

KEEPING FAMILIES TOGETHER ACT OF 2019

SEPTEMBER 6, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2763]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2763) to prohibit the Secretary of Housing and Urban Development from implementing certain rules, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Keeping Families Together Act of 2019”.

SEC. 2. PROHIBITION.

The Secretary of Housing and Urban Development may not implement, administer, enforce, or in any manner make effective the proposed rule entitled “Housing and Community Development Act of 1980: Verification of Eligible Status”, issued by the Department of Housing and Urban Development on May 10, 2019 (Docket No. FR–6124–P–01), or any final rule based substantially on such proposed rule.

PURPOSE AND SUMMARY

On May 15, 2019, Rep. Sylvia Garcia introduced H.R. 2763, the “Keeping Families Together Act,” which would prohibit the Secretary of Housing and Urban Development (HUD) from implementing a proposed rule that would require every member of a household living in public housing or receiving Section 8 project-based rental assistance or a Housing Choice Voucher to be a U.S. citizen or eligible noncitizen.

BACKGROUND AND NEED FOR LEGISLATION

Under current law, only U.S. citizens and a subset of legally present noncitizens are eligible for federal housing assistance. Longstanding HUD policies allow families that have members with mixed immigration statuses to live under the same roof through prorated rental assistance calculations to ensure that only eligible family members receive rental assistance. For example, if a family consisting of two parents and one child receives a Housing Choice Voucher, but only one parent and the child are U.S. citizens while the second parent does not have eligible immigration status, the family of three’s rent would be calculated to fully account for the incomes of both parents and then prorated to only provide subsidy for the two qualifying family members. As a result, the family would pay a higher rent than an otherwise identical family of three in which all members had eligible immigration status.

On April 10, 2018, President Trump issued an Executive Order calling for agencies to “adopt policies to ensure that only eligible persons receive benefits and enforce all relevant laws providing that aliens who are not otherwise qualified and eligible may not receive benefits.” Despite existing HUD policies described above that ensure that individuals without eligible immigration status do not receive rental subsidies, on May 10, 2019, HUD released a proposed rule to require that every member of a household receiving public housing, Section 8 project-based rental assistance or Housing Choice Vouchers be a U.S. citizen or eligible noncitizen. HUD’s own Regulatory Impact Analysis acknowledges that implementation of the proposed rule would result in evictions, homelessness, and family separation primarily for U.S. citizens and eligible noncitizens. HUD also acknowledges that implementation of the proposed rule would result in increased costs for HUD, and without additional resources to offset those costs, HUD would have to serve less families overall and also reduce the quality of housing for existing residents.

H.R. 2763 would prohibit HUD from implementing, administering, enforcing, or in any manner making effective this proposed rule, or any final rule based substantially on the proposed

rule. Section 234 of the FY2020 Transportation, Housing, and Urban Development appropriations bill includes similar language to block the administration's rule change.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that the title of the bill is the Keeping Families Together Act.

Section 2. Prohibition

This section prohibits the Secretary of HUD from implementing, administering, enforcing, or in any manner making effective the proposed rule entitled "Housing and Community Development Act of 1980: Verification of Eligible Status," issued by HUD on May 10, 2019 (Docket No. FR-6124-P-01), or any final rule based substantially on such proposed rule.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 for the 116th Congress, the Committee on Financial Services held a hearing to consider H.R. 2763 entitled, "Housing in America: Oversight of the U.S. Department of Housing and Urban Development" on May 16, 2019. Testifying before the Committee was Dr. Ben Carson, Secretary of HUD.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 11, 2019 and ordered H.R. 2763 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 32 yeas and 26 nays, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 2763.

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>	X	
	Mrs. Maloney	X	
	Ms. Velázquez	X	
	Mr. Sherman	X	
	Mr. Meeks	X	
	Mr. Clay	X	
	Mr. Scott	X	
	Mr. Green	X	
	Mr. Cleaver	X	
	Mr. Perlmutter	X	
	Mr. Himes	X	
	Mr. Foster	X	
	Mrs. Beatty	X	
	Mr. Heck	X	
	Mr. Vargas	X	
	Mr. Gottheimer	X	
	Mr. Gonzalez (TX)	X	
	Mr. Lawson	X	
	Mr. San Nicolas		
	Ms. Tlaib	X	
	Ms. Porter	X	
	Ms. Axne	X	
	Mr. Casten	X	
	Ms. Pressley	X	
	Mr. McAdams	X	
	Ms. Ocasio-Cortez	X	
	Ms. Wexton	X	
	Mr. Lynch	X	
	Ms. Gabbard		
	Ms. Adams	X	
	Ms. Dean	X	
	Mr. Garcia (IL)	X	
	Ms. Garcia (TX)	X	
	Mr. Phillips	X	
32			
	Mr. McHenry, <i>Ranking Member</i>	X	
	Ms. Wagner	X	
	Mr. King	X	
	Mr. Lucas	X	
	Mr. Posey	X	
	Mr. Luetkemeyer	X	
	Mr. Huizenga	X	
	Mr. Duffy	X	
	Mr. Stivers	X	
	Mr. Barr	X	
	Mr. Tipton	X	
	Mr. Williams	X	
	Mr. Hill	X	
	Mr. Emmer	X	
	Mr. Zeldin	X	
	Mr. Loudermilk	X	
	Mr. Mooney	X	
	Mr. Davidson	X	
	Mr. Budd	X	
	Mr. Kustoff	X	
	Mr. Hollingsworth	X	
	Mr. Gonzalez (OH)	X	
	Mr. Rose	X	
	Mr. Steil	X	
	Mr. Gooden	X	
	Mr. Riggleman	X	
26			

Committee on Financial Services
Full Committee
116th Congress (1st Session)

Date: 6/12/2019

Measure: Final passage of H.R. 2763, as amended

Amendment No. _____

Offered by: _____

Agreed To	Yes	No	Prsnt	Wdm
Voice Vote	Ayes		Nays	

Record Vote	FC
	32 Ayes-26 Noes

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE
COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 2763 are to prohibit HUD from implementing, administering, enforcing, or in any manner making effective its proposed rule terminating housing benefits for families with mixed-immigration status, and resulting in evictions and family separations.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 2763 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 20, 2019.

Hon. MAXINE WATERS,
*Chairwoman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2763, the Keeping Families Together Act of 2019.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance			
H.R. 2763, Keeping Families Together Act of 2019			
As ordered reported by the House Committee on Financial Services on June 11, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	2,192	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
The bill would			
<ul style="list-style-type: none"> Prevent the Department of Housing and Urban Development from implementing a proposed rule that would make the following individuals ineligible to live in a household that receives housing assistance: <ul style="list-style-type: none"> Individuals who do not submit documentation of citizenship or immigration status Individuals who are ineligible because of their immigration status 			
Estimated budgetary effects would primarily stem from			
<ul style="list-style-type: none"> Maintaining eligibility for housing assistance for certain households 			
Areas of significant uncertainty include			
<ul style="list-style-type: none"> Accurately estimating the share of individuals that lack documentation of citizenship or immigration status Accurately estimating the number of households with both eligible and ineligible members that would maintain assistance 			
Detailed estimate begins on the next page.			

Bill summary: H.R. 2763 would prevent a proposed rule from taking effect; under current law that rule would require all members of a household to be eligible for housing assistance based on each member's citizenship or immigration status, and to submit documentation thereof, in order for the household to receive assistance.

Estimated Federal cost: CBO estimates that implementing H.R. 2763 would cost \$2.2 billion over the 2010–2024 period, assuming appropriations of the necessary amounts. The costs of the legislation fall within budget function 600 (income security).

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the end of 2019 and that the estimated amounts will be appropriated for each fiscal year beginning in 2020. Estimated outlays are based on historical patterns for existing and similar activities.

CBO estimates that under current law implementing the proposed rule in full (Housing and Community Development Act of 1980: Verification of Eligible Status) would reduce spending subject to appropriation by \$4.4 billion over the 2019–2024 period (see Table 1). Because that rule is proposed and not yet final, CBO assumes that there is a 50 percent chance that the rule will take effect; therefore, CBO estimates that by preventing the rule from going into effect, implementing H.R. 2763 would cost about \$2.2

billion over the 2019–2024 period, assuming appropriation of the estimated amounts (see Table 2).

TABLE 1.—ESTIMATED EFFECT ON PROGRAM OUTLAYS UNDER CURRENT LAW IF THE PROPOSED RULE WERE FULLY IMPLEMENTED

	By fiscal year, millions of dollars—						2019–2024
	2019	2020	2021	2022	2023	2024	
Documentation Requirement	0	–100	–582	–1,040	–1,062	–1,084	–3,868
Ineligible Households	0	–14	–81	–145	–148	–151	–539
Ineligible Members	0	0	2	3	3	3	11
Administrative Costs	0	1	1	4	3	3	12
Total Changes	0	–113	–660	–1,178	–1,204	–1,229	4,384

TABLE 2.—ESTIMATED CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2763 ^a

	By fiscal year, millions of dollars—						2019–2024	
	2019	2020	2021	2022	2023	2024		
Total Changes:								
Estimated Authorization		0	57	330	589	602	615	2,192
Estimated Outlays		0	57	330	589	602	615	2,192
Details may not sum to totals because of rounding.								

^a Estimate assumes a 50 percent probability that the proposed rule would be implemented under current law. Thus, the bill's costs equal 50 percent of the costs shown in Table 1.

Background: H.R. 2763 would prevent the Department of Housing and Urban Development (HUD) from implementing the proposed rule entitled, “Housing and Community Development Act of 1980: Verification of Eligible Status,” which was published on May 10, 2019. That rule would require all members of a household participating in HUD’s assisted housing programs to be U.S. citizens, U.S. nationals, or to have eligible immigration status. Noncitizens who would be eligible include lawful permanent residents, refugees, asylees, some nonimmigrants who are temporarily admitted into the United States, and some aliens whose orders of removal are withheld.

The rule also would require each member of a household to submit documentation of citizenship or immigration status to public housing authorities (PHAs) when the household applies for assistance. Households that are currently receiving assistance would be required to submit such documentation at the time of their annual income reexamination.

CBO estimates the budgetary effects of legislation that affects spending subject to appropriation relative to current law; in addition CBO’s estimate of the level of spending for the assisted housing programs under current law accounts for 50 percent of the impact of the proposed rule. Thus, this estimate of preventing the rule from taking effect reflects 50 percent of the full estimated costs of preventing implementation.

The proposed rule would allow PHAs to delay terminating a household’s assistance for up to 18 months if that household is unable to find housing that is appropriately sized, relatively affordable, and not substandard. The extent to which households would request—and PHAs would grant—such delays depends on a variety of factors that are uncertain including the availability of alternative housing, the ability and willingness of households to move,

and the timing of moves. Because CBO has no information on what the outcome of those decisions would be, CBO assumes that households whose assistance would end at the time of their annual reexamination and those that would be granted 6, 12, and 18-month delays are evenly distributed.

Effect of implementing proposed rule: This section describes CBO's estimate of the cost to fully implement the proposed rule. CBO's estimate of the budgetary effect of H.R. 2763 is based on 50 percent of that cost.

Documentation requirement. Under current law, the proposed rule would require each member of an assisted household to submit documentation of citizenship or immigration status. Based on data from HUD, research on state experiences with Medicaid enrollment following implementation of a documentation requirement, and research on the share of low-income households that do not have documentation of their citizenship, CBO estimates that about 130,000 households would not submit documentation and would be ineligible for assistance by 2022. Based on data from HUD, CBO estimates that, on average, those households would receive assistance of about \$9,300 annually in fiscal year 2022. In total, CBO estimates that implementing the documentation requirement would reduce program costs by \$3.9 billion over the 2019–2024 period.

Ineligible Households. The proposed rule would prohibit households with both eligible members and members that are ineligible based on their citizenship or immigration status to receive housing assistance. Under the proposed rule, CBO expects that households with ineligible heads of household, spouses, or children would stop receiving assistance in order to keep the household together. Based on data provided by HUD, CBO estimates that approximately 23,000 such households would be ineligible for assistance by the end of fiscal year 2022 and that those households would receive an average subsidy of \$7,900 in that year. In total, CBO estimates that terminating assistance for those households would reduce program costs by \$539 million over the 2019–2024 period.

Ineligible Members. The proposed rule would not allow people who are ineligible for housing assistance based on their citizenship or immigration status to live in households with eligible members. Under the proposed rule, CBO expects that ineligible adults who are not heads of household or spouses would leave the household and that the remaining members would continue to receive assistance. Households that receive housing assistance pay a portion of their income—usually about 30 percent of their adjusted household income—for rent. Based on data from HUD, CBO estimates that ineligible adults contributed about \$6,000 a year to their household income in 2019, on average. Consequently, the rent that households pay would decrease when the ineligible members leave and the subsidy would be adjusted upward.

Based on data from HUD, CBO estimates that about 1,900 households would have ineligible members that would leave the household and that those households would receive an annual subsidy that was \$1,910 higher, on average, in fiscal year 2022. In total, CBO estimates that program costs would increase by \$11 million over the 2019–2024 period as a result of ineligible individuals leaving their households.

Administrative costs. CBO expects that PHAs would incur a number of administrative costs to implement the proposed rule. Specifically, PHAs would incur costs to assist households to obtain citizenship or immigration documents, train staff about acceptable forms of documentation, and verify immigration status in a federal database. Based on information from PHAs about the costs of similar activities, CBO estimates that those costs would total \$3 million over the 2020–2022 period but that they would not be significant after 2022.

In addition, CBO expects that HUD would evict a small number of households in order to enforce the proposed rule. CBO assumes that the evictions would not be contested; consequently, the costs of evictions could include court, law enforcement, and minor legal fees. Based on information from HUD about eviction rates following implementation of a smoking ban, and information from industry sources on formal eviction rates, CBO estimates that about 10 percent of mixed-status households and households that lack documentation—or about 16,000 households—would be formally evicted by 2024. Based on information from HUD and industry sources about the cost of a formal eviction, CBO estimates that those costs would be about \$650 per household in that year. In total, CBO estimates that the cost to carry out evictions under the proposed rule would total \$9 million over the 2022–2024 period.

Uncertainty: CBO has identified several areas of significant uncertainty with respect to our estimates of the costs of implementing H.R. 2763. For example, we do not have good information about the share of assisted households that lack documentation of citizenship status or the extent to which households would acquire such documentation in order to avoid losing assistance. How households would respond to the requirement that all members of a household be eligible based on citizenship or immigration status for any member of the household to participate in HUD’s assisted housing programs is also difficult to predict. If ineligible heads of household, spouses, or children leave the household in order to prevent the loss of assistance, the estimated costs of implementing H.R. 2763 would be lower than estimated.

Pay-As-You-Go considerations: None.

Increase in long-term deficits: None.

Mandates: None.

Estimate prepared by: Federal costs: Elizabeth Cove Delisle, Mandates: Rachel Austin.

Estimate reviewed by: Sheila Dacey, Chief, Income Security and Education Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis; Theresa Gullo, Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 2763. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 2763, as amended, prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

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

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104-1, H.R. 2763, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives H.R. 2763 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 2763 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 2763, as reported, does not contain any changes to existing law.

MINORITY VIEWS

In May of 2019, the U.S. Department of Housing and Urban Development (HUD) published a proposed rule that limits housing assistance only to legal U.S. residents and certain lawful aliens. The intent of the proposed rule is to conform agency practice to current law. Under the rule HUD would be required to verify the eligible immigration status of all non-exempt recipients in each assisted household. Committee Republicans believe that by blocking this rule from taking effect, H.R. 2763, the *Keeping Families Together Act of 2019*, would prohibit HUD from following the law as it is currently written and ultimately deny housing assistance to eligible recipients currently placed on waiting lists.

Under Section 214 of the Housing and Community Development act of 1980, HUD is required to verify the immigration status of recipients to ensure housing assistance is not provided to those who are in the country unlawfully. The law does, however, provide for two exceptions. First, HUD does not verify the immigration status of those who are age 62 or older. The second exception is for those families who were grandfathered in for the continuation of housing assistance they were already receiving prior to 1988. All other recipients are required to verify the eligibility status of each member of their household. However, some recipients have been exploiting a loophole in the current regulations by electing not to contend eligible immigration status for one or more members of their household and, therefore, not submitting any verification documentation for those persons. As a result, by evading compliance with the requirements of Section 214, those households have been allowed to continue receiving assistance for which they are not legally entitled. HUD has a legal obligation to enforce the law, which is what the proposed rule would do by closing that loophole and requiring the verification of eligibility status for all non-exempt housing assistance recipients.

HUD's proposed rule was carefully drafted not to create needless disruption for those individuals determined to be in violation of the law. Individuals who are ineligible for housing assistance would have 18 months to find non-federal assistance to pay their rent, or to find non-federal housing into which they could move. Currently, it is estimated that there are approximately 32,000 HUD assisted households headed by ineligible individuals. Requiring those households to follow the law would free up assistance for many of the eligible individuals who have been placed on years-long waitlists for housing assistance to which they are legally entitled.

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