

**Draft**  
**Rhode Island Housing**  
**Intergovernmental Relations Committee**

The Intergovernmental Relations Committee of the Board of Commissioners of Rhode Island Housing met on December 19, 2013, at 9:30 a.m. at the offices of Rhode Island Housing. In attendance were committee chairman Louis DeQuattro and committee members Chris Feisthamel and Andrew Cortés. Staff members attending were Richard Godfrey, Mike Milito and Amy Rainone.

The Intergovernmental Relations Committee of the Board recommends to the full Board the adoption of the following positions on the broad policy areas outlined below. The Committee may need to meet again as new bill introductions are posted to analyze individual pieces of legislation that address these policy areas and any other bills that may have an impact on the agency.

**Overview of Legislative Issues for the 2014 Session of the General Assembly**

**A. New Legislation**

Staff does not recommend that Rhode Island Housing request the introduction of any legislation in the 2014 session.

**B. Existing Legislation/Likely Issues**

The following topics will likely be addressed in legislation in the upcoming session. A brief synopsis of the issue, organizations that will likely support or oppose the initiative and a recommendation regarding the position to be taken by Rhode Island Housing is set forth for each topic.

**1. Rhode Island Housing and Quasi-Public Oversight**

**a. Quasi-Public Oversight**

Legislation to standardize reporting and operational practices and increase transparency of quasi-public agencies was introduced in the last session by Senator Sheehan and Representative Marcello (S609/H6258). We were able to work with the bill sponsor to make language changes that addressed many of the concerns we raised in committee. The legislation was passed by the General Assembly but vetoed by the Governor who cited several technical and operational concerns. Senator Sheehan has indicated that he intends to revisit the legislation next session. Several bills that would have limited our ability to bond were also introduced but did not move forward.

**Potential 2014 Sponsors:** No change anticipated.

**Proponents:** Oversight Committee members and the GA Leadership, good government groups.

**Opponents:** Some of the Quasi-publics have raised concerns about some of the provisions of the bill. The Governor vetoed last session's bill over similar operational concerns.

***Staff Recommendation:***

- Monitor and provide comments as appropriate.

**b. Rhode Island Housing Mortgage Programs**

Earlier this year Rhode Island Housing made changes to our mortgage programs to adjust to continuing changes in the mortgage finance system and market conditions. These changes will reduce costs for our borrowers, make our products more attractive to our participating lenders and give those lenders new and flexible tools to offer to homebuyers in a financing market that remains challenging for many borrowers. Since these program changes were made, some mortgage bankers and brokers have raised concerns with the Governor's office and General Assembly members about Rhode Island Housing competing with private market mortgage products. In our meeting with the Senate President, she indicated that the mortgage bankers and brokers may be requesting legislation in the coming session to address their concerns.

**Status:**

- We have discussed the issue with a number of General Assembly members including Senate President Paiva Weed, Speaker Fox and Senator DaPonte. We have also spoken with staff from the Governor's office and the House and Senate Policy offices.
- We are scheduling meetings with the Bankers Association and the Mortgage Bankers Association to discuss this and other legislative issues for the coming session.
- We developed a one-page information sheet on our program changes which we are using in our communications with General Assembly members, our participating lenders and homebuyers.

***Staff Recommendation:***

- Continue to work with the Mortgage Bankers Association, the Bankers Association and our participating lenders to educate them about our program changes and address any concerns they may have.
- Continue to keep the Governor's Office, the leadership of the General Assembly and the House and Senate Oversight Committees informed about these changes and how they benefit homebuyers and lenders while ensuring that Rhode Island Housing has the resources to continue our support for housing and homelessness programs.
- Monitor legislation and seek changes to any bills that may be introduced which limit our ability to achieve our mission and remain financially sound.

## 2. State Investment in Affordable Housing and Ending Homelessness

### a. Opening Doors

During the 2013 session Rhode Island Housing joined the Rhode Island Foundation, the United Way and a host of homeless advocates and community based organizations led by the Rhode Island Coalition for the Homeless in advocating strongly to include \$3.25 million in the FY14 budget to provide rental assistance to the homeless and emergency winter shelter funding through the Housing Resources Commission (HRC). This funding would have provided first year implementation funding for “Opening Doors Rhode Island: Strategic Plan to Prevent and End Homelessness.” Representative Slater and Senator Crowley introduced legislation (H5554/ S494) recommending that funding be included in the budget. The final FY14 budget included \$750,000 for rental assistance for the homeless to be administered by the HRC. The budget also included \$1 million in FY14 and \$500,000 in FY15 for the repair of Harrington Hall.

**Potential 2014 Sponsors:** The same sponsors are likely to introduce legislation supporting funding for Opening Doors implementation in the FY15 budget.

**Proponents:** Housing and homelessness advocates including the Housing Network and RICH, the Interagency Council on Homelessness, the HRC, United Way, Rhode Island Foundation, some state departments.

**Opponents:** No specific opposition to appropriating funding. If the new bill includes a proposal for a permanent funding stream, there could be opposition from the industries that would be impacted (in past proposals this has included realtors and developers).

### **Status:**

- Both the HRC and the Interagency Council on Homelessness have sent the Governor a Financial Plan for Housing requesting funding in the FY15 budget to support implementation of Opening Doors. This includes \$3.4 million for rental assistance and \$439,000 for homelessness prevention.
- RICH released a “Report Card” on the state’s implementation of Opening Doors that made the same request for funding in the FY15 budget. They have also collected over 1,000 petitions supporting this funding request.
- Rhode Island Housing, United Way and Rhode Island Foundation have sent a letter to the Governor supporting the \$3.8 million request.
- We have discussed this funding request with Senate President Paiva Weed, Speaker Fox and Senator DaPonte as well as Kelly Mahoney in the Governor’s office and Peter Marino in the Office of Management and Budget.
- RICH has met with Representative Slater who is interested in submitting legislation recommending Opening Doors implementation funding in the 2014 session and in establishing a permanent funding stream to support it.

***Staff Recommendation:***

- Support \$3.8 million funding request for Opening Doors implementation in the FY15 budget.

**b. Assisted Living**

The FY12 budget included a provision which dramatically cut state SSI reimbursement for low-income individuals in assisted living from \$538 monthly to \$332. Article 18 of the FY13 state budget attempted to address this cut by providing a supplementary cash assistance payment of \$206 per month for individuals in state licensed assisted living residences. While this change did restore funding to residents in some assisted living facilities, it specifically limited the supplementary payment to facilities that are not eligible to receive funding under Title XIX of the Social Security Act (Medicaid). The three facilities funded through the Rhode Island Housing Assisted Living Waiver Program (Forest Farms in Middletown, Franklin Court in Bristol and St. Elizabeth's in Providence) do receive Medicaid funding to cover the cost of services and therefore their residents were not eligible for the supplementary payment. The continuing funding cut threatens the financial viability of the affordable assisted living portions of all three facilities. In the last session legislation was introduced by Senator DiPalma and Representative Gallison (S525/H5414) which would have restored funding for these facilities, but that funding was not included in the FY14 budget.

**Potential 2014 sponsors:** No change in sponsors is anticipated.

**Proponents:** The three affected assisted living sites and their residents.

**Opponents:** It is not clear where the opposition to providing this funding is coming from beyond the tightness of recent budgets.

**Status:**

- Rhode Island Housing staff has had discussions with Representative Gallison and Director Powell at the Department of Human Services regarding the funding request and has met with the three sites to discuss strategy for the 2014 session.

***Staff Recommendation:***

- Support the restoration of SSI funding for Rhode Island Housing Assisted Living Waiver Program sites.

**c. Thresholds**

The Thresholds program is funded by the Department of Behavioral Health, Developmental Disabilities and Hospitals (BHDDH) and administered by Rhode Island Housing. The program provides funding to be used to develop housing for people with serious and persistent mental illness, and developmental disabilities and is an important resource to assist in implementation of Opening Doors Rhode Island. The FY14 budget included \$1 million for Thresholds.

Proponents: Funding for Thresholds is generally below the radar for most folks but certainly has the support of groups working with the disabled and the homeless.

**Opponents:** None.

**Status:** Governor's FY15 proposed budget has not yet been submitted.

***Staff Recommendation:***

- Support funding of at least \$1 million for Thresholds in FY15.

**3. 8% Law**

On the last day of the 2013 session, the General Assembly passed legislation (H5404 sponsored by Representative Baldelli-Hunt and S207 sponsored by Senator Cote) which would have raised the rate at which affordable apartments are taxed from 8% of gross potential rents to 10%. Senator Ciccone also introduced legislation (S823) which would have required low and moderate income housing being taxed at the 8% rate to receive annual certification of that tax status although this bill was not acted on by the General Assembly. The primary purpose of the legislation appeared to be to raise revenue for municipalities, particularly those with a large affordable housing stock. After an outcry from the housing community, including for profit and nonprofit housing developers, the bills were vetoed by the Governor.

Potential 2014 sponsors: Representative Baldelli-Hunt has left the General Assembly. It is likely that one of the co-sponsors of the bill from Woonsocket (Rep Phillips or Rep Casey) will introduce similar legislation in the next session. We do not anticipate a change in the Senate bill sponsor.

**Proponents:** Some municipalities (particularly urban areas), possibly the League of Cities and Towns.

**Opponents:** For-profit and nonprofit affordable housing developers, owners of Section 8 properties, property managers, investors, affordable housing advocates, the Rhode Island Builders Association.

**Status:**

- At the request of the Senate President, Rhode Island Housing has researched the tax treatment of affordable apartments in Newport and in the state as a whole. That analysis has shown a wide range of approaches to the taxation of affordable housing between and even within municipalities. We are continuing to work with the staff of the Senate Finance Committee to refine that analysis. We are coordinating with the Housing Network which is also conducting research on the issue, including researching other state practices.
- We have discussed the issue with a number of General Assembly members including Senate President Paiva Weed, Speaker Fox, Senator DaPonte, Representative O'Grady and Representative Hearn. We have also spoken with Kelly Mahoney from the Governor's office and with staff from the City of

Providence. All indicated that they anticipate that there will be legislation addressing the issue introduced in the coming session.

- Staff put together a “Myths vs. Facts” sheet on the 8% issue which we have shared with our housing partners and with the General Assembly leadership.
- We are regrouping with the Housing Network this month to review the results of our research and determine strategy for the coming session. We are also meeting with Representative O’Grady who led the charge against the House bill in 2013.

***Staff Recommendation:***

- Support the continuation of a set, fair, reliable and affordable tax rate for affordable apartments.
- Oppose legislation that would undermine the viability of existing affordable apartments underwritten at the 8% rate.

**4. Low and Moderate Income Housing Act**

Legislation that proposes changes to the Low and Moderate Income Housing Act is regularly introduced and is expected to be introduced again in 2014. The bills dealing with the Act which were introduced last session included:

*H5960 (Walsh)/ S975 (Pichardo):* Updated the date for the Housing Act of 2013 Implementation Oversight Commission to report findings and recommendations to the General Assembly. The bills were passed by the House and Senate and signed by the Governor. Rhode Island Housing has a seat on the Commission which met for the first time on December 2, 2013.

*H5247 (Walsh):* Would place a moratorium on for-profit developer’s submissions of plans for low and moderate income housing developments under chapter 45-53 (the Low and Moderate Income Housing Act).

*S882 (Cool Rumsey):* Would extend the Low Mod Housing Act Commission and place a moratorium on for-profit developers’ submissions of plans for low and moderate income housing developments under chapter 45-53 (the Low and Moderate Income Housing Act).

*S212 (Fogarty):* Would allow mobile/manufactured homes which are a part of a mobile/manufactured home park to be counted as low and moderate income housing for purposes of compliance with the requirements of the city or town's comprehensive land use plan.

*S908 (Bates):* Would allow inclusionary zoning ordinances to provide that affordable housing must be built on-site or, in the alternative, be produced off-site, by donation and/or by payment of a fee-in-lieu of the construction or provision of affordable housing units)

Potential 2014 sponsors: While the Housing Act of 2013 Implementation Oversight Commission established by H5960 and S975 is not required to report its finding to the General Assembly until March 1, 2017, it is possible that they will make

recommendations for legislative changes in the 2014 session. It is likely that Representative Walsh would be a sponsor on the House side and Senator Cool Rumsey might sponsor on the Senate side. Senator Bates and Senator Fogarty are also likely to reintroduce their bills and a bill from the builders to address inclusionary zoning is also likely.

**Proponents:** Some municipalities, particularly the more rural ones support eliminating or relaxing the 10% goal set in the Act, including more housing in the official count and taking away or limiting the power of the State Housing Appeals Board (SHAB) to override local zoning decisions.

**Opponents:** Rhode Island Housing has traditionally recommended that any bills seeking to amend the Act be referred to the Commission and have affirmed our belief that the Act is achieving its purpose. Other organizations opposing attempts to overturn or water down the Act include the Housing Network, RICH and the Office of Housing and Community Development.

Several organizations support some aspects of the Law but would like to see amendments in other areas. Statewide Planning would like to see the Act better reflect Land Use 2025 by directing housing development to those areas with the infrastructure to support it and to new and existing growth centers. The Builders Association would like to eliminate municipalities' ability to require inclusionary zoning or at least increase the density bonus provided by municipalities in their inclusionary zoning ordinances. Senator Bates would like to allow a fee-in-lieu of developing affordable homes required through an inclusionary zoning ordinance.

**Status:**

- The League of Cities and Towns has polled its members on the issue and is considering taking a position on legislation amending the Act for the first time.
- The Housing Act of 2013 Implementation Oversight Commission has been appointed and begun to meet. Richard will be giving a presentation to the Commission on January 8, 2014 on the housing needs in the state, some of the state plans that are guiding housing policy to meet those needs and the progress that has been made under those plans.
- We have discussed the issue with a number of General Assembly members including Senate President Paiva Weed, Speaker Fox and Representative Hearn. We have also spoken with Kelly Mahoney from the Governor's office and staff from the House and Senate Policy offices.
- Staff has developed a one-page document with questions and answers about the Low and Moderate Income Housing Act. We have shared this sheet with the House and Senate Leadership.
- Staff participated in an affordable housing forum in Barrington in October. The forum provided an opportunity to clarify some of the misconceptions about the Act.

***Staff Recommendation:***

- Continue to support the transfer of all legislation dealing with the Act to the Commission for review.
- Coordinate with community partners to develop consistent messaging and educational materials on the Act and respond to recommendations that come out of the Commission.
- Ensure that the new State Housing Plan currently in development supports continued requirements for all communities to meet their affordable housing goals and the tools necessary to achieve those goals.

**5. Historic Preservation Tax Credit**

The FY14 budget included a limited State Historic Preservation Tax Credit which made available \$34.5 million in previously allocated tax credits which had not been utilized. In August the state awarded all of the credits by lottery for 31 development proposals which include over 100 affordable apartments. It is likely that proponents of the Credit will seek a permanent re-instatement of the program in the 2014 session.

Potential sponsors in 2014: Representative O’Grady sponsored legislation in 2013 reestablishing the State Historic Tax Credit program. It is not clear if he will do the same in 2014.

**Proponents:** GrowSmart RI, Housing Network, Builders Association

**Opponents:** No organized opposition.

***Staff Recommendation:***

- Support creation of a State Historic Preservation Tax Credit program that would improve the cost effectiveness of the program and promote developments that best align with state priorities including the creation of affordable homes and fostering KeepSpace communities.

**6. Support Regulatory Relief for Development Activity**

A number of regulatory relief bills were passed in the last session as part of efforts to improve the state’s business climate, several of which involve commissions which may be making recommendations for legislative changes.

*H5425 (Serpa)/ S672 Lynch:* Established a commission to make recommendations for state standards that addresses onsite waste water treatment system regulations, and wetlands and watershed planning. Legislative recommendations resulting from the Commission are not scheduled to be made until December 2014, so we may not see legislation addressing this issue in the 2014 session.

*H6323 (Kazarian)/ S761 (Fogarty):* Established a Code Consistency Council to examine areas within the building code, fire code, elevator code, and any other codes that overlap, conflict or may be inconsistent. The Commission is scheduled to make recommendations to the Senate Housing and Municipal Government Committee by March 31, 2014, which could result in legislation in the 2014 session.

Potential sponsors in 2014 and proponents or opponents will depend on the recommendations made by the Commissions.

***Staff Recommendations:***

- Monitor and provide feedback as appropriate.

**7. Foreclosure Issues**

**a. Statewide Foreclosure Mediation**

In the last session Rhode Island Housing worked with the Attorney General's office and with our partners in the banking community to successfully negotiate legislation to take the foreclosure conciliation process in effect in five Rhode Island communities to the statewide level. The legislation (S416 introduced by Senator Nesselbush and H5335 introduced by Representative Gallison) was passed by the General Assembly and signed by the Governor and went into effect in mid-September. Rhode Island Housing is currently providing mediation services under the new law. Since the law went into effect we have sent outreach letters offering our mediation services to 883 homeowners who received Notices of Foreclosure Mediation from their lenders. To date, contact has been made with 78 homeowners, most of which have already received foreclosure prevention counseling and 29 of these have participated in mediation conferences. Historically, for those homeowners who respond to outreach efforts and participate in the mediation process, 96% have a positive result. Several minor technical amendments may be needed to the new law to address procedural concerns raised by servicers and title insurers.

**Potential Sponsors:** Unknown, but likely will be the same as the sponsors for the original bills.

**Proponents:** The Attorney General's office took the lead on this legislation in the last session with the support of Rhode Island Housing and other community housing partners. The technical changes that may be proposed in 2014 are to address concerns raised by lenders and title insurers so hopefully the legislation will have their support, however there is always the possibility that they will oppose the bill due to opposition to the underlying law, despite the fact that the legislation passed last year was arrived at through a negotiation that had the support of all parties involved.

**Opponents:** See above.

**Status:**

- On October 2 Rhode Island Housing sponsored a workshop on the new law with the Attorney General's office and the Department of Business Regulation (DBR) for municipal staff, lenders, attorneys and other interested parties. Staff also developed a "Q&A" on the new law which was provided to participants.
- Rhode Island Housing staff assisted DBR in drafting regulations for the law and has participated in meetings and conference calls with lenders, attorneys, title insurers and others to help explain the process, answer questions and address concerns.

- DBR has posted final regulations for public comment and a public hearing was held on December 17.
- Rhode Island Housing staff has met with staff from the Attorney General's office and DBR to discuss potential technical corrections needed to the law.

***Staff Recommendation:***

- Work with the Attorney General's Office, DBR and other interested parties to draft technical corrections to the foreclosure mediation law.
- Support the legislation in the 2014 session.

**b. Just Cause for Eviction**

Last year Rhode Island Housing participated on a Commission chaired by Senator Metts focused on developing legislation providing protections to tenants in foreclosed properties, termed "Just Cause". Just Cause legislation was introduced by Senator Metts and Representative Edwards (S412/H5103). Rhode Island Housing's recommendations were incorporated into Senator Metts' legislation but neither bill moved forward. It is likely that Senator Metts' bill will be reintroduced in the 2014 session.

Potential 2014 sponsors: Senator Metts is likely to continue to sponsor the bill on the Senate side. It is unclear who the House sponsor will be.

Proponents: The advocacy group Direct Action for Rights and Equality (DARE) spearheaded support for this legislation last session and is planning to do the same in 2014. The Rhode Island Coalition for the Homeless is also supporting the legislation.

**Opponents:** The banking community has been uniformly opposed to Just Cause legislation.

***Staff Recommendation:***

- Monitor and provide technical assistance as appropriate.

**8. The Madeline Walker Act**

The Madeline Walker Act of 2006 was named after an 81-year-old Providence woman who was evicted from her home in December 2005 because she had unknowingly failed to pay a sewer bill of \$496. Under the law, which went into effect January 1, 2007, cities, towns, and other taxing authorities are required to notify Rhode Island Housing of delinquent liens prior to tax sale, and Rhode Island Housing is given a right of first refusal to purchase the lien on any owner-occupied 1-3 unit property. Under the statute, Rhode Island Housing may not file a petition for foreclosure of redemption for the tax liens it acquires for five years, as opposed to the one year redemption period allowed for all other purchasers of tax liens. For the past several years, Rhode Island Housing has requested that legislation be introduced to allow us to foreclose our right of redemption after one year on properties that become vacant or abandoned. In the 2013 session those bills were H5248 sponsored by Representative Diaz and S420 sponsored by Senator Metts. As was the case in the previous session, the bill was passed in the House but held in the Senate. At the request of the City of Providence, Rhode Island Housing is moving forward with a pilot effort to foreclose our right of redemption, through a separate

provision of state law, on five vacant and abandoned Providence properties for which we hold the lien. R.I.G.L §44-9-25. We anticipate expanding that pilot to vacant and abandoned properties in other municipalities in the coming year, and are therefore not seeking legislative changes to the Act in the 2014 session.

**Status:**

- Rhode Island Housing has begun to reach the 5-year point for liens we purchased in 2007 and 2008. When we met with Senate President Paiva Weed, she requested information on the status of liens we had purchased and how we would be proceeding with those that have reached the 5-year mark. We provided the Senate President with a detailed overview which is attached. She indicated that oversight hearings on the Act might be expected in the coming session. It is possible that legislation on the issue could also be introduced by other parties.
- We have scheduled a meeting of the Madeline Walker Advisory Committee on December 16 to get their feedback on our approach to homeowners who have not been responsive to outreach, the disposition of properties we foreclose our right of redemption on and the reinvestment of any net proceeds that may result from the sale of these properties into helping Madeline Walker clients.
- We will be meeting with Senator Metts and Representative Diaz to update them and inform them that we will not be seeking legislation amending the Madeline Walker Act in the next session.

***Staff Recommendation:***

- Develop detailed program guidelines for outreach to Madeline Walker clients, disposition of properties whose liens have reached the 5-year mark, and reinvestment of any net proceeds in the program, with the input of the Madeline Walker Advisory Committee and the General Assembly.
- Expand pilot program for foreclosing our right of redemption on vacant and abandoned properties.
- Monitor legislation for bills that limit our ability to effectively administer the program.