

PRESERVATION APPROVAL PROCESS IMPROVEMENT
 ACT OF 2007

APRIL 23, 2007.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial
 Services, submitted the following

R E P O R T

[To accompany H.R. 1675]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1675) to suspend the requirements of the Department of Housing and Urban Development regarding electronic filing of previous participation certificates and regarding filing of such certificates with respect to certain low-income housing investors, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

| | Page |
|---|------|
| Purpose and Summary | 2 |
| Background and Need for Legislation | 2 |
| Hearings | 2 |
| Committee Consideration | 2 |
| Committee Votes | 3 |
| Committee Oversight Findings | 3 |
| Performance Goals and Objectives | 3 |
| New Budget Authority, Entitlement Authority, and Tax Expenditures | 3 |
| Committee Cost Estimate | 3 |
| Congressional Budget Office Estimate | 3 |
| Federal Mandates Statement | 4 |
| Advisory Committee Statement | 4 |
| Constitutional Authority Statement | 4 |
| Applicability to Legislative Branch | 4 |
| Earmark Identification | 5 |
| Section-by-Section Analysis of the Legislation | 5 |

PURPOSE AND SUMMARY

H.R. 1675, the Preservation Approval Process Improvement Act of 2007, removes regulatory hurdles in the approval process for participation in Department of Housing and Urban Development (HUD) affordable housing programs for privately owned multi-family rental housing. The approval process for participation in these programs is executed pursuant to the HUD 2530 filing process, commonly known as the “rule 2530.”

The bill suspends a newly implemented mandatory electronic rule 2530 filing system at HUD until HUD eliminates unnecessary burdens and disincentives (many of which are caused by the electronic filing system) in proposed draft regulations for rule 2530, and HUD submits revised proposed regulations for rule 2530 to Congress. The bill also suspends disclosure requirements for passive investors participating in HUD multi-family rental housing programs through the use of the low income housing tax credits.

BACKGROUND AND NEED FOR LEGISLATION

The rule 2530 filing and approval process for participating in HUD multi-family rental housing programs has become over-regulated. Under the 2530 process, “owner” participants in such programs, including the officers, directors, and stockholders of private companies participating, are required to submit, among other information, their names and social security number, as well as information on any prior participation with HUD, to assess whether these participants have previously carried out their obligations in constructing, maintaining, and operating the property built with HUD program money. The 2530 process also covers corporate “passive investor” participants who are not involved in the construction, maintenance, or operation of the property.

When HUD instituted a mandatory electronic filing system for filing and processing the paperwork last summer, all flexibility in the process was lost. Owners and investors in HUD program deals have become caught up in a mandatory electronic filing system that prevents deals from moving forward by requesting too much information and not providing for any explanation of information that is not per se satisfactory. Passive investors with low income housing tax credits were investing less or not investing at all due to the onerous disclosure requirements—requirements that should only apply to the entities/people with actual operational control over the projects. H.R. 1675 addresses these two issues by suspending the mandatory electronic filing system until HUD works out the flaws and reports to Congress, and by suspending the disclosure requirements for passive investors.

HEARINGS

No hearings were held on this legislation in the 110th Congress.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on March 29, 2007, and ordered H.R. 1675 reported by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 1675, the Preservation Approval Process Improvement Act of 2007, reduces the regulatory burden for participation in HUD multi-family rental housing programs, with the goal to provide for an improved approval process (through rule 2530) for participants in HUD multi-family rental housing programs in order to preserve and create more affordable housing.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 4, 2007.

Hon. BARNEY FRANK,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1675, the Preservation Approval Process Improvement Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Chad Chirico.

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 1675—Preservation Approval Process Improvement Act of 2007

H.R. 1675 would suspend the Department of Housing and Urban Development's (HUD's) requirements regarding electronic filing of Previous Participation Certificates for certain investors in low-income housing. It would allow paper filing of such certificates until HUD revises its regulations for electronic filing.

Previous Participation Certificates are completed by all parties applying to become principal investors in multifamily housing projects subsidized or insured by HUD. The certificates detail investors' previous involvement with multifamily projects subsidized or insured by HUD, the Department of Agriculture, or state and local housing finance agencies.

CBO estimates that implementing H.R. 1675 would have no significant effect on the federal budget and would not affect direct spending or revenues.

H.R. 1675 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Chad Chirico. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 1675 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the “Preservation Approval Process Improvement Act of 2007”.

Section 2. Suspension of electronic filing requirement

Requires the Department of Housing and Urban Development (“HUD”) to suspend the mandatory electronic filing system for participation in HUD multi-family rental housing programs (known as “rule 2530”) until HUD addresses concerns regarding proposed regulations on rule 2530, and reports to Congress on changes to the proposed regulations.

Requires HUD to suspend the disclosure requirements under rule 2530 for passive investors participating in HUD multi-family rental housing programs through use of low income housing tax credits.