

The Fiscal 2018 Omnibus Spending Bill

(As of March 23, 2018)

On March 23, 2018, President Trump signed the \$1.3 trillion Omnibus spending bill. The legislation, approved by the House and Senate, funds the government through September and spans multiple budget areas. The 2,232-page bill contains important provisions related to housing that REALTORS® have been fighting for; including the alleviation of terms in the new tax law that weaken the Low-Income Housing Tax Credit (LIHTC), and extension of the National Flood Insurance Program (NFIP) at least through mid-summer. Below are highlights of the bill that most directly impact real estate.

Business Issues

Broadband

The bill calls for an additional \$600 million in broadband funding to be distributed through the Rural Utilities Service (RUS).

The funding authorizes the Secretary of Agriculture to create a pilot program within RUS that distributes the new funding in the form of grants and loans. There are details to be worked out, but the authorization calls for “expedited” delivery of the program. The funding bill mandated a few conditions; they include:

- Ninety percent of the households served by any project funded through this program must be unserved or underserved and can’t currently have 10/1 Mbps broadband access.
- Any entity receiving funds from the program is prohibited from overbuilding an existing RUS borrower.
- No more than 4% of funds received through the program can be used towards administrative costs.

Census Bureau

- The omnibus increases Census Bureau funding from the current \$1.32b level for 2018 to \$2.81b, but allows the Census Bureau to tap these funds through 2020. By stipulating this timeframe, the bill seemingly allows the Census Bureau to spend funds allocated for but not used in 2018 in 2019 and/or 2020 and does not affect the 2019 or 2020 budget requests.
- The administration had requested \$1.6b for FY 2018, while NAR along with the Census Project coalition were seeking \$1.8b.
- Of this sum, funding for the “current surveys and programs”, which covers surveys other than the decennial census, was increased by \$27m to \$270m, in line with what NAR and the coalition had requested. The bulk of the funds are devoted to the decennial census.
- Historically, funding for the Census ramped up in the three years prior to the decennial census. Current funding lags minimum levels to support the decennial census, so this increase and the long window for accessing the funds helps bridge the deficit.

Consumer Financial Protection Bureau (CFPB)

- Since the CFPB is not funded through Congressional appropriations, but by transfers upon request from the Federal Reserve, the Omnibus has no impact on CFPB's operations.

Immigration Programs

The Omnibus Budget agreement would extend authorizations for the following programs through Sept. 2018:

- **The E-Verify Program**, which allows employers to check whether employees are authorized to work in the U.S.
- **The EB-5 Regional Center Program**, which provides visas to foreign nationals who pool their investments in regional centers to finance local projects.
- **H-2B Visa Program** – The Homeland Security Department's authority to increase a cap on the number of temporary foreign workers who can enter the U.S. through the H-2B visa program.

Office of Management and Budget (OMB) Reports and Statements

- Under the terms of the Omnibus, the OMB is required to report within 90 days to Congress the costs of implementing Dodd-Frank and also provide a statement of the budgetary impact of executive orders or Presidential memorandums, including costs (if regulatory costs are greater than \$100 million), benefits, and revenues.

Commercial

Brownfields:

- Provides \$26 million for Brownfields activities via the EPA.
- Provides \$48 million for Brownfields grants through EPA grant programs.
- Reauthorizes the EPA's Brownfields program through FY 2023 at \$200 million per year (less than the current funding of \$250 million/year).
 - Increases the amount the EPA may provide per brownfields site and establishes a new grant program for cleanups by an entity at more than one brownfield sites.
 - Raises the cap on grants for brownfield cleanups from \$200k to \$500k per site, and allows the EPA to further raise the cap to \$650k per site if it considers it necessary based on the level of contamination, size, or ownership status of the site.
 - Caps administrative costs for brownfield clean-up projects at 5%.

FAA/Drones

- \$18 billion for FAA programs, \$1.6 billion (10%) more than 2017.
 - \$24 million for research on unmanned aerial systems, \$17 million more than 2017 funding level.

Small Business Administration:

- Omnibus funds the SBA at \$701 million, a 21% decrease from FY 2017.
 - \$156 million of that total is allocated to business loan programs, a decrease of \$844,000 from FY 2017).
- Increases the mandate for the Office of the Advocate for Small Business Capital Formation include examining the challenges of small businesses. The Office of the Advocate for Small Business Capital Formation is within the SEC. It is responsible for developing proposals and recommendations for Congress to promote the interests of small businesses, mitigate problems small businesses experience and help them secure access to credit. Specifically, it looks at challenges experienced by minority and women-owned businesses; the Omnibus includes language expanding that mandate to include the challenges faced by small businesses hit by hurricanes and other natural disasters.

Conventional Financing

Student Loan Debt

- Provides \$22.5 billion in discretionary funding for Pell Grants, equal to FY 2017. The maximum Pell Grant is increased in FY 2018 to \$6,095.
 - As student debt levels rise, Pell Grants help alleviate the rising higher education financial burden for students.

Government National Mortgage Association (Ginnie Mae)

- Limits the guaranteed commitments made by Ginnie Mae to \$500 billion, which is equal to both the 2017 level as well as the request from the Administration. The FY18 omnibus also provides \$27 million for administrative expenses. Ginnie Mae's expected revenue is estimated at \$1.7 billion, which is used to offset other appropriations in the measure.

The Government National Mortgage Association, also known as Ginnie Mae, guarantees investors the timely payment of principal and interest on mortgage-backed securities that are backed by federally insured or federally guaranteed loans, including those issued by the FHA or the Veterans Affairs Department.

Business Development Companies (BDCs)

- Modifies the asset coverage ratio of BDCs from 200% to 150% and removes some restrictions to allow BDCs to invest in certain financial companies and allows them to operate under regulations similar to other SEC registrants. Additionally, the measure requires the Securities and Exchange Commission (SEC) to alter its BDC regulations to make it easier for small and medium-sized businesses to access capital.

A business development company (BDC) is an organization that invests in and helps small and medium-size companies grow in the initial stages of their development. In addition to spurring investment in privately owned small and mid-sized American companies, BDCs provide opportunities for smaller, non-accredited investors to invest in startup companies.

Environment and Energy Issues

Wildfires

- The Omnibus bill creates a \$2.19 billion off-budget disaster fund for wildfires in 2020, which would grow to \$2.95 billion by 2027. Lawmakers also agreed to devote an additional \$500 million a year to wildfire management in 2018 and 2019, until the new arrangement takes effect. Overall, the Forest Service would receive \$6 billion this fiscal year, including \$2.8 billion for wildfire management.
- The bill also provides more flexibility to allow forest thinning in areas the Forest Service considers a wildfire risk. It gives the Forest Service more flexibility to move ahead with such projects while sorting out issues around the ESA. It also provides for categorical exclusions for removal of hazardous fuels in national forests from the National Environmental Policy Act, covering up to 3,000 acres.

Federal Housing Issues

Community Development Block Grants

- The bill provides for \$3.3 billion to Community Development Block Grant (CDBG) program, a \$305 million increase from 2017. CDBG funds are used by local governments to address affordable housing, job creation and other economic issues facing their communities.

HOME Investment Partnerships

- The bill provides almost \$1.4 billion for the HOME Investment Partnerships program, a \$412 million increase from 2017. HOME funding provides grants to state and local governments to produce affordable housing for low-income families. Eligible uses of HOME include down payment assistance, rental assistance, rehabilitation of affordable housing, and development.

Lead Hazard Reduction

- The bill provides \$230 million for the U.S. Department of Housing and Urban Development's (HUD) Lead Hazard Reduction Program and Health Homes Initiative, an \$85 million increase from 2017. These programs provide funding to state and local governments to reduce lead based hazards and promote health and safety for children and families in their homes.

Federal Tax

Low-Income Housing Tax Credit (LIHTC)

- The Omnibus makes significant improvements to the LIHTC. NAR, as a key part of a larger coalition, fought for those improvements. The changes were supported by both Democrats and Republicans.
- The improvements, which include a 12.5 percent increase in the dollar amounts of the LIHTC authority for calendar years 2018 through 2021 as well a change in the average

income test, are viewed as the most important housing legislation in years. They should result in hundreds of thousands of new affordable housing units built throughout the country.

- These improvements will help alleviate the weakening of the credit that occurred from last year's tax reform bill. That legislation lowered the corporate tax rate from 35 percent to 21 percent, thus greatly weakening the incentive value of the LIHTC.

Flood Insurance:

- Includes a National Flood Insurance Program extension until July 31, 2018. This avoids another lapse of the program and adds several more months for the Senate to act on the 5-year reauthorization and reform legislation adopted by the House last November.
- Doubles funding for flood mapping to \$263 million, up from \$177 million in the previous year and more than a 150-percent increase over the Administration's request earlier this year.
- Multiplies pre-disaster mitigation grant funding by 2.5 times (from \$100 million to \$249 million); these grants can be used for the flood proofing, elevation and strengthening of properties against future floods.
- Provides an additional \$175 million specifically for the flood mitigation, proofing, elevation, etc. of private property under the NFIP.
- Maintains funding for the Office of the Flood Insurance Consumer Advocate at \$5 million to assist homeowners with their concerns over flood mapping and/or insurance ratings.

Transportation Funding

- The Department of Transportation (DOT) will receive a total of \$86.2 billion to improve the nation's transportation infrastructure in fiscal year 2018. This includes an increase of \$8.7 billion in discretionary appropriations for fiscal year 2018 over 2017.
- Highways receive a total of \$45 billion from Highway Trust Fund, as authorized under the FAST Act (Fixing America's Surface Transportation adopted in 2015).
- Transportation Investments Generating Economic Recovery (TIGER grants), \$1.5 billion for state and local projects that are multimodal (more than one transportation option, increasing connectivity). Projects approved are merit-based and intended to improve a community's economic competitiveness. These grants are discretionary and require Congress to appropriate funding each year.
- Rail is funded at \$3.1 billion for Amtrak, rail safety and improvements.
- Transit will receive a total of \$13.5 billion for building, maintaining and ensuring safety on mass transit systems at the local level.
- Maritime will receive \$980 million for increased productivity and efficiency for the nation's ports.
- Road safety is included at \$947 million for the National Highway Traffic Safety Administration to conduct research and development of technology to save lives.