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Understanding the White House Blueprint for a Renters Bill of Rights

Earlier this year, the Biden administration (the "Administration") published The White House Blueprint For A Renters Bill Of Rights (the "Blueprint"), which provides a glimpse at how the Administration intends to address the nation's growing concern over housing insecurity by creating a set of guiding principles for states to apply through their own legislative actions and by imposing specific mandates on the U.S. Department of Housing and Urban Development (HUD), Fannie Mae, and Freddie Mac.

The Blueprint outlines five key principles that the Administration believes should guide the development of policies and practices across the country. Specifically, the Administration is focused on providing all renters access to:

- Safe, quality, accessible and affordable housing;
- Clear and fair leases;
- Education, enforcement, and enhancement of renter rights;
- The right to organize; and
- Eviction prevention, diversion, and relief.

Safe, Quality, Accessible and Affordable Housing

In connection with increasing housing affordability and access, the Federal Housing Finance Agency began classifying multifamily loans for properties that provide affordable rents to households with incomes between 80% to 120% of area median income levels as "mission driven." By labeling these loans "mission driven," Fannie Mae and Freddie Mac (each an "Agency") will be further incentivized to purchase these loans. Additionally, the Administration has mandated that the Agencies analyze the potential opportunities and challenges of adopting and enforcing tenant protections, including limiting egregious rent increases at properties with Agency-backed debt.

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The Administration has also created the National Standards for the Physical Inspection of Real Estate (NSPIRE), which is geared toward aligning several HUD programs via a single set of standards to help standardize expectations across HUD housing for owners and operators and to reduce health and safety hazards. Finally, the Agencies are updating their radon testing standards for certain projects commencing in July 2023.

Clear and Fair Leases

Regarding leases, the Blueprint takes the position that all leases should be drafted in simple and basic terms, and the leasing process should end with a plain-language briefing about the lease with tenants to ensure they can understand the terms of the lease and the leasing process. The Blueprint also advocates for the eradication of unenforceable/unauthorized terms, hidden fees, false representations, and mandatory arbitration clauses. It also advocates that security deposits should be reasonably sized and placed in an interest-bearing account and that reasonably advance notice should be provided before the landlord enters the premises.

The Blueprint stresses that these policies would not only help tenants form clear and accurate understandings of their situation, which allows them to make better decisions, but could also increase the number of tenants willing to read, ask questions, and negotiate their leases.

Education, Enforcement, and Enhancement of Renter Rights

Due to the longstanding and pervasive presence of discriminatory practices in the housing market, the Administration announced three significant actions in the Blueprint. The first requires tenant background check companies to ensure accurate and up-to-date information is present in the credit report system. The Blueprint also reiterates landlords' legal obligation to clearly communicate when tenant background checks have been used in denying rental applications or increasing fees.

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The second action is the enhancement of several agencies' roles, including HUD and the Treasury Department, in attempt to reduce income source discrimination and increase the opportunity for use of housing choice vouchers. The third is HUD's implementation of the Violence Against Women Act's new housing protections for survivors of domestic violence, dating violence, sexual assault, and stalking.

The Right to Organize

The Blueprint outlines several new actions to aid in the organization of tenants and protect them from repercussions from their landlords. One of which is directing HUD's Office of Multifamily Housing to implement the Rental Assistance Demonstration (RAD) resident protections, which include, among other things, grievance procedures, fact sheets, and targeted outreach to owners who recently converted properties to increase awareness.

Eviction Prevention, Diversion, and Relief

Perhaps the clearest goal of the Blueprint is to reduce the number of evictions in the United States. Specifically, the Blueprint creates numerous new action items for government agencies to accomplish that goal. This includes Agency development of look-up tools which would permit tenants to determine whether landlords are required to give a 30-day notice to vacate due to non-payment of rent and requiring HUD to award $20 million for the Eviction Protection Grant Program in 2023. This grant should help fund non-profits and other local or grassroots programs providing legal assistance to low-income and/or at-risk tenants.

Overall, it will be crucial for owners and operators to stay apprised of state implementation of the principles set forth in the Blueprint and how HUD and the Agencies enforce their existing mandates. If necessary, the Administration may take further action through additional mandates to HUD or the Agencies to ensure its goals are met if the states do not sufficiently address the Administration's concerns.

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