.4	90.4	16.4	83.6
10,000 or more	9.6	100.0	16.4	100.0

SOURCE: Office of the Governor and the Department of Community Affairs, Texas Housing Report (Austin: TDCA, 1972).

MEETING THE NEEDS, 1970-1980

In addition to defining Texas housing problems, *Housing for Texans* analyzed how the housing needs of the state might be met during the 1970s. Meeting these needs involves both supply and demand aspects of the conventional housing market and governmentally assisted housing supply programs.

Conventional Needs

In 1971 it was estimated that just over 1.2 million dwelling units would have to be constructed between 1970 and 1980 to satisfy needs in the conventional market where government assistance takes only indirect forms such as Farmers Home Administration (FHA) and Veterans Administration (VA) insurance programs and federal income tax deductions (see Table 6, page 13). This estimate was based on demands projected from population growth and replacement unit requirements (to replace those removed by condemnation or converted use) and included reasonable vacancy rates, which permit population mobility. When the estimated total demand is distributed over the decade, it is apparent that 120,000 new units (including mobile homes) are required each year, and most of this new housing is needed in metropolitan areas.

Table 6

PROJECTED DEMAND FOR NEW RESIDENTIAL CONSTRUCTION IN TEXAS, 1970 TO 1980

Units Needed For	Metropolitan Areas	Nonmetropolitan Areas	State Total
Net Population Growth	877,400	0	877,400
Net Vacancies and Replacements	160,400	163,600	324,000
TOTAL NEW CONSTRUCTION	1,037,800	163,600	1,201,400

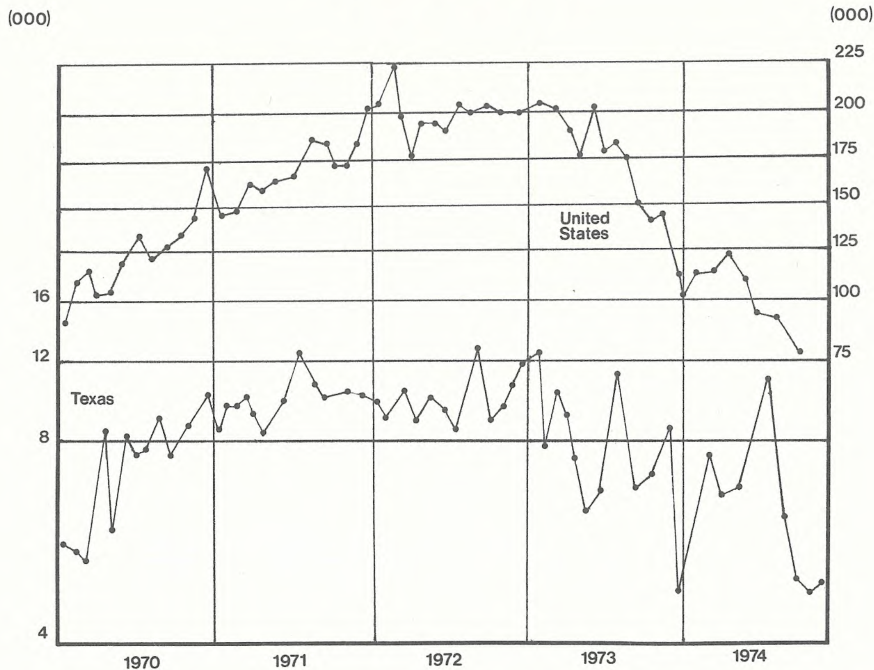
SOURCE: Texas Research League, Housing for Texans: A Rational Response to Texas' Housing Needs, vol. 2.

Housing for Texans concluded that "this goal is well within the *present capabilities* of the residential construction industry in Texas."[6] The report also recognized three "imponderables" that vitally affect the production capability of the housing construction industry--the availability of mortgage credit, the cost of mortgage money (interest rates), and the cost of construction. Trends in each of these factors in the past two years have negatively affected the ability of the industry to satisfy the demand for new housing (illustrated in Figure 1, page 14).

Construction trends prior to 1973 indicated that conditions were adequate to permit the housing industry to produce the needed annual average of 120,000 units. Despite accelerating construction costs during this period, available and comparatively affordable credit permitted record construction rates. The final months of 1973 and the first eight months of 1974, however, show the effects of tight mortgage credit and expensive mortgage money that have marked more recent experience. As of August 1974, the annual rate was about half the level required to meet projected demands in the private housing market. Although no data are available on mobile home supply in Texas, it is highly doubtful that mobile homes have offset the decline in conventional home construction. The reduction in new construction probably means that fewer households are relocating into more desirable housing and, correspondingly, fewer adequate dwelling units are "filtering down" to lower income groups. The impact that reduced new housing construction has on the filtering down of housing is difficult to assess and impossible to quantify but seems nonetheless real.

Figure 1

HOUSING AUTHORIZED IN TEXAS AND THE UNITED STATES, JANUARY 1970-AUGUST 1974



SOURCE: Original graph from Bureau of Business Research, Texas Business Review 48, no. 2 (Austin: University of Texas, 1974):29. Supplemental 1974 data supplied by the Bureau of Business Research, University of Texas at Austin; data seasonally adjusted.

The Need for Government Assistance

Housing for Texans concluded that in addition to meeting conventional needs the private market could solve part of the problem of marginal and inadequate housing. According to the report's estimates, 12,000 of the 148,000 households in units needing immediate replacement would be able to provide themselves with adequate shelter in the private market in view of their $8,000 or more annual incomes. The report also concluded that of the 372,000 marginal units in Texas, the 87,000 occupied by households with annual incomes of $6,000 or more should be able to improve their residence or relocate into adequate shelter without assistance.

The balance of problem housing--285,000 marginal and 136,000 inadequate units--would require governmental aid. In using these cutoff points for government assistance, the report pointed out their arbitrary nature and stated that "the assumptions on which this definition of 'housing need' are based can be criticized from several viewpoints . . . [T]he assumptions . . . involve a number of judgment factors on which opinions might differ."[7] Defining "need" is, of course, a critical policy matter.

Inadequate Housing. Of the 136,000 households residing in inadequate shelter who were determined to require special assistance to improve their living conditions, 52,000 earned between $3,000 and $8,000 annually and, it was assumed, could utilize existing federal subsidy programs for renters and homeowners. The balance of 84,000 households living in inadequate shelter earned less than $3,000 annually and could not qualify for federal programs other than public housing. *Housing for Texans* estimated that some 57,000 units of public housing would be constructed in the 1970s leaving a balance of 27,000 in inadequate housing (see Table 7). With these assumptions relating to needs, conventional market activity, and federal government programs, *Housing for Texans* in 1971 concluded that all but 18 percent of the households in totally inadequate units would have solutions to their problems available during this decade.

Table 7

ANTICIPATED REMEDIES FOR LOW-INCOME HOUSEHOLDS
IN INADEQUATE HOUSING IN TEXAS, 1971

Type of Unit	Number of Units	Total
LOW-INCOME HOUSEHOLDS IN INADEQUATE HOUSING		148,000
Less Households with Access to:		
Private Market	12,000	
Federal Homeowner and Rental Subsidy	52,000	
Public Housing (57,000 New Units Projected)	57,000	
HOUSEHOLDS WITH ACCESS TO SUITABLE HOUSING		121,000
HOUSEHOLDS WITHOUT AVAILABLE ASSISTANCE		27,000

SOURCE: Texas Research League, Housing for Texans: A Rational Response to Texas' Housing Needs, vol. 2.

Marginal Housing. The largest segment of the Texas housing problem is its marginal stock. Again, it was assumed by *Housing for Texans* that the private market would be able to meet the housing needs of a substantial proportion of the households in marginal shelter, and federal assistance also was expected to be available for some households. Of the 372,000 occupied marginal units, however, almost 40 percent (146,000) of the households had no available or foreseeable means for achieving adequate housing (see Table 8).

Table 8

MARGINAL HOUSING IN TEXAS AND ITS ANTICIPATED RESOLUTION, 1971

Type of Unit	Number of Units	Total
MARGINAL HOUSING		372,000
Less Households with Access to:		
Private Market	87,000	
Renters (Needing no Assistance or with Access to Federal Subsidy Programs)	119,000	
Federal Rehabilitation Assistance for Homeowners	20,000	
HOUSEHOLDS WITH ACCESS TO SUITABLE HOUSING		226,000
HOMEOWNERS WITHOUT ACCESS TO REHABILITATION FUNDS		146,000

SOURCE: Texas Research League, Housing for Texans: A Rational Response to Texas' Housing Needs, vol. 2.

GAPS IN THE RESOLUTION OF TEXAS HOUSING PROBLEMS

Based on trends that were current in 1971 in both the private market and federal housing programs, *Housing for Texans* was able to project the resolution of Texas housing problems with only two exceptions. First, the projected 57,000 new public housing units to be constructed in Texas in

this decade would fall 27,000 short. Second, 146,000 owner-occupants of marginal housing were without means, public or private, to sufficiently refurbish their homes and would face the prospect of remaining in deteriorating housing. *Housing for Texans* further concluded that the magnitude of federal housing program activity permitted reallocation of federal effort sufficient to satisfy these two areas. That is, the report calculated that federal programs in Texas were overbuilding in the new construction programs for moderate-income groups. *Housing for Texans*, however, found the prospects were not bright for expansion of federal rehabilitation programs for owner-occupied marginal housing. As a result the report concluded: "If the state is to provide any program of financial assistance for housing, the most practical and promising area would be in the rehabilitation of marginal units occupied by low-income homeowners."[8]

Federal housing programs have been drastically changed, but the effects are more likely to increase than to diminish housing problems in Texas. The extent to which the federal government has altered its programs is the subject of chapter 2.

NOTES

[1]Texas Research League, *Planning a Response to Texas' Housing Needs*, vol. 1 (Austin: Texas Research League, 1970), p. 122.

[2]Texas, Office of the Governor and the Department of Community Affairs, *Texas Housing Report* (Austin: TDCA, 1972), p. 18.

[3]Ibid., p. 16.

[4]Ibid., p. 24.

[5]Ibid., p. 50.

[6]Texas Research League, *Housing for Texans: A Rational Response to Texas' Housing Needs*, vol. 2 (Austin: Texas Research League, 1972), p. 35.

[7]Ibid., p. 38.

[8]Ibid., p. 74.

2

NEW FEDERAL HOUSING ASSISTANCE POLICIES

In 1971 federal housing assistance programs were expected to contribute significantly to the future resolution of housing problems in Texas. *Housing for Texans* did acknowledge that many of the federal housing assistance programs were being heavily criticized and that their future was uncertain. Since the new directions of federal housing policy were not known, however, projections of anticipated federal activity were based on production patterns and goals current at the time.

FEDERAL POLICIES IN RECENT YEARS

The Housing Act of 1968 for the first time quantified housing goals while reaffirming the historical pledge contained in the Housing Act of 1949 to provide "as soon as feasible [a] decent home and living environment for every American family."[1] The 1968 act called for the construction or rehabilitation of some 26 million units by 1978, 20 million of which were to be constructed or repaired by the private sector, and the remainder, through various federal subsidy programs. To aid in the realization of that goal, the 1968 act created two high-volume programs, the so-called section 235 and section 236 programs. Section 235 combined a direct subsidy to reduce effective interest rates with an extended loan term and increased loan coverage to facilitate homeownership for moderate-income households. Section 236 was designed to expand the availability of multifamily rental units through provisions quite similar to section 235.

The 1968 act also called for greater emphasis on rehabilitation of existing marginal units and an increase in the number of conventional public housing units. Other primarily urban programs, as well as rural programs administered by the U.S. Department of Agriculture, were included in the federal response to the mandate to provide six million subsidized dwelling units during the decade.[2]

The production record of the four years following passage of the 1968 act was impressive when compared to previous federal output in the subsidized market. Between 1968 and April 1972, nearly 1.5 million subsidized units were produced with new construction representing 90 percent of the total, and rehabilitation, the balance.[3] More than one-half of the directly subsidized units produced since the federal government first entered the housing market in the 1930s were created in that four-year period. *Housing for Texans* was completed when subsidized housing production was in full gear, and its projections were based on extrapolations from these record years.

The extraordinary federal effort of the late 1960s and early 1970s came to a halt in January 1973 when the administration imposed a moratorium on most of the federally subsidized housing programs, including all of its high-volume programs such as sections 235 and 236. Since then, little subsidized production has occurred although some projects for which funds were already committed have been continued. Aside from its immediate effect on the subsidized housing market, the moratorium signaled a marked shift in federal housing policy as evidenced by passage of the Housing and Community Development Act of 1974.[4]

FEDERAL POLICIES IN THE FUTURE

This new federal law is particularly significant in two respects. First, the type of federal housing assistance that will be available is substantially altered. Second, institutional responsibilities are revamped for the provision of housing for low- and moderate-income households.

Assisted Housing Programs

The promotion of homeownership, a principal component in the strategy outlined in the 1968 act, appears to have been abandoned. The section 235 program, the mainstay of the ownership effort, is extended in the new law, but no new funding is authorized. The statutory retention of the program was a legislative compromise but the Department of Housing and Urban Development (HUD) has stated that it will not seek any additional appropriations for the program.[5]

Public Housing. Few additional units of conventional public housing will be developed. For fiscal year 1975 HUD proposed construction of 38,000 units to satisfy prior commitments of which Texas, based on past experience, should be allocated approximately 2,000 units. For fiscal year 1976, however, only 6,000 units designated specifically for Indian reservations are projected.[6]

The new law substantially increases the availability of operating subsidies--$500 million in fiscal year 1975 and $560 million in fiscal year 1976--and, at least nominally, increases rental revenue by requiring a minimum rent of 5 percent of gross income per household.[7] Moreover, housing authorities are required to establish tenant selection criteria designed to produce a tenant composition with a broad range of incomes and to avoid concentrations of very low-income households which often have other serious social problems. Continued occupancy income limits are removed in the new law, also, which means households will not be forced to move from public housing in the event annual income rises above a specified level. The degree to which these additional changes will provide greater financial security for local housing authorities is not known. It is clearly possible, however, that these changes will result in fewer very poor families occupying public housing.

Rental Assistance. Rental assistance emerges from the new law as the principal tool the federal government will employ in its contribution to the alleviation of housing problems confronting low- and moderate-income groups in the nation. While rental assistance is not a new concept in federal housing assistance, the new program contained in the act differs from past efforts in this area.

The major housing feature of the act is the new section 8 leasing program, which will subsidize rents through housing assistance payments to owners of units occupied by eligible low- and moderate-income families, including elderly households. "Owner" is defined in the act as any private person or entity or public housing agency with the legal power to lease the unit. The amount of assistance provided per unit will be the difference between 15 to 25 percent of household gross income and "fair market rent" in the area as determined by HUD.

Provisions in section 8 stipulate that the upper limit for tenant eligibility is 80 percent of the median income for the area. Very low-income families, defined as families with incomes less than 50 percent of the area median income, must occupy at least 30 percent of assisted units. For Texas as a whole, median family income is approximately $8,500, which means eligibility if determined on a statewide basis would be restricted to families with annual incomes of less than $6,800 while very low-income families would be those with annual incomes less than $4,250.

If fully implemented, the new leasing program could provide up to 600,000 units nationwide over a two-year period. However, numerous unresolved questions surround the program. It is not at all clear to what extent private developers will sponsor such projects since sponsors assume responsibility for project management and maintenance. More importantly, the law guarantees only 80 percent rentals for a maximum period of 60 days.

Since the 1968 act the primary source of assistance for rental units has been the high volume section 236 program, which combines an interest rate reduction subsidy and increased loan coverage for developers and sponsors, who also are given the tax benefit of accelerated depreciation. This type of subsidy has enabled sponsors to provide multifamily rental units to moderate-income households. Activity under this program was curtailed by the 1973 moratorium but is extended in the new law with an additional $75 million in funding authority. HUD, however, has indicated reluctance to use the program except in those areas where the new leasing program demonstrably will not work. The conference report on the new act states:

> The Secretary is expected to approve commitment of available funds for new projects when the community has identified its special housing needs and demonstrated that these needs cannot be met through the new housing assistance program authorized under the 1973 [*sic*] Act.[8]

As interpreted by HUD, this statement will mean that the full potential of the new leased housing program must first be utilized in a community before section 236 funds will be available. Even if the added authority were fully utilized, section 236 would not be a high-volume program and would probably provide fewer than 5,000 additional subsidized rental units in Texas.

Housing Rehabilitation. The 1974 act contains the following finding:

> . . . a greater effort must be made to encourage the preservation of existing housing and neighborhoods through such measures as housing preservation, moderate rehabilitation, and improvements in housing management and maintenance, in conjunction with the provision of adequate municipal services. Such an effort should concentrate, to a greater extent than it has in the past, on housing and neighborhoods where deterioration is evident but not yet acute.[9]

While officially endorsing and encouraging housing rehabilitation, congress effectively ends direct federal funding of section 312 loans and section 115 grants, the two principal sources of financing the rehabilitation of single-family, owner-occupied units.[10] These two programs were tied to urban renewal, neighborhood development, and concentrated code enforcement projects, all of which were consolidated into the community development block grants authorized by the act.

Under the new federal law, title I community development block grant funds may be expended for housing rehabilitation loans and grants. Use of these funds for housing rehabilitation is clearly linked to other eligible community development activities as in previous federal community development programs. The new act emphasizes a comprehensive approach to neighborhood revitalization with the apparent intent of tying the restoration of homes to improvements in public facilities and services in specific neighborhood areas--much like sections 312 and 115 have been used in urban renewal and neighborhood development areas.

The new section 8 leasing program may be used for rehabilitation of rental but not owner-occupied units; however, it is not known whether or to what extent HUD will use the authority to further the rehabilitation of existing units. Because of the rather high level of funding authorized for the new leasing program, section 8 could prove to be a prime source of rehabilitation funds for marginal rented dwellings.

Rural Housing Programs. The new federal act requires that at least 20 percent but not more than 25 percent of all HUD subsidized housing be outside of metropolitan areas, which makes the preceding discussion, particularly of section 8, relevant for rural as well as urban areas.

The act also makes housing programs administered by the Farmers Home Administration of the U.S. Department of Agriculture available in cities up to 10,000 in population inside standard metropolitan statistical areas (SMSAs) and, with the enactment of the new law, up to 20,000 population outside SMSAs.

Unlike the act's treatment of urban housing programs, it does not eliminate or neutralize the rural housing programs that have been active in recent years. Although the absence of guidelines and uncertain appropriations in some instances preclude a neat assessment of future availability, Texas' rural areas may be better off than their urban counterparts in terms of the availability of housing assistance funds.

Shifts in Policymaking Powers

The new federal law significantly realigns governmental responsibilities for administering federal housing assistance programs. The federal government will be less directly involved than it has been in the past, and primary planning responsibility will shift to city governments, especially in metropolitan areas.

Private Sector. The section 8 leasing program is designed to encourage maximum private participation in the provision of assisted housing not only in development but also in management and maintenance. In the past private entities were primarily involved in the development of assisted housing. Upon the completion of a project, management responsibilities were assumed by nonprofit or public housing agencies. The leasing program also authorizes regular adjustments in rental assistance payments to reflect increases in property taxes, utility costs, and other related expenses incurred by owners.

City Governments. The community development grant program in title I of the act assigns substantial responsibility for planning and guiding housing activity to cities by requiring a housing assistance plan as part of community development grant applications. The housing plan must contain an appraisal of local needs, with special emphasis on the needs of low-income households, and specific goals aimed at alleviating community housing problems. Types of programs to be used and the general location of all assisted housing proposed for the city must be shown in the plan with the objective of furthering the

> . . . revitalization of the community including the restoration and rehabilitation of stable neighborhoods, promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and assuring the availability of public facilities and services adequate to serve proposed housing projects.[11]

All federally assisted housing projects subsequently developed in the community must be in accordance with the approved housing plan. Thus, these cities can have a strong hand in determining the extent, location, and type of assisted housing that may be developed within their boundaries.

For the 1975 federal fiscal year, $2.5 billion is authorized for community development activities nationally such as acquisition and clearance in blighted areas, construction of public facilities where absent or inferior, and housing rehabilitation loans and grants. Eighty percent of appropriated funds will be allocated to cities of 50,000 or more, plus smaller central cities in SMSAs.

Public Housing Authorities. The development and management role of local housing authorities may become more important as a result of the new law. In addition to continuing their development and management of conventional public housing, these agencies may sponsor section 8 projects. For the first time local housing authorities will be eligible for federal mortgage insurance, possibly enabling them to secure development funds through private lending institutions. The new program also permits HUD to contract with a local housing authority which, in turn, would separately contract with local owners or developers of section 8 projects. Thus, local authorities may be important intermediaries in providing and managing section 8 housing within the community.

State Government. State involvement in the provision of low- and moderate-income housing is also encouraged in the new law. Section 802 of title VIII of the act explicitly states that it is the purpose of that section to "encourage the formation and effective operation" of state housing finance agencies with the authority to finance and develop housing and other community development projects. In pursuit of this objective the act authorizes grants to such agencies to cover up to one-third of the interest payable on securities issued in support of such activities, provided the notes or bonds are not exempt from federal taxes. State finance agencies are authorized under the section 8 leasing program to act as project sponsors and may receive housing assistance payment commitments of up to 40 years, which is the term for which such entities generally issue bonds.

LOCAL REHABILITATION UNDER THE NEW LAW

While the federal government, as indicated, will provide only limited direct support to the rehabilitation of owner-occupied units, the new law will indirectly underwrite programs initiated at the local level. Forty-one Texas communities qualify as "entitlement" cities and are automatically funded at a level determined by community population, number of impoverished households, and incidence of overcrowded housing. These are the 27 with populations of at least 50,000 plus 14 smaller central cities

of SMSAs. During the first year of the act, these 41 cities were expected to receive a total of $82.4 million in title I funds.

An additional 25 Texas cities with populations of less than 50,000 having recent experience in categorical community development programs also will receive funding under the law's "hold-harmless" provision to ensure project completions. For fiscal year 1975 hold-harmless cities in Texas anticipated $17.9 million; however, this amount will gradually decrease over the next five years at the end of which hold-harmless funding will be terminated. The balance of Texas cities must compete for title I community development block grants from smaller "discretionary" funds.

In an effort to ascertain to what extent entitlement cities in Texas--where slightly more than 50 percent of marginal housing is located--will support housing rehabilitation with title I funds, a questionnaire was sent to each of these cities in early February 1975. Of the 27 cities that responded, 10 indicated housing rehabilitation would be part of their first-year community development program. The 10 cities reported that they expect to spend $4.6 million out of a total of $48.3 million in title I funds for housing rehabilitation--almost exclusively for improving owner-occupied units. Two cities intended to use part of their entitlements to establish the necessary administrative capacity for a rehabilitation program although no actual loans would be provided with the first-year entitlement. Significantly, an additional seven entitlement cities in Texas expressed interest in supporting a local housing rehabilitation program but were hesitant because the legality of such activities under Texas law had not been clearly established at that time. Thus 17 of the respondents, or 63 percent, either intended to inaugurate rehabilitation programs or apparently would if the legality had been certain.

Although authorized under the new federal law, local housing rehabilitation programs funded through federal community development block grants apparently are subject to the same state law that would confront similar programs using local or state revenues. Article III, sections 50, 51, and 52, and article 16, section 6 of the Texas Constitution preclude the lending of state credit and the making of grants to individuals and corporations and further prohibits the state from authorizing similar lending of credit or granting of funds by the state's political subdivisions. While these constitutional provisions appear to exclude all lending by the state and its political subdivisions, their application depends primarily upon whether there is a public purpose involved. The attorney general of Texas in 1965 stated "In testing the validity of the expenditures, the courts will look to the character of the use for which the money is expended, not who receives it."[12]

The "public purpose" doctrine also appears well established in Texas case law. Two Texas statutes with purposes like that of a housing rehabilitation program, which would seek to address the problems of housing and community deterioration by conferring benefits to certain individuals, have been upheld as public purposes for which public funds may be expended.[13]

Although recipients may receive additional benefits, the principal benefit is public in nature. That is, the elimination or prevention of conditions which a neighborhood intensive housing rehabilitation program would address would likely be upheld, particularly if pursuant to a legislative finding.[14]

THE IMPACT ON TEXAS HOUSING PROBLEMS

Extrapolating from then current housing production patterns in the public and private sectors, the 1972 report *Housing for Texans* concluded that of the 520,000 low quality units (marginal and totally inadequate) in Texas all but 173,000 were eligible for federal assistance or conventional market solutions. Chapter 1 touched on changes in the conventional market which suggest that the cutoff points for government assistance adopted by the report may no longer be valid. While discussion of shifts in federal housing policy must be considered tentative in some respects because of the rather recent enactment of the new law, the housing provisions of the 1974 act point to a significant alteration of the extent to which federal programs may contribute to the alleviation of Texas housing problems.

As indicated previously, in the early 1970s housing thought to be without access to remedies was owner-occupied marginal stock (146,000 units) and totally inadequate dwellings (27,000) occupied by low-income families in need of unavailable public housing. These housing problems are unlikely to be materially improved by the new law.

At the expiration of the one-year stay granted by the section 312 rehabilitation loan program, owners of marginal housing in urban cities will be without access to direct federal assistance although some local assistance apparently will be made available through title I. Moreover, the apparent cutoff point at $6,000 of annual income for the marginal category suggests that more renters in marginal housing may require other governmental assistance to acquire decent housing. In rural areas, however, adequate federal assistance may be available if actual funding and administrative capacity match the program authorizations in the law.

Those 27,000 households occupying totally inadequate housing who in 1972 did not have public or private solutions to their housing needs probably will not benefit from the new law. Reduced conventional housing production, changes in tenant selection criteria for public housing, and the likelihood that section 8 rental housing will serve only part of the low-income stratum all indicate that the number of households in that situation will grow. Moreover, in arriving at the 27,000 figure, *Housing for Texans* assumed that some 57,000 new units of public housing would be made available during this decade. This estimate was a goal that would have required record construction of new public housing in the state. Its achievement is not even a remote possibility now.

In addition to the two persistent problem areas discussed above, the new federal law, by virtually eliminating the high-volume homeownership and rental programs and replacing them with an unseasoned leasing program, has probably increased the magnitude of the Texas housing problem even more. When considered in concert, changes in the conventional market and federal housing assistance that have occurred since the early 1970s suggest that the number of households in low-quality housing without available assistance, private or public, is now substantially greater than the estimated 1971 level of 173,000.

NOTES

[1]42 U.S.C.A. sec. 1441, as amended, Pub.L. 81-171 (1949).

[2]Programs constituting the thrust of the subsidized effort other than those mentioned included the section 202 and section 221(d)(3) below-market interest rate loan programs, section 312 and section 115 rehabilitation loan and grant programs, and rent supplements.

[3]Anthony Downs, *Federal Housing Subsidies: Their Nature and Effectiveness and What We Should Do About Them, Summary Report* (Chicago: Real Estate Research Corporation, 1972), p. 12.

[4]42 U.S.C.A. 5301 (Supp. 1975).

[5]$75m (annual authorization) ÷ $2k (average annual federal cost per public housing unit) = 37,500 new units.

[6]National Association of Housing and Redevelopment Officials, "HUD Budget Shows Expected Levels of Funding, No New Programs," *NAHRO Newsletter* 9, no. 6 (February 1975):1.

[7]U.S., Department of Commerce, Bureau of Census, *Statistical Abstract: 1973*, p. 332.

[8]Pub.L. 93-383 (Aug. 22, 1974), U.S. Code Cong. & Ad. News 820 (1974).

[9]Ibid., sec. 104(a)(4)(c).

[10]Section 312 was granted a reprieve in July 1975 when congress approved an extension of the program until August 1976 and $100 million additional funding in the Emergency Housing Act of 1975 (Pub.L. 94-50).

[11]42 U.S.C.A. 5304(a)(4)(c) (Supp. 1975).

[12]*Tex. Att'y. Gen. Op. No.* C-530 (1965). In addition, the Attorney General in May of 1975 found that a state housing rehabilitation loan bill considered by the 64th Legislature was not in violation of any constitutional provisions (Letter Advisory No. 107).

[13]*TEX. REV. CIV. STAT. ANN.* arts. 1269k, 1269*l*-3 (1963).

[14]Determination of "public purpose" has been held to be primarily a legislative function. *Davis v. City of Taylor*, 67 S.W.2d 1033 (Tex. 1934); *Housing Authority of City of Dallas v. Higginbotham*, 143 S.W.2d 79 (Tex. 1940). Senate Bill 734 passed by the 64th Texas Legislature in May 1975 authorizes municipalities to implement the new federal law and defines housing rehabilitation and other community development activities as public purposes for which public funds may be spent. This legislation apparently clarified the legal situation to which reference is made.

3

STATE-SPONSORED HOUSING PROGRAMS

In recent years state governments have shown increasing awareness of and interest in the housing problems of their citizens. One reason for the growth of state activity has been the inability of the federal government to effectively meet all the housing needs of the states. Also, several major federal subsidy programs have been designed to encourage and reward state participation. Historically, states have provided for certain regulatory functions related to housing, but a substantial number are now involved in the actual provision of shelter through both new construction and rehabilitation.

NEW CONSTRUCTION: STATE HOUSING FINANCE AGENCIES

In efforts to upgrade housing stock and to deal with the fluctuations often experienced in conventional housing production, a number of states now provide new homes for moderate- to low-income groups. Until 1960 when New York established the first state housing finance agency, no state was directly involved in any facet of low- and moderate-income housing production. Since then, and particularly since 1970, over 30 states have authorized the creation of such semiautonomous public corporations. State housing finance agencies have several attributes that explain their increasing popularity:

- They can increase the flow of mortgage capital by selling securities.

- They are able to provide mortgage capital at lower interest rates because of their public corporation status which exempts them from federal, state, and local income taxes.

- They may establish mortgage insurance programs and secondary mortgage markets; such funding mechanisms, at least thus far, provide states with an inexpensive method of becoming involved in low-, moderate-, and middle-income housing development.

- They provide a conduit through which the states can negotiate directly with the federal government to increase the net inflow of federal subsidies.

- They afford the states an opportunity to influence the spatial distribution of subsidized projects.

- They may be used to fill gaps which may exist in the array of federal programs, e.g., provision of seed money to local sponsors, or down payment loans; they also promote the establishment of expert staff at the state level in the area of housing.[1]

Not all existing state housing finance agencies are authorized to engage in all of these activities. Some agencies have broad and flexible authority while others are more restricted in terms of which program and funding arrangements they may initiate. The foregoing list is a cumulative description of methods used by the agencies to support housing production.

There is considerable organizational similarity among state finance agencies. As noted, such entities usually are semiautonomous public corporations. This status presumably enables them to avoid state debt limitations and other constitutional difficulties such as restraints on direct lending. The corporate boards generally are comprised of both public officials and private individuals involved in housing-related activities.

Enabling legislation generally provides for either a state start-up loan or grant to establish the necessary agency infrastructure. Then, subject to borrowing limits, the agency capitalizes by issuing revenue bonds or bond anticipation notes. No state finance agency has the credit of the state as security for its bonds; instead, security usually is provided by a "moral obligation" clause and creation of a reserve fund, or by lending restrictions limiting activity to federally insured mortgages. While adequately meeting investors' demands for security, limiting state programs to federally insured mortgages does restrict the state's options over beneficiary groups and adds federal control over many aspects of any housing the agency sponsors.

Operating expenses of the agency are paid out of revenue generated by the activities of the agency. Charging fees for services rendered, e.g., site evaluation and project appraisals, and lending at slightly higher rates than those paid by the agency for its loan capital are the two most common ways by which housing finance agencies maintain self-supporting operations.

No state directly administers all of its housing finance programs. Local financial institutions are utilized to handle contractual arrangements and financial services on individual mortgages. Several states have architectural and inspection personnel to assure proper design and construction of projects financed by the agency. A financial management staff is necessary for handling contracts with local institutions and administering agency funding and bonded indebtedness.

State housing finance agencies generally purport to serve the housing needs of low-, moderate-, and middle-income groups. To date, however, the preponderance of dwelling units constructed with assistance from these agencies has been for moderate- and middle-income groups. The principal reason for this recipient distribution pattern is the mode of funding. Prevailing interest rates for tax-exempt revenue bonds preclude assistance to very low-income households for whom deep subsidies are required. In instances where state finance agencies have been able to provide new units for low-income groups, subsidies from the federal government usually have been involved. By coupling the below-market rate bond proceeds with federal subsidy programs, per unit costs have been sufficiently reduced to permit occupancy by lower-income households. In some cases a third subsidy, direct rental assistance, has made it possible to reach the very low-income groups. Under the new section 8 leasing program, state finance agencies potentially will be able to combine the benefit of tax-exempt financing with housing assistance payments.

Housing Finance Agency Programs

State housing finance agencies have developed several programs designed to attain their objectives. While not all options are presented, the following discussion of finance agency activities includes most programs implemented to date.

Direct Lending. Single-family and multifamily housing in many states is eligible for construction and mortgage assistance through direct lending practices. Direct loans, funded from the proceeds of revenue bonds, are placed into construction loans or original mortgages owned by the agency. In most states direct lending assistance programs are administered by local lending institutions.

Mortgage Purchasing. Some state housing finance agencies purchase seasoned mortgages from private lenders at a price which results in a below-market yield to the agency. Under this program the state stipulates that the selling institution must use the new capital within a prescribed time to make mortgage loans to low- and moderate-income households.

A variation of the mortgage purchase approach is the purchase of new mortgages at closing from private lenders on the basis of a prior agreement. Because of agency tax-exempt financing, mortgages are purchased at below-market rates, thereby providing assistance to eligible households.

A third mortgage purchase program provides for the purchasing of existing mortgages at market value. The difference between the interest rate on the mortgages and the interest rate on bonds of the agency is used to support other agency programs.

Interim Financing. Most state housing finance agencies are authorized to make construction loans. Loan recipients use the interest savings to improve the housing or lower its final cost. Permanent financing is provided through federal mortgage programs, private lenders, or the housing finance agency if authorized.

Security Purchasing (Loans to Lenders). Some state finance agencies purchase mortgage-backed securities or secured notes from private lending institutions. The agency requires that the lender make new loans to low- and moderate-income households. In addition to increasing the availability of mortgage money, new loans generally are made at rates that are 1 to 2 percent below market rates.

Mortgage Insurance. Several state finance agencies have mortgage insurance programs to increase the mortgage money available to low- and moderate-income groups. At least one state, Delaware, has authorized insuring rehabilitation loans as well as mortgage loans.

Seed Money Loans. The majority of state finance agencies are authorized to make "seed money" loans to eligible housing sponsors. Nonprofit organizations use these loans to package housing proposals. These loans may cover preliminary project designs; site planning; architectural, legal, engineering, and other professional assistance; and acquisition of land options. Seed money loans are made at below-market rates thereby lowering the total cost of the project.

Technical Assistance. The provision of expert advice, counsel, and assistance is another facet of state finance agency activity. This assistance indirectly lowers project costs and contributes to the overall project design. In addition, the accessibility of professional counsel facilitates the introduction of new or minority developers. In some cases technical assistance has been expanded to include project management or oversight.

State Finance Agency Capitalization

Table 9, page 33, shows the magnitude of capitalization among the 19 state finance agencies which had issued bonds or bond anticipation notes as of August 1974. The states with the oldest and most active agencies account for most of the bond activity. Connecticut, Illinois, Massachusetts, Michigan, New Jersey, and New York together have over 85 percent of all outstanding state finance agency bonds. New York alone has issued slightly more than one-half the dollar volume of all bonds. These states, excluding Connecticut, have also issued over 78 percent of the dollar volume of all outstanding state finance agency notes.

Table 9

STATE FINANCE AGENCY
BOND LIMITS AND ISSUES, AUGUST 1974

State	Authorized Bonding Capacity	Notes Outstanding	Bonds Outstanding
	-------------------(in millions)-------------------		
Alaska	Unlimited	$ 76.0	$ 62.4
Connecticut	Unlimited	-0-	124.6
Illinois	$ 500	149.6	79.4
Kentucky	200	20.0	52.1
Maine	60	-0-	48.8
Massachusetts	1,000	401.6	104.5
Michigan	600	113.0	208.5
Minnesota	650	39.0	30.0
Missouri	100	38.0	12.9
New Jersey	Unlimited	220.0	154.9
New Jersey*	Unlimited	-0-	267.0
New York	2,000	330.6	1,098.4
New York*	750	-0-	265.6
Pennsylvania	Unlimited	51.0	-0-
Rhode Island	Unlimited	-0-	42.7
South Dakota	Unlimited	15.5	-0-
Virginia	Unlimited	43.4	53.1
West Virginia	130	23.0	29.1
Wisconsin	150	27.2	37.6
TOTAL		$1,547.9	$2,671.7

SOURCE: Paine, Webber, Jackson and Curtis, Inc.

*Mortgage purchase agency.

HOUSING REPAIR AND REHABILITATION

In addition to supporting financing of new construction, a number of states have become involved in housing rehabilitation programs designed to preserve existing housing supplies and to upgrade deteriorating neighborhoods. These programs usually involve direct lending or tax incentives structured to encourage or assist property owners in the repair or rehabilitation of their residences.

State Housing Finance Agencies

The enabling legislation for state housing finance agencies usually authorizes participation in housing rehabilitation programs. However, actual rehabilitation projects are few in relation to total agency activity, due in part to many state finance agencies' substantial use of federal programs oriented toward new production. Nevertheless, several states, including Massachusetts, Michigan, Missouri, Illinois, Connecticut, and New Jersey, have initiated direct financing programs for rehabilitation.[2] In addition, Oregon and Minnesota anticipate substantial rehabilitation activity in the near future.

Michigan and Massachusetts have been the most active states to date in housing rehabilitation.[3] As of June 1974, 10 percent of Michigan's housing production had resulted from single-family and multifamily unit rehabilitation. Multifamily rehabilitation constituted approximately 10 percent of the Massachusetts Housing Finance Agency's total production as of September 1973.

Rehabilitation projects supported by state finance agencies have focused primarily on apartment complexes in central city locations although recently there has been increasing emphasis on rehabilitation of single-family dwellings. Nonprofit or limited-dividend corporations have acted as sponsors. These local entities have purchased the marginal structures, rehabilitated them with funds from the state agency, and then rented or sold the units to low- and moderate-income households.

Other Approaches to Rehabilitation

Several states have adopted or are planning rehabilitation programs which operate under the purview of a state agency rather than as a semiautonomous instrumentality of the state. In addition, at least two states--California and Kentucky--have passed legislation authorizing certain cities and counties to engage in housing rehabilitation programs without direct state financial assistance.

Maryland. Funded by a 1973 issuance of $10 million of general obligation bonds, the Maryland Home Finance Program provides direct mortgage loans to low- and moderate-income households for the acquisition and rehabilitation of existing single-family units. Under this program loans of up to $25,000 are made at an interest rate of 6 percent for terms up to 40 years. The bonds were issued at 4.73 percent, permitting differences in rates to cover administrative expenses. Generally, eligibility is determined by household income (scales for which are established for each area in which the program is implemented), general credit standing, and the employment record of the applicant. A minimum down payment of 5 percent is required.

To date, the program has been utilized in every Maryland county and reportedly has been very successful.[4] The initial fund has been exhausted and additional funding of $20 million to $50 million has been sought.[5]

Maryland also supports a 100 percent guarantee insurance program in cooperation with the city of Baltimore. The program insures mortgage loans for the acquisition and rehabilitation of single-family units located in areas that are beginning to deteriorate but that can be preserved. The city contributes technical and financial advice to prospective occupants and makes capital improvements in the area. Arrangements have been made with local lenders to provide loans with 20-year terms. Business is conducted just as it would be if the program involved a private mortgage insurer. The principal benefit derived is the provision of loans in areas in which private lenders might otherwise be reluctant to participate.[6]

New Jersey. Under a state Demonstration Grant Law the New Jersey Department of Community Affairs makes direct grants to local lenders in an amount equal to 30 percent of the total cost of rehabilitating an applicant's dwelling. The result is to reduce the interest which the recipient must pay and to demonstrate that public and private sectors can collaborate in those areas where rehabilitation loans are unavailable or unaffordable. The program is conducted on a designated area basis with local redevelopment agencies or housing authorities acting as the local administrative entity. A schedule of public improvements in the area to complement the rehabilitation effort is required. Since its inception in 1973, 17 New Jersey communities have received contractual grant commitments from the state totaling $1.3 million.[7]

Pennsylvania. The Pennsylvania Department of Community Affairs has initiated a rehabilitation loan program similar to New Jersey's. Using monies available in a discretionary fund, the agency provides grants to municipalities and redevelopment authorities for the establishment of housing rehabilitation programs. The grants are used to reduce the interest rate that recipients must pay on conventional loans from local lenders who have agreed to make the loans in marginal areas. Household and property eligibility criteria are patterned after the federal section 312 program.[8]

Utah. Direct grants and loans of up to $5,000 are available to qualified owner-occupants and landlords in Utah as a result of that state's decision to use $3 million from general revenue sharing for housing assistance, primarily rehabilitation. Rehabilitated units must subsequently be occupied for at least five years by persons of low income. Because of the relatively small appropriation, donated labor is encouraged and actively solicited.[9]

Hawaii. Rehabilitation loans currently are available to residents in designated areas of Honolulu as a result of the governor's approval of an allotment of $350,000 from the state's general fund. The beneficiaries are those residents of the project area who are economically disadvantaged and unable to obtain loans from private sources. No administrative expenses are met with the state funds; therefore, the city must provide the necessary support services and match the funds to the best of its ability.[10]

California and Kentucky. These states have recently enacted similar legislation that permits the larger cities and counties of each state to engage in housing rehabilitation and to finance these programs with revenue bonds not secured by the taxing powers of the locality.

PREVIOUS HOUSING PROPOSALS IN TEXAS

Texas does not have a housing finance agency nor does the state provide financial assistance for the rehabilitation of marginal housing stock. As in other states, however, interest in these areas has grown substantially in recent years. In 1971 the Texas Urban Development Commission recommended that the state enact legislation creating a housing finance agency and a housing rehabilitation loan fund to expand the housing opportunities available to low- and moderate-income Texans.[11] The Texas Research League, in its study of housing in Texas completed in 1972, concluded that "if the state is to provide any program of financial assistance for housing, the most practical and promising area is to establish a combination loan and grant program for the rehabilitation of owner-occupied marginal housing units."[12] In 1973 the Texas Rural Development Commission also recommended that the legislature create a low-interest loan program to support home construction and rehabilitation in rural areas of the state.[13]

Housing Proposals of the 63d Texas Legislature

The 63d legislative session saw the introduction of two major bills aimed at creating a housing finance agency--SB 469 by Senator Oscar Mauzy and HB 1274 by Representative Henry D. Sanchez, Jr. Other bills introduced in the 63d session concerned with the problem of rehabilitation, but which would not have created a separate state agency, included HB 1483 by Representatives Joe Allen and Ben T. Reyes (in the Senate, SB 800 by

Senator Mauzy) and HB 1019 by Representative James Kaster. The only bill to pass in either chamber was HB 1483, which the House adopted in late May 1973. In the 62d session, a measure virtually identical to HB 1274 passed the Senate by voice vote but failed in the House.

The Texas Home Rehabilitation Loan Fund Act (HB 1483, SB 800) was intended to prevent the deterioration of residential neighborhoods by providing access to home improvement loans for low-income persons and families and by encouraging research and vocational training programs in fields related to housing rehabilitation. Basically, this act would have provided funds to designated local agencies which would have insured or made home improvement or rehabilitation loans to persons and families of low income. To have been funded by a state appropriation, the program would have been administered by the Texas Department of Community Affairs (TDCA), which would have had wide discretion in setting eligibility requirements for persons receiving loans.

The Texas Home Rehabilitation Loan Insurance Fund Act (HB 1019) was similar in scope and purpose to HB 1483. Under the provisions of this bill, TDCA would have managed a loan insurance fund consisting of appropriations which would have been used to insure conventional loans and to provide direct loans to eligible low-income persons and families for rehabilitation of their homes. Again, TDCA would have had broad discretion in establishing specific guidelines in the program.

The Texas Housing Finance Agency Act (SB 469) and the Texas Housing Finance Corporation Act (HB 1274) would have created state housing finance authorities and attempted to encourage private housing production. Both bills would have given their respective authorities the power to issue revenue bonds. The most notable difference between these two bills was that under HB 1274 the Texas Housing Finance Corporation would have been limited to providing funds for projects or mortgages which were already federally insured, while SB 469 expressly empowered the Texas Housing Finance Agency to purchase any loan that would have been a prudent investment regardless of whether it was federally insured. Additionally, SB 469 expressly provided for loans for the rehabilitation of housing, whereas HB 1274 was unclear on this point.

The Governor's Special Advisory Council on Housing

In December 1971, Governor Preston Smith created by executive order a special advisory council on housing. Comprised of 12 private citizens with backgrounds in housing construction and mortgage banking, the council's purpose was to advise the Texas Department of Community Affairs on housing issues and policies. In March 1974, Governor Briscoe expanded the membership from 12 to 15 and provided for broader representation to include local governments and housing authorities.

The council and the Texas Department of Community Affairs, which served as staff to the council, offered two proposals for consideration by the 64th regular session of the legislature.[14] The council recommended that legislation be enacted to create a Texas Housing Finance Agency and to establish a housing rehabilitation program.

Texas Housing Finance Agency. Upon completion of its deliberations, the Governor's Special Advisory Council on Housing recommended that "[l]egislation should be enacted to create a Texas Housing Finance Agency for the purpose of increasing the availability of capital in Texas with which to finance housing for persons and families of low income."[15] The council also developed suggested implementing legislation which was submitted for consideration by the 64th Legislature.

The council's proposal would have created an independent nine-member board of directors appointed by the governor to set policy, and the Texas Department of Community Affairs would have operated the program. The program was expected to utilize private lending institutions for packaging and processing loans made by the agency. The board would have been empowered to promulgate rules and regulations governing program administration, authorize issuance of an unlimited amount of revenue bonds, adopt operating procedures and standards, and establish eligibility criteria.

The board could have instituted two programs: direct mortgage lending and mortgage purchasing. Designed primarily for financing of multifamily units, the direct mortgage loan program would have enabled the department to receive applications from eligible sponsors for projects in compliance with program standards. Initial screening of applicants by an existing mortgage lender that had been certified for participation in agency programs would have been required. Upon the recommendation of the mortgage lender, the agency would have reviewed the application and granted final approval, at which time a commitment to the project developer for permanent financing was to be issued. While the program envisioned available private construction financing based on the existing pledge for permanent financing, the agency would have been authorized to market short-term notes to provide interim financing where such private funds were not available.

The mortgage purchasing program would have been used primarily for financing single-family homes for eligible households. Basically, this program anticipated the purchase of mortgages by the agency at the time of closing. Rather than exercise exclusive loan approval authority on every application, the agency would have issued to participating lending institutions commitments to purchase a specified number of mortgage loans meeting criteria set by the agency. The lender would then have been required to process the loans within a period of time established in the agreement between the lender and the agency.

Following an initial start-up appropriation, the programs were expected to be self-supporting. Both lending programs would have provided financing

at interest rates slightly higher than those on the bonded indebtedness of the agency with the anticipated difference in rates financing agency administration. Private lenders' packaging and processing loans would have been remunerated by discounts or premiums on agency-sponsored transactions.

By capitalizing the program with tax-exempt revenue bonds, the proposal anticipated agency lending at 2 to 3 percent below conventional rates. The agency would also have been able to couple tax-exempt financing with available federal subsidies to serve households below the level that could be served with tax-exempt financing alone. The council concluded that a mortgage insurance program was not needed in the state, and the proposed agency would not have been authorized to offer mortgage insurance.

Neighborhood Preservation Program. The council also considered the problem of the deterioration of existing housing stock and neighborhoods. As a measure to prevent slums, the council recommended that "the State should take an active role in aiding local governments in their efforts to preserve older neighborhoods."[16] Legislation encompassing the council's recommended program was introduced in the 64th Legislature.

The proposed program called for creation of an appropriated revolving fund with the state treasury from which low-interest housing rehabilitation loans were to be made to qualifying lower-income households. The proposal focused on neighborhoods characterized by a high incidence of homeownership; working low- and moderate-income households, including a significant elderly population; and encroaching deterioration of public facilities and private residences. The primary objective of the program was to rejuvenate these residential areas. The council found that residents in such areas were not able to refurbish their homes, either because they simply could not afford conventional home improvement loans or because private lenders were reluctant to invest in declining areas. The council concluded that marginal areas experiencing this type of disinvestment ultimately became slums resulting in substantial public expenditures.

This program would have been administered and supervised by the Texas Department of Community Affairs. Designation of eligible neighborhoods would have been contingent upon the local government's submission of an extensive area rehabilitation plan which had to include a precisely delineated area, a schedule of public improvements and code enforcement activities, a pledge of private lending institution participation, neighborhood support, and the presence of a local administrative capacity. Local governments by formal resolution would have committed the city to fulfill the requirements set out in the plan. The commitment of government spending would have been aimed at increasing the flow of private capital into the area.

Local administration of the program was to be provided by a neighborhood preservation agency designated by the local government. Private and

public nonprofit corporations or organizations, housing authorities, and mortgage lenders would have been eligible to act as the local administrative entity. The local entity would have acted as an agent for the state and the local government by packaging loans, providing financial counseling, servicing loans, and facilitating and monitoring rehabilitation activities. State funds were not to be authorized for local administrative expenses. The department would have retained individual loan approval authority; however, the program also envisioned block loans to the local administrative body, in which case disposition of applications would have been at the local level in compliance with rules and regulations established by the department. Security would have been provided by state-held liens against the rehabilitated property.

NOTES

[1]Michael A. Stegman, "Housing Finance Agencies: Are They Crucial Instruments of State Government?" *Journal of the American Institute of Planners* 40, no. 5 (September 1974):308-311.

[2]Council of State Governments, *A Place to Live: Housing Policies in the States* (Lexington: Council of State Governments, 1974), p. 21; Connecticut, Housing Finance Authority, *Annual Report: 1974* (1974); and Illinois, Housing Development Finance Authority, *Annual Report: 1973* (1973).

[3]Information provided by Joseph Hollander of the Michigan State Housing Development Authority, June 1974; Massachusetts, Housing Finance Agency, *Annual Report: 1973* (1973).

[4]U.S., Department of Housing and Urban Development, *Examples of Local and State Financing of Property Rehabilitation* (Washington, D.C.: Government Printing Office, 1974), p. 63.

[5]Ibid.

[6]Information provided by Charles A. Noon, Director, Neighborhood Development Division, Baltimore Department of Housing and Community Development, June 1974.

[7]HUD, *Examples of Property Rehabilitation*, pp. 65-69.

[8]Information provided by Carl Smith, Director, Bureau of Community Programs, Pennsylvania Department of Community Affairs.

[9]Utah, Department of Community Affairs, *Handbook of Rules and Regulations for the Administration of the Emergency Appropriation for Housing* (Salt Lake City: UDCA, 1973), p. 15.

[10] HUD, *Examples of Property Rehabilitation*, p. 59.

[11] Texas Urban Development Commission, *Urban Texas: Policies for the Future* (Austin: TUDC, 1971), pp. 111-120.

[12] Texas Research League, *Housing for Texans: A Rational Response to Texas' Housing Needs*, vol. 2 (Austin: Texas Research League, 1972), p. 74.

[13] Texas Rural Development Commission, *Building Rural Texas* (Austin: TRDC, 1973), p. 67.

[14] HB 663, 64th Texas Legislature, regular session (1975) and SB 136, 64th Texas Legislature, regular session (1975); HB 664, 64th Texas Legislature, regular session (1975) and SB 911, 64th Texas Legislature, regular session (1975).

[15] Texas, Governor's Special Advisory Council on Housing, *Recommendations Concerning the Creation of a Texas Housing Finance Agency* (Austin: The Council, 1974), p. 4.

[16] Texas, Governor's Special Advisory Council on Housing, *Recommendations Concerning the Creation of a Neighborhood Preservation Loan Fund* (Austin: The Council, 1974), p. 3.

4

STATE PROGRAM OPTIONS FOR TEXAS

The federal government traditionally has been the major source of public financing for housing development in the United States. During the 1960s federal programs were markedly expanded to place more fiscal resources of the nation into efforts to meet the housing needs of moderate- and low-income Americans. At the same time many states and numerous local communities developed housing assistance programs to boost new construction and rehabilitation beyond the levels that federal programs were supporting.

The larger and by far more expensive federal programs have encouraged and aided homeownership among middle- and higher-income households that can take advantage of FHA and VA benefits and federal income tax deductions. Homeownership for moderate- and lower-income households has been supported by various purchase options in direct-subsidy programs, particularly through the section 235 program. Federal programs also have supported rental properties through public housing, the section 236 program, rental supplements, and other means.

With passage of the Housing and Community Development Act of 1974, the federal government has virtually abandoned support of homeownership except for middle- and higher-income families. The major emphasis of the new federal policy will be on leased housing for moderate- and low-income families, probably predominantly multifamily units. In marked contrast to the assisted-housing production record of the early 1970s, the development of additional housing under the new program is very much uncertain. In any event, the law will not provide enough additional housing in Texas to approach the needs of families living in inadequate and marginal shelter. There is reason to believe, furthermore, that the rapid rise in housing construction and financing costs in recent years has reduced the number of households that can afford housing in the conventional market.

Texas has two basic options for initiating state-sponsored housing assistance programs: (1) new construction and (2) rehabilitation. The options are not mutually exclusive, and they may be combined in several ways. In addition, there are numerous alternatives as to beneficiary target groups, methods of financing, and administrative arrangements.

NEW CONSTRUCTION

Development of federally underwritten public housing, the only federal alternative, has not been authorized at a level commensurate with the need in Texas, and the prospect for substantial new public housing is not encouraging.

To fill part of the new housing requirements in Texas the state might establish a housing program financed solely by federally tax-exempt revenue bonds. In this way additional construction and mortgage funds could be made available to the Texas housing industry for expanded development of single-family and multifamily residences for moderate-income families at apparently little, if any, cost to the state. To provide new housing for lower-income households, a housing finance agency could combine section 8 rental assistance payments, part of which are earmarked for state agencies, with the benefits of federally tax-exempt financing. State finance agencies in other states have been able to merge agency projects with available federal housing assistance programs. A housing finance agency patterned after those created by over 30 other states could administer such a new construction program at the state level.

Although a revenue bond program could be authorized by legislative act, a court test of its constitutionality might be necessary before the bonds could be fully marketable and the program could become operational. In some states, test cases have required several years to complete.

HOUSING REHABILITATION

A substantial portion of the housing problems in Texas consists of low-quality shelter that could be rehabilitated and retained in the state's standard housing stock. The *Texas Housing Report* shows that 372,000 units, or slightly more than 70 percent, of the 520,000 low-quality housing units in Texas in 1972 were in marginal condition and were likely to deteriorate completely within a short time. The likelihood of these units becoming totally inadequate is heightened by the low incomes of many of the households occupying them.

Rehabilitation assistance has been provided in the past through various federal housing programs but never at a level comparable to new housing assistance. The most recent and most active programs were the section 312 loan and section 115 grant programs, which dovetailed to provide rehabilitation assistance in federal urban renewal, neighborhood improvement, and concentrated code enforcement project areas. In Texas some 34 cities participated in the programs with more than 1,700 loans averaging $5,000 and 3,700 grants averaging $3,000 made to lower-income households through 1973.

Fewer states support housing rehabilitation than new construction. Augmenting private new construction with monies derived through the sale of tax-exempt revenue bonds is in some respects easier than establishing a rehabilitation program. Increasing the flow of mortgage capital can be accomplished almost entirely through existing private institutions.

In addition to providing financial assistance, a housing rehabilitation program includes coordinating improvements in public facilities and services with the housing assistance; conducting code enforcement; and, at least in substantial part, effectuating administrative arrangements which are not available in the conventional market. To facilitate an understanding of the concept and its practical aspects, the following discussion focuses on the mechanics of housing rehabilitation.

Definition of Rehabilitation

While there is general agreement that rehabilitation means "improving substandard or marginal dwelling units," there is no consensus on what the process encompasses. In some programs, rehabilitation has been defined as "bringing a dwelling unit into compliance with locally adopted housing, fire, and sanitary codes." Others have interpreted rehabilitation to mean "renewal and modernization of existing housing stock to avoid blight or general deterioration of a segment of the community." Still other programs, spurred by a local housing shortage, have focused on making run-down, uninhabitable dwellings into habitable units.[1] Each of these definitions entails different programmatic efforts and financial commitments.

Mere elimination of structural deficiencies suggests ordinary code enforcement without regard to environmental improvements that generally enhance the appearance of the property. That is, a dwelling unit in compliance with local codes still may not look good. Conversely, if the program is concerned with neighborhood deterioration and disinvestment which affect the generation and allocation of public and private resources, then housing rehabilitation must do more than ensure code compliance. The provision of sidewalks, fences, exterior paint, rudimentary landscaping, and other general property improvements are likely to act as catalysts in preventing or reversing neighborhood stagnation, in terms of both resident and investor perceptions.

The final definition mentioned is premised on the need to increase the supply of habitable dwelling units which implies still other program parameters. Converting an uninhabitable dwelling unit to habitable status requires more flexibility in the loan-property value ratio. Pressing need may supersede economics. This may also mean considerably higher expenditures because of the increased propensity for massive rehabilitation of the type which under different circumstances might be rejected due to economic infeasibility. Such massive rehabilitation usually has focused on old multifamily housing units.

The New York Housing and Redevelopment Commission has developed a simple classification scheme which captures the different levels of rehabilitation under which a program might operate. The classification system includes:

> *Minimal Rehabilitation:* code compliance, plus environmental-type improvements.
>
> *Moderate Rehabilitation:* the requirements for minimal rehabilitation plus minor floor plan alterations; general interior and exterior repairs; modernization of heating, plumbing, and electrical systems; and the replacement of outmoded fixtures.
>
> *Extensive Rehabilitation:* comprehensive remodeling or redesign of floor plans, major interior and exterior repairs, in addition to the requirements for minimal and moderate rehabilitation.

Program Design

The determination of household and property eligibility defines the demand for assistance under a housing rehabilitation program. States with such programs employ several criteria in determining eligibility; while not identical in every case, these criteria are generally the same.

Household Eligibility. States engaged in housing rehabilitation vest in the state administrative entity the authority to prescribe specific income limits although state funds are invariably limited to providing housing assistance to low- and moderate-income households. For example, Oregon and Minnesota both stipulate that loans will not be made to households with incomes which exceed the median income of the community in which the assistance is being provided. That rule is premised on the finding that local lending institutions are not servicing that segment of the population. Generally, the principal variables relating to the determination of household eligibility appear to be a showing of the applicant's inability to obtain a conventional home improvement loan on terms which the applicant can afford, favorable credit standing, and the ability to repay.

It is important to note that none of the states for which adequate data is available purport to serve the lowest end of the low-income stratum through loans. When revenue bonds are used as the funding mechanism, it is necessary to recoup both the principal and interest. Those states utilizing revenue bonds to support rehabilitation always operate through a self-sustaining state housing finance agency; consequently, loans substantially below rates that the agency must pay are precluded. The appropriation funding mechanism affords greater latitude in setting interest rates. There are some households, however, that cannot be reached by any loan program because of their inability to repay even the principal.

Property Eligibility. In addition to occupant eligibility, the dwelling unit itself must meet specific criteria to receive rehabilitation assistance. A review of existing programs suggests several primary considerations.

Urban housing rehabilitation programs usually are conducted in conjunction with improvements in public facilities in a specific area or neighborhood. Theoretically, all marginal housing can be rehabilitated; however, deteriorating dwellings are not always located in areas where rehabilitation as a public investment is feasible. In neighborhoods that are experiencing accelerated decline or are largely abandoned, rehabilitation may be unsuccessful. The socioeconomic forces behind neighborhoods exhibiting late stages of decline are often irreversible, and rehabilitated property may similarly succumb.[2] Moreover, public expenditures in these areas probably would not result in substantial private investment necessary to ensure long-term neighborhood viability. Large scale, publicly financed redevelopment might be the only alternative in securing private monies for substantially deteriorated areas.

Housing rehabilitation apparently can arrest decline in areas showing early stages of instability and deterioration.[3] The infusion of public funds--at levels considerably less than required for total redevelopment--are likely to increase the availability of private financing for housing rehabilitation, which otherwise might be difficult to obtain. In these areas, the public funds act as catalysts. A housing rehabilitation program currently operational in Dallas reports a private-public rehabilitation funding ratio of 4 to 1; that is, for every public dollar made available for housing rehabilitation loans, private institutions have loaned $4. The public funds are used for the higher risk loans while private lenders agree to make "bankable" rehabilitation loans to households who because of their location would not otherwise have necessary home improvement funds available. Local capital improvements in the designated project area are intended to provide further encouragement for private lending institutions.[4]

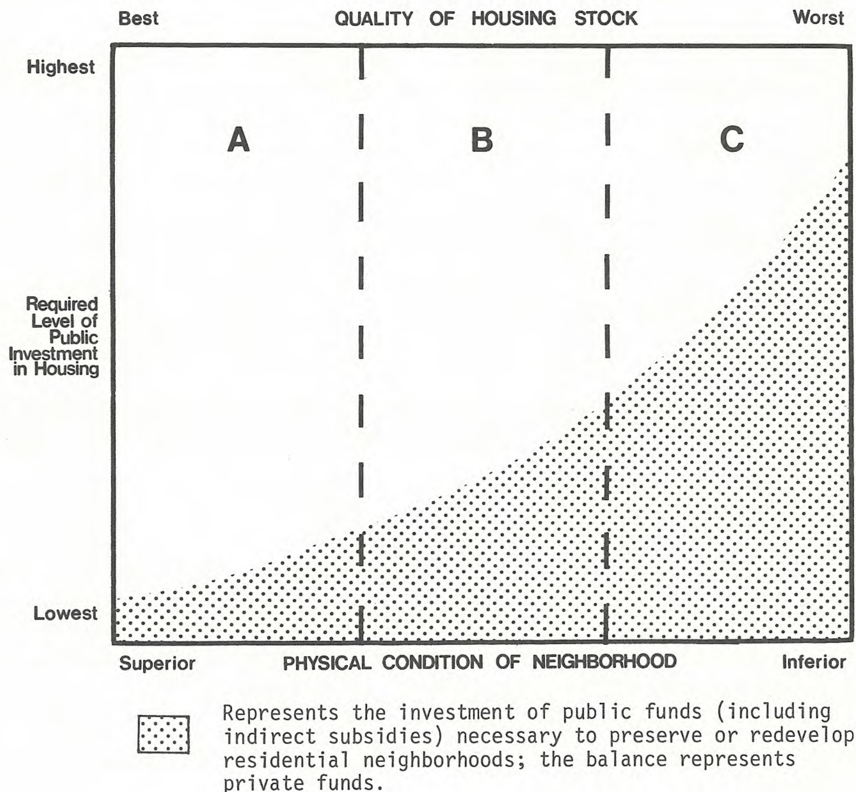
Figure 2, page 48, illustrates apparent general relationships between the quality of housing stock and neighborhood condition and the level of new public investment in housing required to maintain or save the neighborhood as a suitable residential area. The illustration presents only a general concept that has not been empirically verified in this study. The relationships shown, however, are quite important in considering the neighborhoods in which housing rehabilitation is economically and fiscally feasible and the total costs that are implied. Figure 2 shows that as neighborhood condition declines and the quality of housing worsens, the level of necessary public funding increases. Area A, which typically would be in good condition with few or no marginal dwelling units, needs little or no new public investment. Area B, in contrast, demonstrates early signs of deterioration and disinvestment. Structures would be basically sound, but there would be an increasing number of marginal homes and declining public facilities. Some public funding would be necessary to avoid further

deterioration of the area which presumably, in turn, would increase the availability of private investment. Area C represents areas that are largely deteriorated both in terms of residential structures and public facilities. Retention of these areas as residential areas would require massive public expenditures.

Another prominent factor related to property eligibility is ownership. Whether rehabilitation assistance is limited to owner-occupants is a question often answered negatively by most state programs for which adequate information exists. State housing finance agencies usually aid developers and sponsors of multifamily rental or resale properties. Rehabilitation assistance for single-family units often is restricted, however, to owner-occupants or landlords who meet income requirements. Programs that restrict lending primarily to owner-occupants rely on code enforcement and private source loans made possible by the general rejuvenation of the neighborhood or federal government assistance to meet financial requirements for rehabilitation of rental properties.

Figure 2

MODEL OF HOUSING INVESTMENT DEMAND TO PRESERVE RESIDENTIAL NEIGHBORHOODS



Administration

The states involved in housing rehabilitation have utilized various approaches to administration. There does not appear to be a single, most popular model.

Sponsors. A principal component in a housing rehabilitation program is the administrative entity, at both the state and local levels of government. In addition to the state administrative unit, there are usually provisions for the delegation of authority to local sponsors. Some states provide substantial latitude in the selection of eligible participants while others are more restrictive. Generally, local administrative responsibilities are assumed by local governments, nonprofit and limited dividend corporations, housing cooperatives, local lending institutions, and public corporations (local housing authorities or local redevelopment authorities).

Local Requirements. Almost all state programs are operated in conjunction with housing or building code compliance; however, some states, such as Minnesota, do not refuse loan applications solely because the contemplated work will not bring the property into full compliance with the appropriate codes. However, all repair work must be in code compliance. The codes utilized may be local, state, or specially adopted specifically for a project. California and Minnesota, for example, require that all relevant state, local, or project codes be followed while Oregon relies on a state building code as a guide for rehabilitation standards.

In addition to code enforcement, a few states require local in-kind contributions or capital improvements. Hawaii and California include this type of local contribution in their enabling legislation. California, in granting cities and counties with populations greater than 600,000 the authority to engage in housing rehabilitation activities, stipulates that a "plan for public improvements must be adopted by the local agency . . . together with a commitment that, subject to budgetary and fiscal limitations, such plan will be carried out by the local agency.[5]

FUNDING STATE HOUSING PROGRAMS

Existing state-sponsored housing programs are funded in several different ways, including the use of revenue or general obligation bonds, regular appropriations, and general revenue sharing funds. There also are differences among states using similar funding mechanisms. Purposes for which state-authorized funds may be utilized, repayment provisions, the establishment of revolving and reserve funds, and other stipulations reflect interstate variations.

Revenue Bonds

All state housing finance agencies utilize revenue bond financing, and every state that supports housing rehabilitation through a state finance agency relies on revenue bonds for funding. However, the marketability of housing finance agency bonds is a function of the agency's *total* housing program, of which rehabilitation has been a relatively small proportion. Whether the bond market would be responsive to securities issued to support housing rehabilitation activity exclusively has yet to be established. Housing finance agency bonds are attractive to investors principally because of their new construction activities, which provide greater security.

An obvious advantage in utilizing bonds is the capacity to generate substantial capital without increasing state costs. A particular advantage of revenue bonds in Texas is the ability of the legislature to approve the issuance of revenue bonds without the necessity of a constitutional amendment. Revenue bonds, however, do not provide sufficient flexibility to assist many low-income households. Assistance for these households requires subsidized funding. Because of the provision in the Texas Constitution prohibiting state debt, there is some question as to whether the legislature would be able to make a commitment to pay subsidy costs that would be necessary in a program that supported rehabilitation of property owned by low-income households. Without assurance that these costs would be paid, bond buyers undoubtedly would be unwilling to purchase bonds issued to fund a rehabilitation loan program.

There is at least one possible avenue open to the state that would permit the issuance of marketable revenue bonds while complying with the debt prohibition. Under this arrangement the state would appropriate a sum of money into a reserve fund at the outset of the program. This fund, in addition to all revenues of the program, would be pledged as security for the bonds. The revenue bonds that were issued would be a debt of the fund and not of the state. Interest earnings of the fund would be used to pay the subsidy required by the difference between the interest rate on the bonds and the average interest charged on rehabilitation loans. Apparently, bonds in a face amount equal to at least twice the value of the reserve fund could be issued under this approach, depending upon the interest rate differential and the rate of interest earned by the reserve fund.

General Obligation Bonds

Hawaii utilizes general obligation bond financing in support of one of its two housing rehabilitation programs. Because general obligation bonds are backed by the full faith and credit of the state, market response is more favorable, and lower interest rates are available. In Texas a constitutional amendment would be necessary to authorize issuance of general obligation bonds, and the legislature would have to meet from regular appropriations any principal and interest costs not recovered from loan repayments.

Appropriations

No state uses current appropriations to finance new construction, but at least five states use or will use current appropriations in support of housing rehabilitation programs. Three states use appropriated funds to provide capital grants to communities which have implemented approved rehabilitation programs. Recently enacted legislation will provide appropriated rehabilitation funds to the Minnesota Housing Finance Agency, thus enabling it to include more low-income households among its clientele. The apparent advantage provided by appropriations is the greater flexibility afforded in determining household eligibility, repayment schedules, and other important aspects of program design and operation.

NOTES

[1]Robert Burchell, David Listoken, and Virginia Paulers, *Housing Rehabilitation: Restraints, Prospects, Policies* (Monticello, Illinois: Council of Planning Librarians, 1973), pp. 3-4.

[2]David Listoken, *The Dynamics of Housing Rehabilitation* (New Brunswick, New Jersey: Center for Urban Policy Research, 1973), p. 185.

[3]Ibid.

[4]Information provided by Richard Wilson, Director, Department of Housing and Urban Rehabilitation, City of Dallas, February 1975.

[5]*CAL. HEALTH AND SAFETY CODE* sec. 37922(e) (1973).

PROPOSED LEGISLATION

1 By ____________________ __B. No. ___

2

3 A BILL TO BE ENTITLED

4 AN ACT

5 relating to the creation, administration, and financing of a statewide
6 housing rehabilitation program; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 Section 1. SHORT TITLE. This Act may be cited as the Texas
9 Housing Rehabilitation Act.

10 Sec. 2. LEGISLATIVE FINDINGS. The legislature finds that:

11 (1) a substantial amount of housing in the State of Texas is in
12 deteriorating condition and much of this housing does not conform to
13 applicable local codes and ordinances which are intended to ensure the
14 health and safety of the occupants;

15 (2) deteriorating housing contributes to the decline of neighbor-
16 hoods and the surrounding areas and causes a reduction of the value of
17 property comprising the tax base of local communities;

18 (3) declining neighborhoods eventually will require large-scale
19 public investment to prevent the development of slums and concomitant
20 health and safety problems as well as social and economic disruption
21 within the affected communities;

22 (4) many owners of deteriorating housing cannot afford to make
23 needed repairs and improvements without expending more than a reasonable
24 portion of their incomes for housing and some owners are financially
25 unable to spend any amount for improvement of their housing;

26 (5) existing housing rehabilitation programs sponsored by public
27 and private agencies to facilitate the rehabilitation of housing owned by

1 persons of low- and moderate-income are grossly inadequate to resolve the
2 growing problems, and a cooperative state-local government housing
3 rehabilitation program is needed in Texas to meet this increasingly
4 critical need; and

5 (6) unless the problems of deteriorating housing and accompanying
6 problems associated with the decline of neighborhoods and surrounding
7 areas are met, the health, safety, and welfare of the residents of the
8 affected communities and of the State of Texas will be detrimentally
9 affected.

10 Sec. 3. POLICY; PURPOSE. It is the policy of the state and the
11 purpose of this Act to provide a necessary means to prevent the deteriora-
12 tion of housing and the decline of neighborhoods and the surrounding
13 areas within the State of Texas. The legislature therefore declares
14 that all the purposes of this Act are public purposes and uses for which
15 public money may be borrowed, expended, loaned, and granted.

16 Sec. 4. DEFINITIONS. In this Act:

17 (1) "Borrower" means a household whose loan application is
18 approved by a local government.

19 (2) "Department" means the Texas Department of Community Affairs.

20 (3) "Direct housing rehabilitation cost" means the amount con-
21 tracted for between borrowers and contractors in a contract approved by
22 a local government.

23 (4) "Fund" means the Texas Housing Rehabilitation Loan Fund.

24 (5) "Household" means a person or persons owning housing in an
25 area designated under this Act.

26 (6) "Housing" means a structure situated on a permanent foundation
27 that consists of from one- to four-family units used exclusively for

1 residential purposes.

2 (7) "Local agency" means a private, nonprofit organization whose
3 principal purpose is to improve housing conditions or a local housing
4 authority, urban renewal agency, or other public entity.

5 (8) "Local government" means any county or incorporated city or
6 town within this state.

7 (9) "Rehabilitation" means the repair, renovation, or other
8 improvement of housing with the object of making the housing decent,
9 safe, sanitary, and more desirable in which to live.

10 Sec. 5. HOUSING REHABILITATION LOAN FUND. (a) There is created
11 with the state treasurer a fund entitled the Texas Housing Rehabilita-
12 tion Loan Fund. The state treasurer is custodian of the fund, but the
13 fund is not part of the state treasury. The state treasurer shall invest
14 and disburse money from the fund according to written instructions signed
15 by the executive director of the department. The department shall admin-
16 ister the fund as a revolving loan fund for carrying out the purposes of
17 this Act and may designate separate accounts in the fund and the purposes
18 for which the accounts are to be used.

19 (b) Money appropriated by the legislature for housing rehabilita-
20 tion loans and money received from other sources for the purpose of making
21 loans under this Act must be placed in the fund. All repayments received
22 from borrowers for loans made from the fund, income from the transfer of
23 interests in property acquired in connection with rehabilitation loans
24 made from the fund, and interest earned on deposits and investments of
25 the fund are to be credited to the fund.

26 (c) Money in the fund may be used only for:

27 (1) financing loans made pursuant to this Act, including the

administrative charge provided for in Subsection (c) of Section 12 of this Act; and

(2) paying expenses incurred by the department in connection with the acquisition or disposal of real property under this Act.

Sec. 6. AREA REHABILITATION PLAN. (a) In order to qualify territory within its boundary for rehabilitation loans under this Act, a local government must designate a specific area, or areas, in conformity with standards established by the department and must prepare an area rehabilitation plan for each designated area in the form prescribed by the department.

(b) An area rehabilitation plan must provide relevant information concerning the area and must include at least the following elements:

(1) a description of the physical, social, and economic characteristics;

(2) a description of housing conditions;

(3) an assessment of the need for housing rehabilitation loans in terms of numbers and characteristics of households and average and total loan amounts;

(4) a description of methods by which the local government will determine whether the rehabilitation of housing is economically feasible;

(5) a description of methods by which rehabilitation work will be supervised and methods by which compliance with departmental regulations governing materials, fixtures, and rehabilitation contracts will be ensured;

(6) a description of methods and procedures that will be used to enforce local housing, building, fire, and related codes, or if these local codes have not been enacted, methods and procedures for enforcing

1 the standards promulgated by the department;

2 (7) an assessment of the need for additional public improvements
3 and public services and a statement of plans for the provision of these
4 improvements and services; and

5 (8) a description of methods by which private investment to
6 improve conditions in the area will be encouraged.

7 (c) An area rehabilitation plan must be approved by resolution of
8 the governing body of the local government and submitted to the depart-
9 ment for review. The department shall determine whether the designated
10 area meets the standards established by the department and whether the
11 plan contains all the prescribed elements. If so, the department must
12 accept the plan. Upon acceptance of the plan, households in the desig-
13 nated area are qualified to apply for housing rehabilitation loans. If
14 an area does not meet the department's standards or a plan does not
15 contain all the prescribed elements, the department shall return the plan
16 to the local government with a list of deficiencies. No loans may be
17 made within a designated area unless the deficiencies are corrected and
18 the plan is resubmitted and accepted by the department.

19 Sec. 7. AUTHORITY OF THE DEPARTMENT. The department has all the
20 powers necessary or appropriate to carry out the purposes and provisions
21 of this Act. The department may:

22 (1) acquire interests in property necessary to and in connection
23 with the making of rehabilitation loans under this Act;

24 (2) make contracts and agreements with the federal government;
25 other agencies of the state; any other public agency; or any other person,
26 association, corporation, local government, or other entity in exercising
27 its powers and performing its duties under this Act;

1 (3) make regulations governing the disposition or further encum-
2 brance by the borrower of property subject to a lien in connection with
3 a rehabilitation loan;
4 (4) expend funds appropriated by the legislature to employ staff
5 and for travel, supplies, materials and equipment or to contract for
6 services necessary to carry out its powers and duties under this Act;
7 (5) provide technical assistance to local governments; and
8 (6) seek and accept funding from any public or private source.
9 Sec. 8. INTERESTS IN PROPERTY; DISPOSITION. (a) The department
10 may acquire housing only in connection with a rehabilitation loan and
11 then only by foreclosure of a mortgage, a sale under a deed of trust, or
12 by a voluntary conveyance from a borrower in full or partial settlement
13 of a rehabilitation loan.
14 (b) Within six months after it acquires any housing, the depart-
15 ment must offer the housing for public sale or auction. Notice of the
16 public sale or auction must be provided by the department by publication
17 once each week for three consecutive weeks before the sale or auction in
18 a newspaper of general circulation in the county in which the housing
19 is located. The notice must contain a description of the property and
20 must specify procedures for submitting competitive bids and the time
21 and location of the public sale or auction. The department may reject
22 any or all bids. If a sale cannot be effected by public sale or auction
23 within six months, the department may enter negotiations with any party
24 for the expeditious sale of the housing.
25 Sec. 9. REGULATIONS AND STANDARDS. (a) The department shall
26 adopt regulations for making and servicing housing rehabilitation loans,
27 and for the foreclosure of defaulted loans. The regulations must require

1 that each loan be evidenced by a promissory note payable to the state
2 and secured by a valid lien on real property in this state.
3 (b) The department shall establish:
4 (1) standards by which territory within the boundaries of a local
5 government may qualify as a designated area;
6 (2) standards and procedures for the administration of this Act
7 by local governments and local agencies;
8 (3) standards for the selection of contractors and for contracts
9 between borrowers and contractors performing rehabilitation work under
10 this Act; and
11 (4) standards for materials and fixtures used in performing
12 rehabilitation work under this Act.
13 (c) The department shall set minimum and maximum interest rates
14 for loans made under this Act, but the maximum rate may not exceed 10
15 percent per year.
16 (d) The department shall adopt minimum housing, building, fire,
17 and related code standards. These standards are applicable in designated
18 areas for which a rehabilitation plan has been accepted and no such
19 local government standards are in effect.
20 Sec. 10. ADMINISTRATION BY DEPARTMENT. (a) The department shall
21 audit the local administration of rehabilitation loans under this Act
22 to determine if good faith efforts are being made to comply substantially
23 with the applicable area rehabilitation plan and the regulations,
24 standards, and guidelines adopted by the department.
25 (b) If in any fiscal year anticipated rehabilitation loans exceed
26 estimated available funds, the department shall allocate the estimated
27 available funds for that fiscal year among the local governments that

have filed area rehabilitation plans, taking into account the probable amount of rehabilitation loans to be made by each local government.

(c) On receipt of notification of approval of a loan application by a local government, the director shall authorize the state treasurer to disburse the approved amount from the fund to the local government unless:

(1) the department has found that the local government is currently not making good faith efforts to substantially comply with the applicable area rehabilitation plan or the regulations, standards, and guidelines adopted by the department; or

(2) the remaining portion of the fund allocated to the local government under Subsection (b) of this section is insufficient to allow payment of the approved amount.

Sec. 11. LOAN ELIGIBILITY. (a) The department shall establish eligibility guidelines for local governments to use in determining whether households qualify for housing rehabilitation loans under this Act. In establishing these guidelines, the department shall take into account:

(1) household gross income;

(2) household income available for housing needs;

(3) household size;

(4) the value and condition of the housing to be rehabilitated; and

(5) the ability of households to compete successfully in the private housing market and to pay the amounts at which private enterprise is providing sanitary, decent, and safe housing.

Sec. 12. GENERAL POWERS AND DUTIES OF LOCAL GOVERNMENTS. (a) A

1 local government may approve or disapprove loan applications from house-
2 holds according to the eligibility guidelines and regulations of the
3 department. Upon approval of a loan application, the local government
4 shall notify the department of the amount of the approved loan.
5 (b) A local government shall fix the interest rate for each loan
6 within the minimum and maximum rates established by the department and
7 shall fix the term of each loan and any other necessary conditions per-
8 taining to the repayment of the loan pursuant to this Act and the regula-
9 tions of the department.
10 (c) A local government may impose an administrative charge of
11 not more than 3 percent of the direct housing rehabilitation cost and may
12 deduct the charge from the amount loaned to borrowers.
13 (d) A local government may contract with any public or private
14 entity for servicing rehabilitation loans.
15 (e) The governing body of a local government may designate a
16 local agency or agencies to carry out any of the powers and duties of the
17 local government under this Act. Any power or duty that a governing body
18 delegates to a local agency may be withdrawn by the governing body at
19 any time.
20 (f) A local government engaged in housing rehabilitation under
21 this Act shall carry on a program of general education designed to inform
22 residents in designated areas of methods for maintaining their housing
23 and of the availability of housing rehabilitation loans.
24 Sec. 13. LOAN CONDITIONS. (a) Rehabilitation loans must be used
25 primarily to make housing comply with state, county, or municipal build-
26 ing, housing maintenance, fire, health, or similar codes and standards
27 applicable to housing.

(b) No loan made under this Act may exceed an amount which, when added to all other existing indebtedness secured by the property, would exceed the market value of the rehabilitated property as determined by the local government. No loan may exceed the total of the approved direct housing rehabilitation cost together with the administrative charge provided for in Subsection (c) of Section 12.

(c) The term of a loan made under this Act may not exceed 20 years. It must be repaid by installments and must be secured as required by this Act and the regulations of the department. The local government may allow deferment of payments or adjust the interest rate or term of the note if the borrower is unable to make the required payments.

(d) A borrower must agree that if he voluntarily destroys, moves, or relinquishes ownership of the rehabilitated housing within one year after completion of the rehabilitation, the loan is immediately due and payable, together with an interest surcharge sufficient to make the total interest paid equivalent to an amount determined by prevailing interest rates for rehabilitation loans from private sources at the time of the sale. If the local government finds that the borrower must sell due to financial hardship or similar circumstances, the interest surcharge may be waived by the local government with consent of the department.

Sec. 14. REHABILITATION CONTRACTS. A borrower and contractor may not enter a contract for rehabilitation work to be financed under this Act unless the proposed contract has first been approved by the local government in accordance with standards established by the department. The local government shall supervise all work performed under the contract. The contractor is not entitled to payment until the work has been approved by the local government, and the borrower is not liable

1 to the contractor for any work not approved by the local government.

2 Sec. 15. TRANSFER OF ENCUMBERED PROPERTY. Upon sale or gift of
3 the encumbered property, or upon the death of the borrower, the local
4 government may, subject to approval of the department, declare all or
5 part of any deferred payments due and payable; declare the balance of
6 the loan due and payable; or allow the buyer, donee, or other successor
7 in title of the borrower to assume the loan.

8 Sec. 16. EMERGENCY. The importance of this legislation and the
9 crowded condition of the calendars in both Houses create an emergency
10 and an imperative public necessity that the constitutional rule requiring
11 bills to be read on three several days in each House be suspended, and
12 the rule is hereby suspended; and that this Act take effect and be in
13 force from and after its passage, and it is so enacted.

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