



Insights

The 21st Century ROAD to Housing Act: What the Institutional Investor Cap Means for Single-Family and Build-to-Rent Pipelines

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Congress has passed the 21st Century ROAD to Housing Act, a broad bipartisan housing package aimed at increasing housing supply while limiting certain additional acquisitions of single-family homes by large institutional investors. As of June 30, 2026, the bill remained pending presidential action and had not yet become law. The Senate passed the bill by an 85-5 vote on June 22, 2026, and the House followed with a 358-32 vote on June 23, 2026.

For developers, homebuilders, lenders, and institutional capital providers, the legislation is less a broad prohibition on institutional participation in residential housing than a reorientation of where that participation may occur. The proposed acquisition restriction focuses on existing single-family inventory, while the final version preserves significant room for newly constructed housing and build-to-rent projects. In practical terms, the Act would make transaction classification, project documentation, and pipeline planning more important – not less.

The 350-Home Threshold and the New Construction Distinction

The Act would restrict additional purchases of single-family homes by large institutional investors that directly or indirectly own at least 350 single-family homes. The legislation includes exemptions for large institutional investors seeking to purchase or build new single-family homes specifically for the rental market.

That distinction is central. The legislation is designed to limit institutional competition for existing single-family housing stock, not to shut institutional capital out of new residential production. Accordingly,

developers and investors should expect greater scrutiny around whether a transaction involves existing homes, newly constructed homes, a qualifying build-to-rent community, or another exempt category.

The legal analysis should begin early in the deal cycle. Purchase agreements, forward-sale arrangements, option structures, joint venture documents, and lender diligence packages should be drafted with the classification issue in mind. A project's treatment under the Act should not be reconstructed for the first time two days before closing, when the closing checklist is already being held together by redlines and caffeine.

Preservation of the Build-to-Rent Model

The final legislation appears meaningfully narrower than earlier Senate proposals that generated concern among build-to-rent participants. Earlier versions included a seven-year disposition concept affecting certain institutional investor holdings, while the final version includes an exception for build-to-rent properties and does not impose the same forced disposition requirement.

That change matters. Build-to-rent projects often depend on institutional take-out commitments, forward-purchase structures, programmatic joint ventures, and lender underwriting assumptions tied to stabilized ownership or exit certainty. By preserving an avenue for institutional investment in newly constructed rental housing, the final bill reduces – but does not eliminate – the risk that federal acquisition restrictions could disrupt build-to-rent capital formation.

Market participants should nevertheless avoid reading the exemption too broadly until final statutory text, agency guidance, and implementation practices are reviewed. Questions may remain regarding aggregation of ownership, indirect control, affiliate structures, mixed owner-occupied and renter-occupied communities, staged closings, bulk acquisitions, and the treatment of partially completed or phased projects. Those issues are manageable, but they should be addressed in the documents rather than left to implication.

Incentivizing the Production and Construction of Manufactured Housing Product Types

One significant thrust of the Act is to encourage the production, construction and availability of manufactured and modular housing, an important and largely underutilized product type for large-scale residential developers and investors.

“Manufactured homes” are typically defined as homes built on a permanent chassis attached to a permanent foundation system and are constructed faster and more cheaply than traditional homes.

In an effort to minimize the cost and uncertainty associated with the construction, entitlement and financing of manufactured and modular housing projects, the Act will streamline or, in some instances, reduce state agency review and local regulatory requirements, update federal technical definitions and guidelines and increase federal and local grant programs and infrastructure assistance associated with manufactured and modular home development.

While these projects might have previously proved too bureaucratically burdensome to be worth the effort, residential developers should seriously consider whether new applicable financing programs and federal guidelines oriented toward incentivizing manufactured and modular housing projects might benefit the near and long-term construction and acquisition strategy.

Practical Planning Considerations

Developers, investors, lenders, and sponsors should consider the following steps as the legislation moves toward enactment and implementation:

- **Review forward-purchase and take-out commitments.** Existing contracts with institutional buyers should be reviewed for closing timing, inventory classification, buyer eligibility, compliance representations, conditions precedent, and remedies if a buyer's status changes before closing.
- **Confirm pipeline classification.** Project phases should be evaluated to determine whether they are positioned as new construction, build-to-rent, existing-home acquisitions, or another potentially exempt category. Where classification depends on facts developed over time, documentation should preserve that record.
- **Evaluate ownership and control aggregation.** Institutional investors should examine how the Act may treat affiliates, funds, managers, joint ventures, controlled entities, and indirect ownership structures. The 350-home threshold may require a more integrated view of holdings than a simple property-level count.
- **Update diligence protocols.** Lenders and equity partners should incorporate the Act into buyer diligence, borrower representations, closing deliverables, and default analysis where a transaction depends on an institutional acquisition or forward-sale strategy.
- **Monitor agency implementation and local incentives.** The Act contains broader housing-supply measures, including provisions involving planning, environmental review, housing production frameworks, and local government incentives. The practical value of those measures will depend on implementation, appropriations, local uptake, and market conditions.

Commercial Implications

The Act may encourage institutional capital to focus more deliberately on new supply, particularly where developers can offer scalable build-to-rent projects, phased deliveries, and clear exemption support. That could benefit sponsors with entitled land, repeatable product, established municipal relationships, and financing structures capable of absorbing longer development timelines.

At the same time, the legislation should not be read as a near-term cure for housing affordability or supply constraints. Its ultimate effects will depend on interest rates, construction costs, labor availability, land-use approvals, local infrastructure capacity, agency guidance, and investor behavior. Empirical evidence regarding the market effects of institutional ownership restrictions remains a developing area, and the practical consequences of the Act will become clearer only after implementation and market adaptation.

For now, the principal takeaway is straightforward: the Act does not appear to end institutional participation in single-family residential investment, but it would require more careful structuring. Developers and investors with existing-home acquisition strategies should reassess exposure. Those focused on new construction and build-to-rent should evaluate how to document eligibility, preserve flexibility, and align capital commitments with the Act's likely compliance framework.

**Gabriella Carlson, a summer law clerk, assisted with this article.*