



# Issue Fact Sheet

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## ENERGY POLICY AND THE APARTMENT INDUSTRY

Energy consumption and energy policy are priority issues for the apartment sector. Apartment owners have a significant business interest in reducing the energy costs of operating apartment communities and ensuring that housing remains affordable for residents. As such, many apartment firms have voluntarily established energy efficiency and green building programs throughout their portfolios.

In addition, apartments are a low-cost resource in our drive to reduce energy use. Data from the U.S. Energy Information Administration consistently shows that people living in apartments use less energy per household and per household member than their counterparts in single-family houses. This reflects certain efficiencies inherent in the design and operation of multifamily buildings including compact design, small unit size and limited exterior openings and exposures.

Recent legislative efforts, however, have focused on reducing energy consumption through aggressive building code mandates. These proposals would require all buildings to exceed existing energy code measures by 30% to 50%. This one-size-fits-all legislative approach fails to consider the distinct characteristics of the multifamily sector and will have the direct consequence of exacerbating the shortage of affordable apartment housing.

Unrealistic energy performance standards will quell rehab and upgrade of many existing properties and similarly impact new construction. It is important to note that more than **half of the energy used in apartments falls outside the scope of building codes, so a 30% more efficient building code does not translate into a 30% decrease in energy usage on the property overall.** A codes-based approach to energy conservation puts extreme pressure on apartment firms to invest in very expensive upgrades—costs that have to be passed on to residents—while leaving the vast majority of building energy use unaffected.

Moreover, these proposals represent a problematic federalization of building codes, including a scheme for federal enforcement and federal penalties for code non-compliance. This undermines today's jurisdictional system of code adoption, which provides state and local governments the flexibility to be responsive to individual community needs.

A more effective approach is to incentivize energy efficiency upgrades in new and existing buildings, spurring the renovation of older, inefficient housing, creating jobs for the construction and manufacturing industries and helping apartment residents manage energy costs.

To the extent that lawmakers seek to establish environmental performance benchmarks for apartment properties in incentive and other federal programs, NMHC/NAA believe the American National Standards Institute-approved National Green Building Standard (NGBS) is the most appropriate standard for residential construction. The NGBS was developed by a diverse group of stakeholders that included state and local building code officials, representatives of the U.S. Green Building Council, real estate industry representatives, product manufacturers and other experts in green building and energy efficiency. Moreover, the standard, which covers multifamily, single-family and mixed-use development, is the only residential standard written to be seamlessly incorporated into existing building codes, and it has followed the strict standard-setting procedures established by the American National Standards Institute.

### NMHC/NAA Position

- NMHC/NAA support a comprehensive national energy policy that incorporates energy efficiency, sustainable land use, transportation and long-term fuel production. In the residential sector, policies promoting density, smart growth, resource conservation and robust operations and maintenance practices are all significant pathways to building sustainability.
- We believe that economic recovery and job creation programs targeting energy consumption in buildings should include multifamily properties, given that energy improvements to apartments can generate significant energy savings

and impact a large number of households.

- We oppose policies that seek to establish arbitrary energy efficiency targets that have not been found to be economically sound and technically feasible. Instead, we support research, development and demonstration projects aimed at next-generation building materials, systems and technologies to improve the building stock. Further, the development and adoption of building codes should remain at the discretion of state and local governments without undue federal regulation.
- We support the creation of meaningful financial incentives that can spur the adoption of energy efficiency technologies and practices in new and existing buildings. Favorable tax treatment, including an enhanced depreciation schedule for certain building systems and an extension and expansion of the energy-efficient new homes and commercial buildings tax provisions, would assist property owners who do not have the capital resources necessary to improve the energy performance of their assets. This is even more important as the current financial crisis impacts property values and makes it more difficult for owners to access capital.
- NMHC/NAA caution against the development of building performance labeling programs for estimated energy use, which raise valuation concerns and transactional uncertainty. Instead, we believe that reinvestment in the Energy Star program and Department of Energy's (DOE) research and development efforts within the Building Technologies Program are more effective and resource-efficient paths to achieving federal efficiency goals.

### **Current Status**

Energy issues continue to be a focus of Congressional attention, but deep ideological divides concerning energy production, climate change and subsidies have stymied progress on most legislative efforts. However, the Senate Energy and Natural Resources Committee approved a broad package of energy bills in July 2011, including the Energy Savings and Industrial Competitiveness Act of 2011 (S. 1000). The measure includes real estate industry-opposed building code language directing DOE to establish building efficiency targets and requiring states to certify their compliance with new federal standards. S. 1000 is significantly improved over comparable bills considered in the last Congress, most notably in that it does not mandate 30 percent to 50 percent building performance improvements relative to a specific version of the building code. Language establishing a "zero net energy" building performance goal was also removed.

In light of Congressional inaction, the Administration is moving forward with numerous policy initiatives through regulatory action. In August 2011, DOE announced the introduction of a National Asset Rating Program for Commercial Buildings (AR Program), which will rate new and existing buildings based on their expected energy performance. While voluntary energy efficiency and benchmarking programs like EPA's Energy Star can serve as effective energy management tools, the AR Program is specifically designed to impact valuation and transactional decisions. In September, NMHC/NAA joined other real estate industry groups in submitting comments to DOE questioning the market need for another energy measurement program when numerous well-established governmental and private-sector programs already exist, such as EPA's Energy Star. We also cautioned against a program based on predicted energy use that fails to incorporate operational considerations or actual utility data.

### **Relevant Committees**

Senate Energy and Natural Resources  
House Energy and Commerce  
House Financial Services

Senate Environment and Public Works  
House Ways and Means  
House Appropriations

### **Contact Information**

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