



"A Tradition of Native American Housing"

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**NAIHC Office of
Governmental
Affairs**

900 2nd Street NE
Suite 218
Washington, DC
20002

Ph: (202) 789-1754
Fax: (202) 898-0027

WWW.NAIHC.NET

The National American Indian Housing Council is a not-for-profit organization representing tribes and tribal housing organizations on affordable housing, mortgage lending, finance, and economic development issues.

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Kristy McCarthy Weight
Government Affairs Director

The Federal Monitor

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News of Issues Affecting Tribes and Tribal Housing Programs

Senate Sends H.R. 4471 to President

After a week of last minute maneuvering and a long weekend legislative session, the Senate passed H.R. 4471, the Homeownership Opportunities for Native Americans Act of 2004, by unanimous consent on October 11 just before recessing for the election. The bill, which will amend NAHASDA to give statutory authority for a 95% federal loan guarantee in case of default, is expected to be signed by the President in the coming days.

Congress in Recess until November 16

Congress is expected to return November 16 for a lame duck session to deal with unfinished FY 2005 appropriations and other must-pass legislation. One politically controversial issue Congress chose to avoid until after the election is a vote to increase the statutory limit on the national debt to allow for the \$413 billion budget deficit for FY 2004, the highest ever, which, without additional authority, would breach the current \$7.4 trillion limit.

Report on NCAI Convention in Florida

The National Congress of American Indians concludes its 61st Annual Convention and Trade Show today in Fort Lauderdale, Florida. Among the speakers at the Convention was Theresa Heinz Kerry to represent her husband, Senator John Kerry (D-MA), and Congressman J.D. Hayworth (R-AZ) to represent President George Bush. Also present was HUD Assistant Secretary Michael Liu, who had a number of new announcements for tribes:

- 1.) HUD calculates that even at the current rate of use, there will be ample funding authority – more than \$300 million - available for the Section 184 loan guarantee program even if the proposed rescission of funds is enacted. Already there have been 20 new Section 184 loans in FY 2005.
- 2.) For those not yet aware, the Indian Community Development Block Grant FY 2004 Notice of Funding Availability was published in the Federal Register on October 8, 2004. Applications are due December 13, 2004.
- 3.) A long-standing question involving self-help "sweat equity" housing under NAHASDA has been resolved – it has been determined that tribes need not pay wages to the recipient of assistance in a self-help situation.
- 4.) There has been a substantial increase in available HUD funding going to Native American small businesses, now 13.5% of the total.
- 5.) On September 29, Assistant Secretaries at HUD, BIA, and USDA signed a Memorandum of Understanding to work on housing issues. One specific goal, which Mr. Liu seemed confident will be achieved, is enabling BIA to produce Title Status Reports within 30 days of request.
- 6.) In answer to a need for Native American housing assistance in urban areas, tribes are now able to expand their service area specifically for Section 184 loans. Mr. Liu announced the first approval for such an expansion for the entire state of Florida. This expansion of service area

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is not available for other HUD housing services.

- 8.) HUD is still on track to announce the establishment of the next negotiated rulemaking committee before the end of October. Mr. Liu said tribes will have ample opportunity to comment.

Two resolutions passed at the NAIHC 2004 business meeting in Anaheim were forwarded to NCAI for consideration this week.

NAIHC Resolution #2004-02 became NCAI Resolution #FTL-04-001

Title: A Resolution to Improve the Section 184 Loan Guarantee and NAHASDA Title VI Loan Programs: This resolution was approved without amendment by NCAI.

NAIHC Resolution #2004-09 became NCAI Resolution #FTL-04-002

Title: A resolution requesting the United States Department of Housing and Urban Development to place the funding allocation formula issue on the agenda for consideration by the upcoming Negotiated Rulemaking Committee, to modify the procedural methodology used to resolve issues where consensus cannot be reached by the Negotiated Rulemaking Committee, and to immediately cease making policy decisions relating to the implementing regulations of the Native American Housing Assistance and Self-Determination Act without tribal consultation as required by Executive Order No. 13175 (November 6, 2000) and HUD's own Government-to-Government Tribal Consultation Policy (June 28, 2001): This resolution was amended to request that only non-consensus formula issues be revisited by the next negotiated rulemaking committee rather than all formula issues. It was also amended to "require" rather than to "request" that HUD cease making policy decisions without tribal consultation. This resolution was approved as amended by NCAI.

A third resolution regarding use of Census multi-race data was tabled during the NCAI business meeting after being approved by the Jurisdiction and Tribal Government Subcommittee and the Litigation and Governance Full Committee. A direct reference to use of data by HUD was added at the subcommittee level, and therefore had not been considered by the Housing Subcommittee or Economic Development Full Committee, which are both chaired by the NAIHC Chairman.

NCAI Resolution #FTL-04-056

Title: Supporting the Use of Tribal Enrollment and Tribal Government Service Population Data Rather than Census Bureau Data for Calculating Funding for Tribes

This resolution would have rejected HUD's decision to use Census multi-race data for funding purposes without consultation with tribes and instead direct HUD to use only tribal enrollment and tribal government service population data. The reasoning within the resolution pointed out the unique political relationship between the tribes and the federal government, and as such, only enrolled members of tribes eligible for federal assistance should be counted in determining funding. During discussion at the NCAI business meeting, many questions were raised about the use of enrollment data and service population data that were also brought up during negotiated rulemaking formula committee negotiations. In the end, it was determined that too many questions remained for NCAI to take this formal position so the resolution was tabled. The final version of the resolution will be available on the NCAI website (www.ncai.org) shortly.

Legal Symposium December 7 – 10 in Las Vegas

NAIHC's annual Legal Symposium is fast approaching! Brochures for the meeting have been mailed out but you can also find information online at www.naihc.net. Online registration is available, so register today! Also, be sure to secure your hotel room early. As in past years, the Legal Symposium is the same week as the National Finals Rodeo and rooms go fast. **Call 800-499-6311 for reservations** at the Mirage to secure the conference rate of \$90.00 per night plus tax **before November 15.**