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NATIONAL  
MULTIFAMILY  
HOUSING  
COUNCIL

MULTIFAMILY MARKUP  
NEWSLETTER

March 29, 2018

# Omnibus Spending Bill Contains Several Multifamily Victories

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The bipartisan omnibus spending bill recently passed by Congress includes several victories for the apartment industry, including an expansion and improvement of the Low-Income Housing Tax Credit, increased HUD funding, a short-term extension of the federal flood insurance program and important tax policy changes for REITs.

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NMHC Insider

## PRESS RELEASE

### [Apartment Industry Statement on the Passage of the Omnibus Spending Bill](#)

Statement from the National Multifamily Housing Council (NMHC) and National Apartment Association (NAA) on passage of the Omnibus Spending Bill.

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## TAX REFORM AND TAX DEPRECIATION RULES

### [Apartment Industry Calls on Treasury to Clarify Depreciation and Other Tax Rules](#)

NMHC/NAA sent Treasury Secretary Steven Mnuchin a [letter](#) on March 15 asking for clarifications to last year's tax reform bill. Guidance is necessary in several areas, including those pertaining to depreciation and the new 20 percent tax deduction for pass-throughs.

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## ENERGY EFFICIENCY TAX INCENTIVES

### [Multifamily Industry Calls on Congress to Make Energy Efficient Home Tax Credit Permanent](#)

NMHC/NAA spearheaded a coalition letter to the House Ways and Means Subcommittee on Tax Policy on March 12 asking that lawmakers make the New Energy Efficient Home Credit permanent. While lawmakers recently extended the incentive through 2017, House tax writers held a March 14 hearing to evaluate the efficacy of renewing expired tax provisions known as extenders.

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#### TELECOMMUNICATIONS

### [Congress Tackles Broadband Deployment](#)

As multifamily communities are increasingly being designed and built with network connectivity in mind, the evolution of broadband is a critical policy priority. Therefore, NMHC/NAA are closely paying attention to the calls by policymakers to boost broadband deployment, especially throughout underserved and rural areas of the country, that have been made frequently in recent years. However, with the possibility of a major infrastructure package being considered this year growing, both the House and Senate are working to lay the groundwork for finally bridging the nation's digital divide.

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#### BUSINESS OPERATIONS

### [NMHC Joins Industry Brief Supporting "E-Fairness" for Retail](#)

NMHC joined the International Council of Shopping Centers, Nareit, National Association of Realtors, Real Estate Roundtable, NAIOP (the Commercial Real Estate Development Association) and other organizations in filing an [amicus brief](#) with the U.S. Supreme Court in support of a South Dakota law requiring sales tax from online retailers with more than \$100,000 in sales or at least 200 in-state transactions annually. The case, [South Dakota v. Wayfair, Inc.](#), asks the U.S. Supreme Court to revisit its 1992 decision in *Quill v. North Dakota*, which requires a retailer to collect sales tax only when a business has a physical presence in the state. As online retail has grown, states have pushed for greater authority to collect sales tax from out-of-state retailers, and several Justices have expressed skepticism about the legal foundation of the current case law. The Court will hear arguments on April 17 and a decision is expected by the end of June.

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#### CARRIED INTEREST AND TAX REFORM

### [IRS Clarifies Three Year Hold Period for S Corps](#)

The Internal Revenue Service (IRS) [announced](#) on March 1 that taxpayers cannot use S corporations to get around the three-year holding period for carried interest enacted as part of last year's tax reform bill.

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#### LEAD BASED PAINT

### [Changes in Lead Hazard Definitions Anticipated](#)

An end of year [decision](#) by the United States Court of Appeals for the Ninth Circuit gave EPA 90 days to propose updated definitions for lead hazards and a year to finalize the revisions. Changes in lead hazard levels will impact a number of regulations in pre-1978 housing from disclosure to repair and renovation protocols, including testing and worker training.

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## LEAD BASED PAINT

### [EPA, HUD Clarify XRF Protocol for Lead Paint Inspections](#)

Owners of pre-1978 residential properties or child occupied facilities are required to comply with several federal laws that are aimed at disclosing the lead status of a property to potential occupants in addition to protecting workers and occupants for the possible creation of lead hazards due to renovation and repair activities. The paint inspection process is based on an X-ray fluorescence (XRF) analysis that must be performed by a federally-certified or state-certified inspector using federally-approved protocols that include having a valid performance characteristic sheet (PCS) for the specific XRF instrument. Failure to have a valid PCS voids the testing results and testing must be re-done.

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## NMHC RESEARCH

### [New Research Confirms Apartments Outperform Across Time, Geography and Market Conditions](#)

Apartments outperform other commercial real estate property types, on both a risk-adjusted and unadjusted basis, regardless of holding period, geographic region, metro size, and growth rate [according to new research](#) from the National Multifamily Housing Council Research Foundation.

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### [HUD Issues Updates on FAST Act, 2016 MAP Guide](#)

The HUD Office of Multifamily Housing Programs issued an Administrative Guidance Memo on March 8, 2018 clarifying language found in the 2016 MAP Guide. The 2016 MAP Guide states that an equity bridge loan (EBL) may be the obligation of the investor(s), the limited or general partner(s), or of the mortgagor itself, but may be secured with a pledge of tax credits and/or of limited partners' or investor members' interests in the project's ownership entity. In response to questions raised by stakeholders, the Memo confirms that HUD will allow EBLs to be secured with a pledge of the general partner's interest as well.

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## Upcoming Meetings

### [2018 NMHC Emerging Leaders Speaker Series Miami](#)

April 4 at the Perez Art Museum in Miami, FL

### [2018 NMHC Research Forum](#)

April 17-18 at the Omni Chicago Hotel in Chicago, IL

### [2018 NMHC Leadership Forum on Diversity & Inclusion](#)

May 9 at the Four Seasons Hotel Las Colinas in Dallas, TX

### [2018 NMHC Spring Board of Directors Meeting](#)

May 9-11 at the Four Seasons Hotel Las Colinas in Dallas, TX

## [With the Election Year Heating Up, NMHC's Personal Dollar Events are Critical](#)

With final votes still being counted in this week's special election for Pennsylvania's 18<sup>th</sup> Congressional district, an official winner has not been declared. However, both parties are already using the outcome of the race to motivate their bases for November.

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### Hill Watch

[THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS will hold a hearing on the Oversight of HUD. Secretary Carson will testify.](#)

### Media Roundup

[Buy Commercial Property for the Income, Study Says](#)

*The Wall Street Journal*

[Uncertainty Is Taking a Toll on the Eb-5 Program](#)

*NREI*

[HUD Proposes Change to Mission Statement, Housing Groups Push Back](#)

*Housing Wire*

[Legislative Progress on Flood Insurance Changes Still Elusive](#)

*National Mortgage News*

[Trump Steel Tariffs Will Make Construction, Infrastructure Projects More Expensive](#)

*Curbed*

[What Home Buyers and Renters Need to Know About Trump's Steel Tariffs](#)

*Market Watch*

[Trump Administration's War on New Housing](#)

*CityLab*

### The Scoop

#### **Trade Groups Say Us Tariffs on Aluminum, Steel Will Hurt**

“Policies that increase the cost of development stand in the way of meeting urgent housing demand as well as imperil the economic and employment gains achieved through tax reform,” said Cindy Chetti, senior vice president of government affairs at the National Multifamily Housing Council, which represents 1,200 apartment housing owners, managers, developers and investors.

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### Tools



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