At the Center of
Affordable Housing Finance

The History

of State Housing Finance Agencies

NCSHA
National Council *of* State Housing Agencies

50 YEARS of collaboration, innovation & impact

Contents

Introduction

The U.S. housing finance system moves vast amounts of money back and forth between individuals and global capital markets through an array of financial intermediaries to fund a universal human need: shelter. The system is bewilderingly complicated and unfathomably large. The part that finances affordable housing is relatively small but has outsized importance. It is the part that makes down payment assistance and below-market home mortgage loans available to borrowers who are underserved by conventional products. It is the part that makes it economically feasible for builders and developers to deliver decent homes and apartments at prices and rents low-income households can reasonably afford. It is the part that gets governmental housing assistance to the neediest people and places on a recurring basis — and in the aftermath of disasters.

Since their establishment in the 1960s, state housing finance agencies (HFAs) have played an ever-greater role in fulfilling these functions. Yet even as they have become more involved and influential in affordable housing finance and policy, state HFAs have remained "below the radar" of most analysts and researchers. After a spate of scholarly attention in the 1970s, researchers largely ignored state HFAs, until a few in recent years started quantifying the impact of some HFA efforts. This paper aims to help patch a hole in housing policy scholarship by constructing a summary history of state HFAs using a wide array of sources.

Glenn Gallo, Ingrid Gould Ellen, Kim Herman, Garth Rieman, John Wagner, and Florence Zeman provided comments that improved this paper. Any errors are mine alone.

A note on usage. There are both state and local HFAs. This paper focuses on the former and, unless specified, uses 'HFA' and 'state HFA' interchangeably.

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Moral & Other Obligations

1960s

The housing finance system in the United States came into being during the 1930s. The federal government acted aggressively to respond to the "havoc on homeownership and homeowners" caused by the Great Depression, putting in place by the end of the decade "all of the key institutions that would define the mortgage market for the next two generations" (Schwartz, 2015). They were the Federal Home Loan Bank System (1932), Home Owners' Loan Corporation (1933), Federal Housing Administration (1934), and Federal National Mortgage Association (1938). The federal government's first foray into rental housing, the public housing program, was enacted in 1937 but did not begin in earnest until after World War II (Hays, 2012).

While California created the first state housing program, and Pennsylvania passed the first housing finance agency law, New York was first to operationalize an HFA.

On December 3, 1959, the Pennsylvania state legislature enacted the Pennsylvania Housing Finance Agency Law, the "first legislative response to the perceived need for state intervention in private-sector housing development" (Stevens, 1974).[1] Pennsylvania legislators determined that federal programs were inadequate to address the state's growing housing affordability needs and saw "a need for both state financing and creation of incentives for private industry to enter the low- and moderate-income housing field" (Stevens, 1974). The Pennsylvania law authorized "a public corporation empowered to accept grants and subsidies from federal and state sources, to create additional working capital through sale of bonds, to purchase, service, and sell insured mortgages, and to make direct loans on the security of the insured mortgages" (Pennsylvania P.L. 1688, No. 621; Stevens, 1974). The state housing finance agency was born—at least in theory.

While the Pennsylvania law was visionary, it would not be implemented for more than a decade. New York was first to actually operationalize the idea, in 1960, through the creation of the New York State Housing Finance Agency. The state had been issuing tax-exempt, voter-approved general obligation bonds to finance middle-income housing since the mid-1950s. The New York State HFA began by issuing bonds for affordable multifamily apartments backed by the state legislature's implied commitment to make up for any shortfalls in reserves needed to meet debt service requirements. Although not legally binding, this implied backing was generally understood to be a "moral obligation" of the state. This approach allowed the state to avoid seeking voter approval of housing bond issuances, since the bonds were not considered state debts (Griffith, 1976).[2]

Nine states followed Pennsylvania and New York's leads and created HFAs during the 1960s: Connecticut, Delaware, Illinois, Maine, Massachusetts, Michigan, Missouri, New Jersey, and West Virginia. Some created HFAs in response to the racial unrest that swept through hundreds of American cities in those years, leaving "many

[1] Californians can claim the first statewide housing finance *program*. In 1921, the state created the CalVet Home Loan Program, through which the California Department of Veterans Affairs funds home purchases for veterans with land contracts financed by the agency's issuance of tax-exempt bonds. The agency reported it had funded $8.5 billion in mortgages for 425,000 California veterans as it celebrated its centennial in August 2021.

[2] John Mitchell, a lawyer and advisor to New York Governor Nelson Rockefeller at the time, who later served as chairman of Richard Nixon's 1972 presidential campaign and then his attorney general, conceived the "moral obligation." When asked in an interview in 1991 whether moral obligation bonds represented "a form of political elitism that bypasses the voter's right to a referendum or an initiative," he replied, "That's exactly the purpose of them." (*Bond Buyer*, 1991)

black urban neighborhoods ... in ruins” (Postrel, 2004). President Lyndon Johnson’s 1968 Kerner Commission—chaired by Illinois Governor Otto Kerner, whose 1965 task force in his own state led to the creation of the Illinois Housing Development Authority—identified inadequate housing, along with unemployment and abusive police practices, as a central cause of the turmoil (US National Advisory Commission on Civil Disorders, 1968). LBJ subsequently asked corporate executive Edgar Kaiser to chair a committee to recommend ways the business community, working with the federal government, could help “rebuild the slums” (Von Hoffman, 2014). The committee proposed the creation of six million affordable low- and moderate-income units over five years and a central role for the private sector in the financing.

Some states created HFAs in response to racial unrest in their urban areas.

The Housing and Urban Development Act of 1968 adopted the Kaiser Committee’s goal (over a longer period) and its recommendation to create a new federal financing program. The law catalyzed a “transformation of American housing policy” according to Alexander Von Hoffman:

> *At a time of national urban crisis, it brought warring housing interest groups together in a political alliance that has persisted ever since. Moreover, the law turned away from government-centered public housing and firmly committed the federal government to using private-sector agents—especially for-profit businesses—to develop and run social housing.* (Von Hoffman, 2014)

Section 236 of the law made multifamily rental housing “financed under a state or local program” eligible for a new form of federal support: federal mortgage insurance combined with loan interest subsidies that could result in a mortgage interest rate as low as one percent. The Department of Housing and Urban Development (HUD) reserved funds specifically for HFA-backed Section 236 projects. By 1971, HFA financing would serve 21 percent of Section 236 units, and the agencies would finance roughly 120,000 units before the program effectively ended in 1974 (Council of State Housing Agencies, 1981a). HFAs in those years also provided low-cost construction and permanent financing through HUD’s Section 221(d)(3) and Section 202 programs as well as homeownership funding through the Section 235 program.

Changes to federal tax laws in the late 1960s also bolstered HFAs. The Revenue and Expenditure Control Act of 1968, which generally limited the ability of states and localities to issue tax-exempt bonds for primarily private purposes, specified certain “quasi-public” ones as eligible for tax-exempt financing, including “residential real property for family units.” If HFAs sprouted by issuing general and moral obligation bonds backed explicitly or implicitly by their states’ taxpayers, they matured quickly with federally tax-exempt issuing authority for which their programs provided the primary security. The following year, the Tax Reform Act of 1969 established and expanded several federal incentives for developers of affordable apartment projects, ensuring the agencies had reliable business partners and project pipelines.

State courts played a role in the development of the HFA model as well. The central issue was establishing housing, particularly homes for moderate- or middle-income families, as a legitimate “public purpose.” One key decision came in 1969 from the Massachusetts Supreme Judicial Court, which dismissed mortgage bankers’ objections to the Massachusetts Housing Finance Agency’s efforts to finance mixed-income apartments with tax-exempt bonds. The court found it to be “within the competence of the legislature to determine that the mixing of families of economic means will provide for the prevention and permanent elimination of slums and that it was explicit and implied in the legislation setting up the MHFA that substantial benefits would inure to low income families, benefits to those of moderate income being but incidental” (Garrity and Rose, 1969). A New Jersey case decided in 1970 went even further, holding that housing *per se* was a public purpose for which public funds may be appropriated. The decision “represented the culmination of more than 10 years of development of judicial concepts concerning state housing agencies” (Goldberg, 1972).

Sleeping Giants Stir

1970s

Motivated by the early adopters, lobbied by bond lawyers and underwriters, and incentivized by opportunities to piggyback on newly available, federally subsidized construction financing, 16 more states created HFAs between 1970 and 1974, prompting Michael Stegman to write:

> *Historically, state governments … have, with few notable exceptions, limited their roles to the enactment of various classes of enabling legislation required to permit local communities full participation in the ever-expanding arsenal of federal housing and urban development programs … Within the past decade, and particularly within the last five years, the sleeping state giants have begun to stir.* (Stegman, 1974)

Two events almost put them back to sleep. In January 1973, Richard Nixon's administration announced a moratorium on federally subsidized housing programs, causing cancellation of many HFA bond-backed projects and ending a resource—the HUD Section 236 program—that underpinned much early HFA financing (Von Hoffman, 2012). In their first organized effort to influence federal policy, state HFAs persuaded HUD in May of that year to provide a special allocation of the remaining Section 236 subsidy funds for 15,500 state HFA-financed units. As a result, the agencies were able to "fare relatively well under the moratorium" (Betnun, 1976).

Then in September, the bond credit rating business Moody's changed its methodology for rating HFA bonds, characterizing any state's moral obligation to fund housing bond reserves—the foundation of the early HFA operating model—"as a rating floor in which elements of speculation remain" (Betnun, 1976). Going forward, Moody's declared, "The analysis of obligations secured by revenues of a project must look first and primarily to those revenues" (Betnun, 1976). The statement "sent shock waves through the financial community and led investors to make their own revaluations, with the consensus being even more skeptical than Moody's" (Betnun, 1976). *Housing and Development Reporter* predicted, "The Moody's re-evaluation will present a critical problem for newer agencies and place these agencies without a prior history of success in a very vulnerable position" (Stegman, 1974).

A six-month review of US housing policy by the Nixon Administration published in 1974 added to the gloomy outlook: "Despite the rapid growth and initial achievements of state housing finance agencies," the report contended, "their future expansion is not completely assured, and some serious problems eventually will have to be confronted" (US Department of Housing and Urban Development, 1974). The report criticized HFAs' "heavy emphasis on new housing construction, as opposed to utilization of the existing housing stock, and their heavy reliance on indirect and direct Federal subsidization" (US Department of Housing and Urban Development, 1974). Stegman argued, "[A]though the recent spread of state housing finance agencies has been heralded as a major advance in the realm of state programming in housing, a projection of their collective impact on the national housing picture in the coming decade will likely not be very great" (Stegman, 1974).

HFAs responded to the shifts in federal policy by organizing to have greater influence on it through a new professional trade association: the Council of State Housing Agencies.

The young HFAs responded on several fronts. First, they started to structure their loan programs more conservatively, with higher reserves and longer terms, to build back credibility with bond investors. Second, they began to move away from issuing moral and general obligation bonds. Tax-exempt bonds became the bedrock of HFA financing. The bonds' explicit exemption from federal income taxes made them attractive to investors, who were willing to accept a lower rate of return than if they were taxable, which in turn enabled HFAs to fund affordable loans to apartment developers and lower-income home buyers. HFA multifamily housing bonds at the time could deliver low-cost financing to developers that resulted in rents 10–20 percent lower—and as much as 50 percent lower when combined with federal interest rate subsidies and insurance (Committee on Housing and Urban Development, 1974). HFA home mortgage revenue bonds (MRBs) could fund loans to home buyers at rates as low as 2.5 percent below conventional home loans, reducing a borrower's average monthly payment by as much as 20 percent (McEvoy, 1992). MRBs, first issued by the Virginia Housing Development Authority in 1974, quickly became the primary tool of HFA finance. By 1978 MRBs accounted for $2.8 billion, 62 percent of new state HFA bond issuance, compared to 26 percent just three years before (Congressional Budget Office, 1979).

HFAs also responded to the shifts in federal policy by organizing to have greater influence on it. In 1974, having collaborated informally for several years, the HFAs incorporated a professional trade association as the "Council of State Housing Agencies." Chuck Edson, a plugged-in housing industry lawyer who was instrumental in the startup, recalled the young organization's "furious lobbying" with other industry groups to ensure the Housing and Community Development Act of 1974 included a multifamily development program—HUD Section 8 New Construction—that would augment HFA financing (Edson, 2011). The Section 8 program marked "the beginning of substantial state involvement in assisted housing production, a role that would continue to be vital in the ensuing decades" (Hays, 2012). In particular, the federal government's 40-year financing commitment through Section 8 provided substantial security to HFA bonds. Through NCSHA, HFAs convinced HUD to set aside a share of Section 8 subsidies for HFA-financed projects, as they had under the Section 236 program. Fourteen more states and Puerto Rico created HFAs shortly after the law's enactment.[3] HFAs would finance 38 percent of all the Section 8 units funded during the 1970s (ICF, 1982).

The Section 8 program marked "the beginning of substantial state involvement in assisted housing production, a role that would continue to be vital in the ensuing decades."

Not for the last time, HFAs in the 1970s proved the pessimists wrong. By 1980, 42 states, plus the District of Columbia and Puerto Rico, had created HFAs. The agencies had innovated in response to changing needs and collectively provided $25 billion in financing for nearly 800,000 homes, most of it after 1970 (Council of State Housing Agencies, 1981b). They had organized and asserted themselves in national policy through CSHA—the 'N' would be added later—with no turning back.

[3] The expansion of state HFAs did not go unchallenged by other housing finance providers. A prominent Michigan mortgage banker was quoted at an industry conference in 1975 as saying, "HFAs are a competitor in the sense that they are pursuing an area that has traditionally been held by us, but they have an unfair advantage because they can loan at a lower rate." Bank lobbyists succeeded in limiting HFA lending programs in several states. (Betnun, 1976)

Near Death & Taxes

1980s

The efforts of Ronald Reagan's administration to reduce federal domestic spending led to sharp reductions in funding for housing in the 1980s. Congress cut HUD's annual budget authority by nearly 80 percent between 1981 and 1989, although annual outlays—actual spending to honor prior congressional commitments—rose more than 65 percent (Tucker, 1990). In any event, during this period "[h]ousing advocates did not suffer total defeat, yet they were clearly fighting a rearguard action" (Hays, 2012). And the federal government largely departed from the business of funding new housing development through HUD. States, along with cities and nonprofit organizations, moved to fill the breach, and HFAs were the vanguard in many respects. By the end of the decade, according to Don Terner and Thomas Cook, hundreds of state programs were in operation:

> *The enduring legacy of this period of state activism may be a permanently enlarged role for the states in targeting housing programs to their own particular needs and priorities; innovation in response to those needs; and coordinating many resources and diverse players in the housing arena. Such a combination of roles will enable states to achieve the greater efficiency of a decentralized delivery system which is closer and more sensitive to the constituencies served.* (Terner and Cook, 1990)

The MRB program dominated HFA federal advocacy efforts during the 1980s, which bond lawyers Howard Zucker and Joseph Rogers called "a decade of constant legislative attacks on tax-exempt housing finance" (Rogers and Zucker, 1993). The main reason was that this "modest state-government undertaking ... [became] the hottest form of municipal underwriting ... [as] local governments issued MRBs at a heart-pounding pace" (Durning, 1992). The local MRB programs generally lacked the public accountability and administration of state programs and "often, the [income] limits were so high that two-thirds or more of all households in the city or county could qualify for an MRB loan" (Durning, 1992).[4]

Notwithstanding constant legislative threats and a brutal recession in the early part of the decade, state HFA MRB issuance grew substantially during the 1980s.

Through a series of tax bills during the 1980s, Congress clamped down on MRBs, limiting the eligible buyers, their incomes, and the price of homes they could buy with MRB-financed mortgages; curtailing state and local HFA and investment bank profits from bond sales; and imposing an annual cap on the amount of MRB, multifamily housing, and other "private activity" tax-exempt bonds. Several of the tax bills included actual "sunsets" (terminations) of the MRB program. MRB opponents—administration and congressional deficit hawks, conservative economists, government auditors, and some mortgage lenders—said MRBs were expensive, inefficient, and unnecessary. MRB advocates—HFAs, realtors, home builders, municipal finance stakeholders, and some mortgage lenders—said MRBs filled niches that conventional mortgage lending didn't and wouldn't.

[4] A reporter for *Fortune* said about the MRB boom in one state: "Like the coral-eating starfish of the South Pacific, housing-bond promoters in Arkansas seem to have no natural enemies." (Smith, 1979)

HFAs became, by necessity, active participants in intense annual lobbying battles, "coordinated with increasing effectiveness by the National Council of State Housing Agencies and the Association of Local Housing Finance Agencies" (Durning, 1992). During one campaign, journalist Kenneth Harney quoted a member of Congress as saying the pro-MRB forces mounted "the fiercest lobbying campaign I've seen in a long time" (Harney, 1983). They eventually prevailed, and congressional reforms made MRBs more accountable and effective.[5]

Notwithstanding constant legislative threats and a brutal recession in the early part of the decade, state HFA MRB issuance grew substantially during the 1980s. The agencies issued more than $57 billion during the decade, more than five times the combined volume of the 20 years prior (NCSHA, 1991). One driver was increasing financial and technological sophistication. Bond lawyer John Wagner noted the advent of computerized cash flow modeling and adaptation of private mortgage pool insurance originally developed for taxable mortgage pass-through bonds as helping fuel this explosive growth (email to author). The scaling of HFA MRB programs solidified the agencies financially, generating a reliable source of annuity income to fund their operations. By retaining their bond-funded mortgages, HFAs also built balance sheet strength that would boost their ratings and enable them to withstand economic and policy shocks in decades to come.

> ***Reflecting both the "new federalism" in ascendance and the maturation of the state housing finance system, Congress put the states in charge of administering the Low Income Housing Tax Credit.***

HFA multifamily financing did not fare as well, especially after the Tax Reform Act of 1986 sharply curtailed its use. Volume, which had averaged more than $5 billion annually in 1982–1984 (and surged more than four-fold in 1985 in anticipation of tax code reform), plunged to less than $500 million in 1987 (Herbert and Verdier, 1987). Yet that same act replaced several inefficient corporate tax shelters for commercial real estate investment with a groundbreaking one for affordable housing: the Low Income Housing Tax Credit. Reflecting both the "new federalism" in ascendance and the maturation of the state housing finance system, Congress put the states in charge of administering the credit. The program arrived at a critical time. While in 1970 there were 300,000 more low-cost rental apartments than there were low-income renters, by 1985 the latter exceeded the former by 3.3 million (Dreier, 2004). From the mid-1980s on, addressing a worsening shortage of affordable apartments would be a top priority for HFAs and their business partners and advocacy allies.

The Housing Credit was such a new idea that even its architects in Congress (Senators Bob Packwood of Oregon and George Mitchell of Maine) and advocates (led by national leaders of the emerging nonprofit housing development industry, The Enterprise Foundation and the Local Initiatives Support Corporation) were unsure how well it would work. In its formative years, it barely did. Facing an imminent sunset, HFAs and other Housing Credit pioneers worked with Senators George Mitchell of Maine and John Danforth of Missouri on a major statutory tune-up, which passed along with a short extension in 1989.[6] One of the key changes was a requirement that state Housing Credit allocators write annual plans laying out how they would use the credit to address their states' needs.

[5] NCSHA also learned the benefits of occasional humility. Benjamin Hartley, a top staffer to the powerful House Ways and Means Committee, lamented to the NCSHA Board of Directors the abuses that other housing industry groups were heaping on his members. "You are the one group in the housing area that has countered that resentment somewhat," Hartley said. "You did it in a way that preserved your right to ask for more. [You] put together a letter … saying you recognize there are still problems, however, you think the committee has come a long way to solving a lot of problems, and that your organization would like to work with staff to solve the other problems. Simply put, you thanked them for doing what they had done. You have no idea how much credibility this organization won as a result of a letter thanking them." (Minutes of NCSHA Board of Directors Meeting, October 1987)

[6] Bobby Rozen, who worked for Mitchell and was the congressional staffer most important to the Housing Credit's creation, said years later: "Really, the 1989 legislation created what we have today. There was very little use in 1987 and there were some embarrassments. Then we had the Mitchell-Danforth tax force." (Stanhope, 2016)

A Sense of
Permanence

1990s

The devolution of federal housing policy to states and cities that began during the Reagan years accelerated in the 1990s, a period during which the Democratic Clinton Administration and Republican-controlled Congress—bitter political enemies for the most part—achieved pragmatic agreement on some of the most important housing legislation in a generation. Ironically, perhaps, some of the impetus for devolution came from the federal government. HUD in 1994 released a "blueprint for reinvention" that confessed to "slavish loyalty to non-performing programs and insufficient trust in the initiatives of local leaders" (US Department of Housing and Urban Development, 1994) and proposed to end "within three years the entire federal system of public and assisted housing tied to project subsidies" and replace it with state- and locally administered grants for construction and vouchers for rental assistance (Orlebeke, 2000).

In fact, while the HUD plan never came to fruition, devolution was in full swing. The Cranston-Gonzalez National Affordable Housing Act of 1990 had created a new housing block grant, the HOME Investment Partnerships Program, which channeled flexible funding to cities and states, in most of the latter through the HFA. HOME started the following year with a $1.5 billion appropriation and was still going strong 30 years later, when Congress approved $5 billion for the program to help deal with homelessness exacerbated by the coronavirus pandemic.

A new housing block grant, the HOME Investment Partnerships Program, channeled money to states and cities for a wide range of housing purposes.

In 1992, Congress authorized the federal government, through the Federal Housing Administration (FHA), to share lending risk with HFAs as a means to increase the speed and the scale of multifamily mortgage financing for affordable apartments. FHA provided full insurance on the loans, and HFAs agreed to accept up to 90 percent of the risk of losses on them. The arrangement has proven durable as the HFA-backed loans perform better financially than conventional FHA multifamily loans and generate savings for the federal government (NCSHA, 2021). Also that year, through the Housing and Community Development Act of 1992, Congress imposed requirements on Fannie Mae and Freddie Mac, the liquidity providers for conventional home mortgage financing, to reach low-income households and underserved areas. The law amended the companies' charters, requiring them to meet an "affirmative obligation to facilitate the financing of affordable housing for low-income and moderate-income families in a manner consistent with their overall public purposes," and established annual "housing goals." In the years to come, those goals would create the basis for HFA programs with Fannie and Freddie, opening up the secondary mortgage market for affordable lending.

In 1993, the federal budget bill made permanent the Housing Credit and MRB programs, a massively important development that signaled their stability to the capital markets on which their efficacy as financing sources depends. MRB permanence culminated a 13-year period of legislative campaigns and near-death experiences for the program. As NCSHA's 1993 annual report recounted, "The extension campaign received a final, critical boost … with the help of nearly 1,000 telephone calls placed in three days by NCSHA staff and HFA executive directors …

while NCSHA staff haunted the hallways, following negotiators from one Capitol Hill office to another and relaying minute-by-minute reports by portable phone" (NCSHA, 1993).

Just two years later, though, the Housing Credit received a death sentence from Representative Bill Archer, the top tax writer in Congress as chairman of the House Ways and Means Committee, who proposed ending the program by 1997; the sun had apparently not set on sunsets. Archer justified the move by citing an Internal Revenue Service (IRS) audit that asserted problems in the program. NCSHA alerted the IRS and members of Congress to fatal flaws in the audit's methodology and findings, prompting the IRS to admit about its audit that "these statements are not reliable" (US Department of the Treasury, 1995). But it would be two more years before the Housing Credit was in the clear (for a while), with its reputation and political support stronger than ever.

Another major front in the housing policy campaigns of the 1990s was "preservation"—that is, ensuring the continued affordability and quality of apartments built decades before with federal and, in many cases, state financing. (In fact, the first shots in the preservation battle were fired 20 years earlier "in the countryside" over the expiration of US Department of Agriculture subsidies for rural housing projects [Edson, 2011].) By the late 1990s, about 850,000 apartments had been built or rehabbed under HUD's Section 8 program, many with 20-year rental subsidy commitments that were due to expire soon. A key issue was assigning responsibility for restructuring the underlying financing. According to David Smith (1999), while "HUD strongly favored having the authority to select for-profit entities with strong economic motivations ... [a]ll other stakeholders strongly rejected the idea that purely profit-oriented entities could be vested with the public trust and public resources." John McEvoy, who led NCSHA during the 1990s, called the ensuing debate "a struggle more bitter and prolonged than any other between a federal agency and state and local governments over housing policy" (NCSHA, 1998).[7] NCSHA and other preservation advocates eventually convinced Congress to devolve to state HFAs the primary responsibility for restructuring the mortgages on thousands of Section 8-financed properties.

By the end of the decade, HFAs had assisted nearly 850,000 more homeowners and 74,000 more renters.

The most productive period for HFA federal advocacy to date concluded in a multiyear campaign to increase the annual volume limits on housing bonds (and other private activity bonds) and Housing Credits and index them to inflation. Four hundred-sixty members of Congress, spanning the ideological spectrum in a highly polarized political time, cosponsored the "cap increase" bills in the House and Senate. On the final day of the 106th congress, President Clinton signed them into law as part of the Community Renewal and Tax Relief Act of 2000, which comprised Republican and Democratic ideas more or less equally.

State HFAs expanded their annual impact and consolidated their position as primary administrators of federal housing resources substantially during the 1990s, while also creating hundreds of their own initiatives. By the end of the decade, the agencies had assisted nearly 850,000 more homeowners and 74,000 more renters. MRB annual volume approached $11 billion in 2000, up from $6.4 billion in 1990. Multifamily issuance reached $3.1 billion in 2000, compared to less than $1 billion in 1990 (NCSHA, 2001). As the decade came to a close, state HFAs were stronger than ever. But a bubble was about to burst.

[7] In testimony before the Senate Banking Committee in 1999, McEvoy said of HUD's efforts to bury devolution to state HFAs in red tape: "Some of our friends at HUD say that, in writing all these rules, they're just doing the Lord's work. If that's the case, they must be praying to a different god than the rest of us. It took our god only 10 lines and 75 words to give us the Ten Commandments. HUD might have used up all the stone tablets in the Holy Land." (McEvoy, 1999)

A Great Recession & a Profound Reckoning

2000s

In housing finance, the 2000s were defined, for HFAs and everybody else, by the collapse of the subprime mortgage market and an economic meltdown unlike any since the Great Depression. Some post mortems of the crash suggested federal policies encouraging affordable housing had been a primary culprit. The definitive analysis, "The Financial Crisis Inquiry Report," produced by a congressionally appointed bipartisan panel, said that while the government "set aggressive homeownership goals with the desire to extend credit to families previously denied access to the financial markets ... [it] failed to ensure that the philosophy of opportunity was being matched by the practical realities on the ground." Nevertheless, the commission determined that Fannie Mae and Freddie Mac's affordable housing requirements "only contributed marginally" to the companies' investment in risky mortgages and that the Community Reinvestment Act's mandate on banks to lend in needy areas "was not a significant factor in subprime lending or the crisis" (National Commission on the Causes of the Financial and Economic Crisis in the United States, 2011).

The 2000s were defined, for HFAs and everybody else, by the collapse of the subprime mortgage market and an economic meltdown unlike any since the Great Depression.

In any event, HFA lending was not a cause of the crash. The agencies never funded subprime mortgages to begin with; their bread and butter had always been financing fixed-rate, long-term loans. In 2007–2010, state HFA "whole loans" (those pooled to securitize agency bonds) had significantly lower rates of serious delinquency than loans insured by FHA, according to Moody's (email to author). In addition, a review of one million loans to low- and moderate-income buyers guaranteed by Fannie Mae between 2005 and 2014, of which roughly 10 percent were HFA-backed, found HFA loans were 20 percent less likely to experience a long-term default and 30 percent less likely to be foreclosed. "Not only are HFAs more likely to require full documentation and careful underwriting, they also serve as a third-party monitor on the partner lenders originating loans through the state program, creating an additional incentive for careful screening by the lender," the research showed (Hembre, Record, and Moulton, 2021).

The rippling effects of the crisis were perilous for the agencies nevertheless. The challenges were complex—and dire—as they struck at the very HFA operating model. For decades, HFA bonds had produced low-enough costs of funds for the agencies to deliver loans at below-market rates. After the bubble burst, conventional mortgage rates fell to historic lows and dropped below municipal bond yields, wiping out any interest rate advantage.

Other problems materialized, including "a lack of liquidity support for existing variable rate bonds [and] credit and cash flow concerns stemming from losses on mortgages and downgrades of re-insurance providers" (US Department of the Treasury, 2013). In August 2009, NCSHA wrote in a letter to the secretaries of HUD and Treasury, "All state housing finance agencies have severely curtailed and several have suspended their lending programs" (NCSHA, 2008). By the fall of that year, agency bond issuance had plunged by 75 percent compared to prior years (Eizenga, 2012).

Barack Obama's Administration, recognizing that "market conditions have undermined the ability of the HFAs to maintain their important, Congressionally supported role in the housing market, providing access to affordable mortgage credit for low- and moderate-income Americans," worked with HFAs on a stopgap solution. The Housing and Economic Recovery Act of 2008 (HERA)—which allowed Treasury to buy Fannie and Freddie mortgage-backed securities (MBS) comprised of HFA bonds and, on a more limited basis, to provide short-term liquidity for them—became the basis for the "HFA Initiative," announced in October 2009. State and local HFAs "quietly but efficiently" financed more than 100,000 for-sale homes and more than 24,000 rental apartments through the program (US Department of the Treasury, 2012). Treasury later said the initiative also provided "stability to the financial markets and [promoted] mortgage affordability while at the same time protecting the taxpayer" (US Department of the Treasury, 2013).[8]

The housing rescue bill also created the Neighborhood Stabilization Program and authorized the Housing Trust Fund and Capital Magnet Fund programs, all of which some HFAs, among other governmental and nonprofit organizations, would use in the years ahead. In addition, the Housing and Economic Recovery Act included more than 20 improvements to and expansions of the Housing Credit program, some drawn from the recommendations of an HFA task force convened by NCSHA in 2003 (Stanhope, 2018). (NCSHA Housing Credit task forces had served since the early 1990s as a self-regulating mechanism "to strengthen state Housing Credit administration, demonstrate responsible and proactive state administration to Congress and the IRS, and preempt through self-governance unworkable federal statutory and regulatory requirements" [NCSHA, 2017].)

The Housing Credit program also needed a temporary lifeline during the financial crisis, though. With the two biggest investors, Fannie Mae and Freddie Mac, under federal conservatorship and large banks, the other main investors, in varying states of financial distress, the equity market for credits dried up. As a result, "thousands of projects and tens of thousands of units that would have otherwise been bought or rehabilitated stalled" (Harvard University Joint Center for Housing Studies, 2009). The American Recovery and Reinvestment Act of 2009 created two new programs—HUD's Tax Credit Assistance Program (TCAP) and Treasury's Section 1602 Exchange Program—to work in conjunction with the Housing Credit and enhance feasibility of developments in the rattled market. The act also imposed new asset management responsibilities on state agencies for all developments assisted under TCAP and the Exchange Program.

Even during the brief period when state HFAs needed federal support for the bond offerings, the agencies remained profitable and financially stable, while many other financial institutions faltered.

State HFAs survived the financial crisis in better shape than many larger institutions involved in affordable housing finance. They continued to provide affordable housing financing at a time when it was desperately needed, lending more than $100 billion for homeownership and more than $48 billion for multifamily apartments during the 2000s (NCSHA, 2010). Even during a period of historic financial market disruption, and when the agencies sought governmental support for their bond offerings, state HFA balance sheets remained stable between 2008 and 2010 and returned to growth in 2011. The agencies remained profitable between 2008 and 2011 (Moody's Investors Service, 2013). Nevertheless, HFAs realized they needed to reinvent themselves somewhat, both to be more financially resilient and to play a larger role in meeting the nation's housing needs.

[8] Treasury officials remained concerned about the stability and future of HFAs even after the initiative had borne fruit. Speaking at an NCSHA conference in 2012, Mary Miller, the department's undersecretary for domestic finance, said, "Almost three years into these programs ... we face the question of whether the current outlook for HFAs still represents a temporary disruption, or a new equilibrium that will require HFAs to change their business model. We all need to think critically about this subject and the future of HFAs." (Hemmerdinger, 2012)

Recovery & Reinvention

2010s

The Great Recession inflicted economic pain on millions of Americans long after it officially ended in June 2009. Millions had been out of work for extended periods and seen their home values plummet, putting them at acute risk of losing their homes. Under the authority of the Troubled Assets Relief Program (TARP), the Obama Administration in 2010 established the Housing Finance Agency Innovation Fund for Hardest Hit Housing Markets (Hardest Hit Fund or HHF) to deliver direct assistance to economically vulnerable homeowners. The program channeled $9.6 billion to state HFAs in the 18 states (plus the District of Columbia) that Treasury determined were experiencing especially steep home price declines, severe unemployment, or both. HHF was a complementary approach to the much larger Home Affordable Modification Program, also funded under TARP, which supported the efforts of servicers to modify mortgage loans on behalf of at-risk borrowers.

As of the end of 2020, HFAs had helped more than 415,000 homeowners through the HHF (US Department of the Treasury, 2020). A comprehensive assessment of the program published in 2020 found it "leads to a 40 percent reduction in the probability of mortgage default and foreclosure through four years' post assistance" (Moulton et al., 2020). The research showed that "about one in four of these assisted homeowners would have ended their loan in severe default absent the HHF program, corresponding to an estimated $7.9 billion direct loss to lenders, investors and the secondary market" plus an estimated $1 billion cost to local governments. Homeowners reaped unquantified benefits from retaining ownership in their homes, preventing damage to their consumer credit, and the spillover effects on local property values (Moulton et al., 2020).

Even as they were supporting a housing market recovery, state HFAs were also reinventing themselves.

As they were supporting a housing market recovery, state HFAs were also reinventing themselves. Even before it became known that interest rates would remain at extremely low levels for years to come, HFAs realized that they could no longer rely so heavily on a business model based on delivering a below-market mortgage interest rate financed solely through tax-exempt bonds. Seeds of that reinvention had been planted before the worst of the crisis hit: In 2006, HFAs and Fannie Mae negotiated an agreement that offered HFAs attractive pricing for delivering loans to lower-income borrowers Fannie Mae could not efficiently reach. This "affinity agreement" marked the beginnings of HFAs' concerted efforts to use MBS as a tool to generate financing through the secondary mortgage market, as a complement to their traditional use of tax-exempt bonds.

In the early 2010s, HFAs began in earnest to finance mortgage loans using free cash or lines of credit and either packaging the loans into Ginnie Mae, Fannie Mae, and Freddie Mac MBS or selling the whole loans directly to Fannie and Freddie. The agencies also issued tax-exempt or taxable pass-through bonds and used the proceeds to purchase such mortgage-backed securities. Traditional tax-exempt bond executions also remained viable for the agencies. Tax-exempt bond and secondary market financing executions each offered HFAs and their borrowers advantages depending on agency financial management strategies and market conditions. By the end of the decade, most state HFAs were using a combination of the two, while some were all-in on one approach or the other.

Whatever the preferred capital execution, most state HFAs substantially expanded their delivery of down payment assistance in connection with their mortgage loan programs in the 2010s. They provided down payment assistance to 140,000 borrowers in 2019, representing 80 percent of their loans, compared to 73,000 borrowers representing 60 percent of their loans in 2014 (NCSHA 2011, 2015). Even during a period when interest rates remained near historic lows, many lower-income households, especially those of color, lacked the necessary savings or access to family wealth to meet the down payment requirements of conventional mortgage financing (Stegman and Loftin, 2021). HFAs' ability to fund the assistance from their bond and MBS programs and through targeted grant programs broadened their impact and value proposition. Once again, state HFAs were evolving their offerings to meet market needs—and realize new business opportunities—in an increasingly competitive home lending environment.

In the area of multifamily housing, HUD moved to issue new contracts for managing the administration of Section 8 rental assistance subsidy payments. The department had negotiated contracts and managed them itself until determining in 1999 that "staffing constraints" prevented it from doing so (US Government Accountability Office, 2007). HFAs, which had won contracts to serve as "performance-based contract administrators" (PBCAs) starting that year, were among the parties that protested and eventually participated in litigation in response to HUD's "second nationwide competition" in 2011 for PBCA services (US Government Accountability Office, 2007). In 2017, HUD proposed reducing the comprehensive scope of services that PBCAs perform (processing payments, responding to resident needs, training property managers), consolidating PBCAs by region, and allowing for-profit companies to compete to become PBCAs. HFAs argued that HUD's proposed approach would endanger the physical and financial health of the properties. A stalemate persists, and 33 state HFAs continue to serve as PBCAs with responsibility for almost 860,000 units of affordable housing.

Litigation also affected state administration of the Housing Credit program. The US Supreme Court ruled in 2015 that "disparate impact" claims may be used to support plaintiffs' allegations of Fair Housing Act violations. The decision stemmed from a lawsuit brought by a Dallas fair housing organization in 2008 which alleged that the Texas Department of Housing and Community Affairs had allocated a disproportionate share of Housing Credits in areas with high concentrations of racial minorities. "The Supreme Court returned the case to the lower court for further proceedings, cautioning that allowing disparate-impact suits did not mean that they should always succeed" (Liptak, 2015). The ruling informed the Obama Administration's issuance of two fair housing regulations, which Donald Trump's administration rescinded. Joe Biden's administration is moving to revise and reissue the Obama regulations. A spirited policy debate has developed over how state Housing Credit administration should best balance and achieve goals of racial integration, renter opportunity, affordable housing preservation, and community development.

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One of the more surprising legislative developments of the 2010s was the passage in 2017 by the House of Representatives of a tax cut bill that eliminated all tax-exempt private activity bonds, including housing bonds, starting in 2018. In a brief but intense advocacy campaign, HFAs and other municipal finance stakeholders prevailed on the Senate to reject the provision, and the tax cut passed without any serious harm to affordable housing. The legislative save was a fitting capstone to the tenure of NCSHA Executive Director Barbara Thompson, who had led the organization since 2002 and been its top lobbyist since joining in 1988. Housing bonds bounced back quickly. In 2018, $22 billion of the $24 billion in private activity bonds issued (92 percent) were housing bonds issued by state and local HFAs (Council of Development Finance Agencies, 2019).

Housing Emergency

Responders

2020s

On March 13, 2020, the day state HFAs concluded their annual legislative conference in Washington, DC, President Donald Trump declared COVID-19 a national emergency. At the behest of their governors and state legislatures over the next several months, 36 HFAs created temporary relief programs for renters and homeowners forced into instability by the pandemic. Even for agencies experienced in administering federal rental vouchers, this was an entirely new undertaking. Few HFAs had run consumer-facing emergency aid programs—none during a pandemic that disrupted much of American life—and some struggled to deal with overwhelming numbers of applications for assistance. Nevertheless, the agencies were able to provide about $2 billion in emergency assistance to roughly 200,000 households in 2020 (according to an unpublished NCSHA survey).[9]

Those programs and similar ones established in many cities were the basis for the federal Emergency Rental Assistance (ERA) program authorized at the end of 2020. Through two congressional appropriations, $46 billion in aid began to run through state and local agencies in the spring of 2021. HFAs in 27 states and the Virgin Islands serve as ERA administrators, accounting for about one-third of the program's total funding. State and local agencies responsible for the program faced heavy criticism for slower-than-expected start-up and spend-out of the emergency rental funds, especially after the U.S. Supreme Court in August struck down a federal ban on evictions through the Centers for Disease Control and Prevention (*Politico*, August 28, 2021).

Through July 2021, state HFA ERA administrators had spent an average of 20 percent of their ERA funding for rental assistance (net of administrative costs and expenditures on related services for renters), although 16 agencies had spent less than 10 percent (NCSHA analysis, based on data from the US Department of the Treasury).

The stumbles of state and local ERAP administrators were far from the only reason for the program's rocky rollout.

NCSHA argued that spend-out percentage was not the only relevant metric for agency performance, pointing out most HFAs that had spent small amounts of their funding had in fact paid out or were processing much larger shares of the applications that had actually been received. Analysts Jim Parrot of the Urban Institute and Mark Zandi of Moody's Analytics argued, "What matters to the success of grantees is how many eligible renters they are able to save from eviction with this relief, not the percentage of appropriated funds they have managed to spend to date...which is a misleading metric given how much more money has been appropriated than is needed in many states" (Urban Institute, 2021).

[9] State HFAs' success in rebuilding and reinventing themselves in the aftermath of the Great Recession meant they could continue, and in many cases expend, their traditional financing offerings during the pandemic. In September 2020, Fitch Ratings observed that state HFA aggregated equity as of 2019 had increased 23 percent over the past five years: "The level of consistent growth can be attributed to favorable operations and the upfront profit generated from the sale of loans as well as a period of strong asset quality and prudent investment" (Fitch Ratings, 2020). The following month S&P Global Ratings reported, "The creditworthiness of HFA single-family and multifamily programs remains strong and stable despite ongoing economic challenges for some borrowers...HFAs have implemented strategies to uphold their strong creditworthiness and limit the consequences of these economic crises on their ability to meet their debt obligations." (S&P Global Ratings, 2020)

Nevertheless, some criticisms of local and state ERA efforts had merit. Programs initially often appeared to be and sometimes were overly complicated and unnecessarily burdensome for renters and landlords to navigate, especially in light of the emergency needs ERA was created to meet. Some were slow in processing payments, leaving landlords and renters out in the cold and eroding trust in the assistance. Some failed to market their programs effectively to potential beneficiaries; a study by the Urban Institute published in June 2020 found "less than 6 percent of [smaller] landlords and 11 percent of tenants indicated that they applied for federal emergency rental assistance" (Urban Institute, 2021).

Yet the stumbles of state and local ERA administrators were far from the only reason for the program's rocky rollout. The Biden-Harris Administration's Treasury Department only gradually and partially allowed flexibility that administrators, along with landlord lobbyists and renter advocates, had asked for since the ERA's enactment—and never eased strict compliance and auditing rules, which account for some bureaucratic features that frustrate would-be beneficiaries. Surveys revealed many landlords simply were never going to apply for government aid, no matter what form it took, for reasons ranging from a simple cost-benefit analysis and desires to "move on" to new renters, to a wariness of government programs and objections to state and local requirements limiting their ability to evict assisted renters (*The Wall Street Journal*, 2021). Landlords for their part pointed to an unwillingness by their renters to communicate with them as a major reason for not applying for aid (Urban Institute, 2021).

Some flaws were inherent in the ERA statute, meaning only Congress could correct them. By law, ERA is only available to households earning 80 percent of their area's median income, but an analysis in August 2021 identified "a huge eligibility gap... of the 6.2 million households in arrears, half make more money than the federal program allows and therefore aren't eligible" (*New York Times*, July 28, 2021). As Parrot and Zandi observed, the ERA funding formula probably resulted in some smaller and medium-sized states receiving more money than they could use under the program, as designed under the time period allowed, exacerbating perceptions they were spending too slowly. In any event, estimates of unpaid rent nationally, while varying and imprecise, were trending sharply downward over the course of 2021. In August, the Federal Reserve Bank of Philadelphia estimated "nearly 2 million US renter households will owe over $15 billion in back rent and utilities by August 2021 because of job loss or involuntary part-time work during the COVID-19 pandemic" (Federal Reserve Bank of Philadelphia, 2021).

ERA in the hands of HFAs and other state and local agencies will end up providing a lifeline to millions of vulnerable households in the months ahead.

Notwithstanding the risks millions of renters face and the tragic inevitability that some will be forced from their homes before assistance is able to reach them, ERA in the hands of HFAs and other state and local agencies will end up providing a lifeline to millions of vulnerable households in the months ahead. And the often wrenching experience of launching the new program—building "a new national infrastructure for rental assistance and eviction prevention that did not previously exist," in the words of the Treasury Department—has catalyzed fresh thinking at all levels of government about how to create enduring rental support systems that outlast the pandemic. State HFAs will be deeply involved in those efforts in the months and years ahead.

The agencies will be even more central in delivering assistance to low-income homeowners in facing hardship because of COVID-19. Forty state HFAs, including those of Puerto Rico and the Virgin Islands, will administer the $10 billion Homeowner Assistance Fund (HAF). Modeled on the Great Recession era-Hardest Hit Fund program, the HAF is envisioned to catch homeowners who fall through the safety net of other federal mortgage relief and forbearance policies scheduled to end soon. State HAF programs cannot launch in earnest, however, until Treasury approves each state agency's plan, through a process that only opened in August.

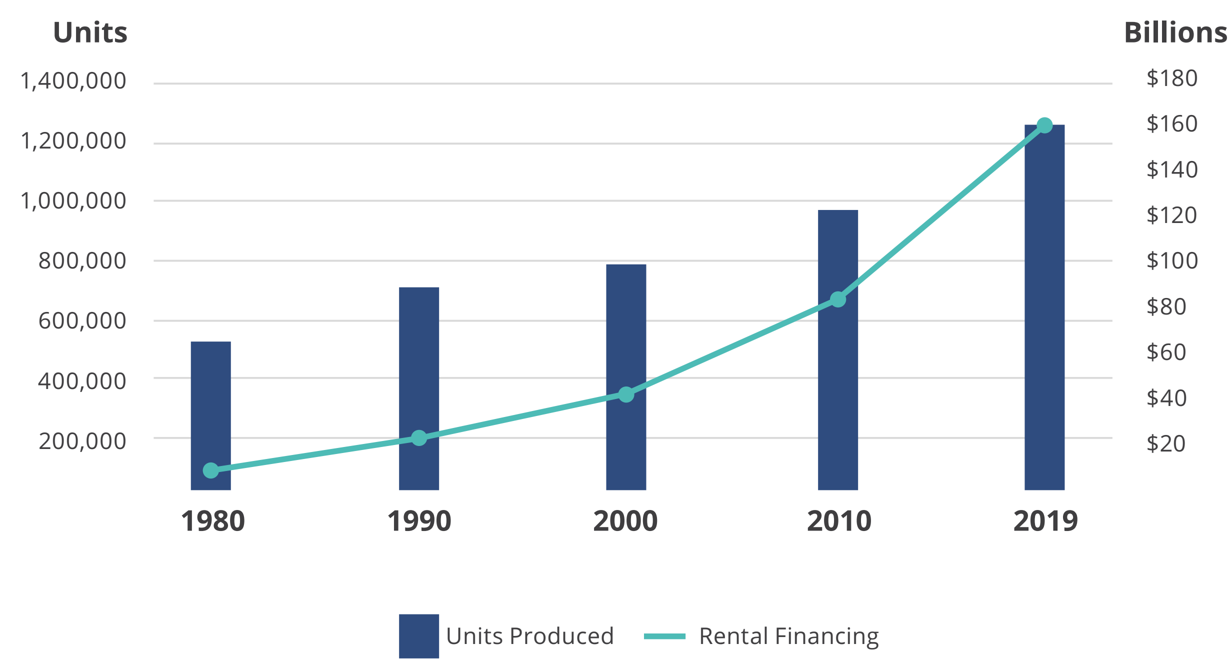
Conclusion

State HFAs have proven to be more enduring and influential than either their founders or early critics could have imagined. They are an integral part of the US housing finance system that serves those whom the purely private sector can't or won't—a group whose numbers were rising before the coronavirus pandemic and have increased further because of it (Grinstein-Weiss et al., 2020). More than 300,000 low-income homeowners and renters receive assistance through a state HFA program every year, a number that will rise sharply as coronavirus housing aid programs hit their full stride. At this writing, Congress is considering large expansions of several HFA-run federal housing programs (including the Housing Credit, multifamily bonds, and HOME program) and the creation of new tools the agencies would administer (for new affordable home construction and down payment assistance) as part of a potential federal budget bill.

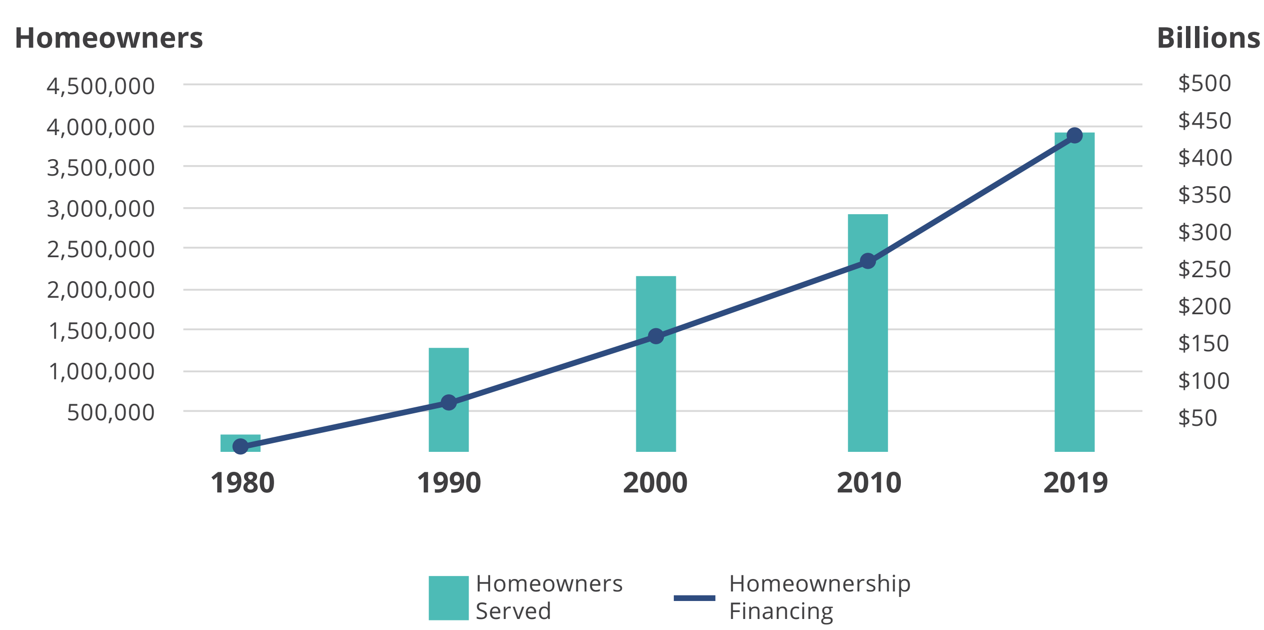
As this review has illustrated, state HFAs' success stems from their ability to self-finance their operations, their capacity to adapt and evolve in response to market conditions, and their efficacy in leveraging federal housing programs to augment their impact. As a network, state HFAs have played an important role in building and maintaining consistent political support for affordable housing at the national level during an era of "long-term narrowing of congressional majorities ... amid growing partisan polarization" (Schaeffer, 2020). Through NCSHA, HFAs have been able to fashion consensus positions and mobilize broad-based and bipartisan support for significant protections and expansions of many federal housing programs. Consensus and bipartisanship both have their critics, perhaps nowadays more than ever. Proponents of housing policies farther from the center of the ideological spectrum will find fault at times with the pragmatic approach and agenda of state HFAs. Likewise, proponents of more centralized federal power or greater local control over federal housing resources may slice the housing resource pie differently.

Not even the biggest booster of state HFAs would suggest the agencies alone can solve America's housing affordability challenges. State HFAs throughout their history have called for, defended, and relied upon a substantial federal role in affordable housing policy. They have funded projects and partnerships with countless counties, cities, public housing authorities, and community-based organizations. State HFAs operate between the federal and local levels, with increasing impact, at the center of affordable housing finance in the United States.

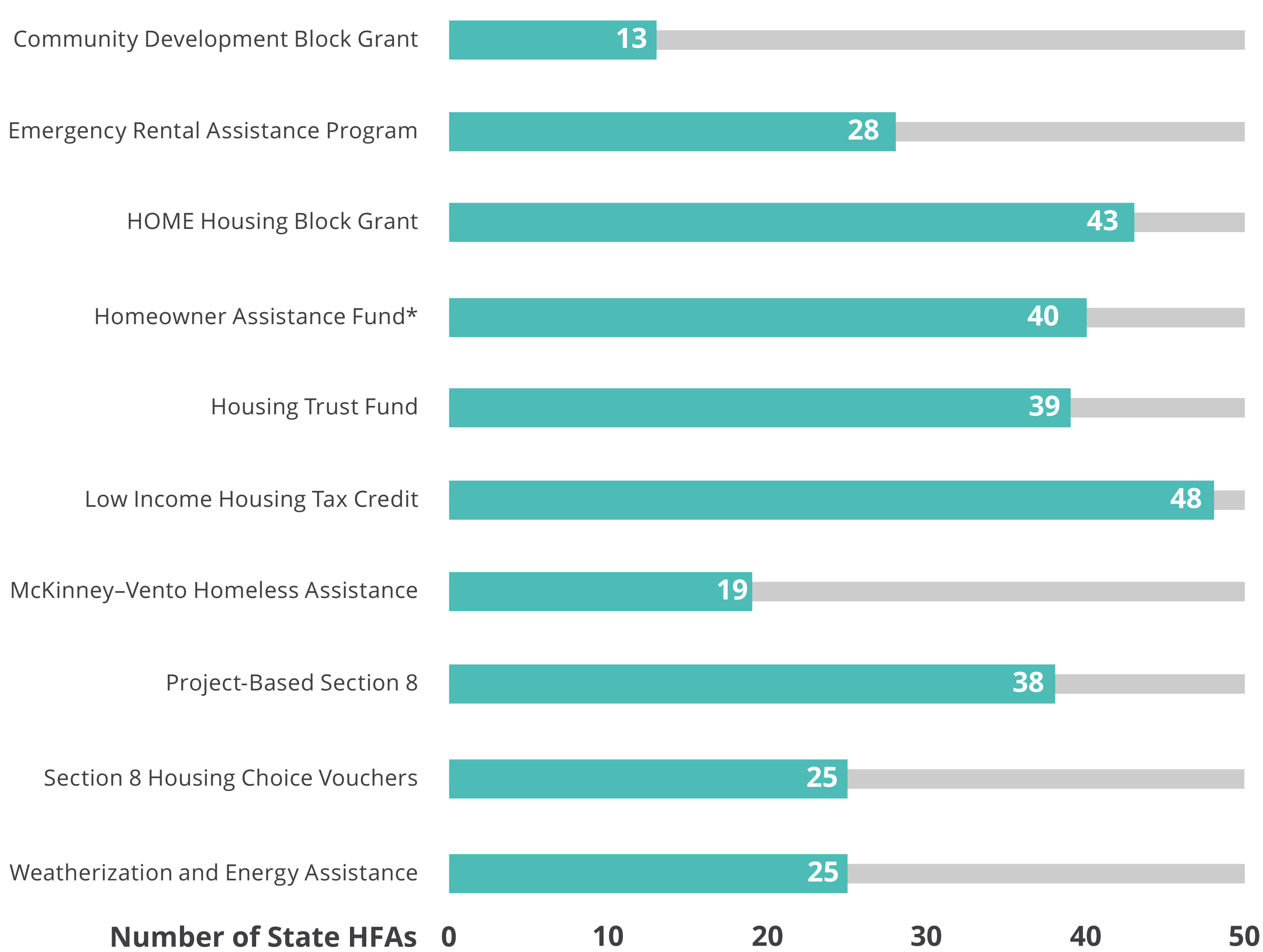
HFA Cumulative Rental Financing & Units Produced



HFA Cumulative Homeownership Financing & Borrowers Served



Number of State HFAs Administering Select Federal Programs



Notes: * = Number of HFAs administering the Homeowner Assistance Fund as of August 10, 2021.
Totals include HFAs of the District of Columbia, Puerto Rico, and the US Virgin Islands.

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