

107TH CONGRESS
2D SESSION

S. 2967

To promote the production of affordable low-income housing.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2002

Mr. BOND (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To promote the production of affordable low-income housing.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Affordable Housing
5 Expansion Act of 2002”.

6 **SEC. 2. PURPOSE.**

7 The purposes of this Act are to expand the produc-
8 tion of affordable low income housing for extremely
9 low-, very low-, and low-income families—

1 (1) through the creation of a housing produc-
2 tion block grant program that will be administered
3 through state housing finance agencies;

4 (2) through new section 8 “thrifty” voucher au-
5 thority; and

6 (3) through new loan guarantee authority for
7 public housing agencies.

8 **SEC. 3. DEFINITIONS.**

9 For purposes of this Act, the following definitions
10 shall apply:

11 (1) The term “extremely low-income families”
12 shall mean persons and families (as that term is de-
13 fined in section 3(b)(3) of the United States Hous-
14 ing Act of 1937) whose incomes do not exceed—

15 (A) 30 percent of the area medium as de-
16 termined by the Secretary with adjustments for
17 smaller and larger families and for unusually
18 high or low family incomes; or

19 (B) 30 percent of the national nonmetro-
20 politan medium income, if it is higher than the
21 area medium income.

22 (2) The term “insular areas” shall mean the
23 Commonwealth of the Northern Mariana Islands,
24 Guam, the Virgin Islands, American Samoa, and any
25 other territory of possession of the United States.

1 (3) The term “low-income families” shall have
2 the same meaning as provided under section 3(b)(2)
3 of the United States Housing Act of 1937.

4 (4) The term “project-based assistance” shall
5 have the meaning given such term in section
6 16(c)(6) of the United States Housing Act of 1937,
7 except that such term includes assistance under any
8 successor programs to the programs referred to in
9 such section.

10 (5) The term “public housing agency” shall
11 have the meaning given such term in section 3(b) of
12 the United States Housing Act of 1937.

13 (6) The term “Secretary” shall mean the Sec-
14 retary of Housing and Urban Development.

15 (7) The term “section 8 assistance” or “vouch-
16 er” shall have the meaning given such term in sec-
17 tion 8(f) of the United States Housing Act of 1937.

18 (8) The term “State” shall mean any State of
19 the United States, the District of Columbia, and the
20 Commonwealth of Puerto Rico.

21 (9) The term “State housing finance agency”
22 shall mean any State or local housing finance agency
23 that has been designated by a State or insular area
24 to administer this program.

1 (10) The term “very low-income families” shall
2 have the same meaning as provided under section
3 3(b) of the United States Housing Act of 1937.

4 **TITLE I—PRODUCTION OF AF-**
5 **FORDABLE HOUSING FOR EX-**
6 **TREMELY LOW-INCOME AND**
7 **VERY LOW-INCOME FAMILIES**

8 **SEC. 101. AUTHORITY.**

9 The Secretary of Housing and Urban Development
10 shall make funds available to State housing finance agen-
11 cies as provided under section 102 for the rehabilitation
12 of existing low-income housing, for the development of new
13 affordable low-income housing units, and for the preserva-
14 tion of existing low-income housing units that are at risk
15 of becoming unavailable for low-income families.

16 **SEC. 102. ALLOCATION OF RESOURCES.**

17 (a) IN GENERAL.—The Secretary shall allocate funds
18 approved in appropriations Acts to State housing finance
19 agencies to carry out this title. Subject to the require-
20 ments of subsection (b) and as otherwise provided in this
21 subsection, each State housing finance agency shall be eli-
22 gible to receive an amount of funds equal to the proportion
23 of the per capita population of the State in relation to
24 the population of the United States which shall be deter-
25 mined on the basis of the most recent decennial census

1 for which data are available. For each fiscal year, the Sec-
 2 retary shall reserve for grants to Indian tribes 1 percent
 3 of the amount appropriated under the applicable appro-
 4 priations Act. The Secretary shall provide for distribution
 5 of amounts under this subsection to Indian tribes on the
 6 basis of a competition conducted pursuant to specific cri-
 7 teria developed after notice and public comment.

8 (b) MINIMUM STATE ALLOCATION.—If the allocation
 9 under subsection (a), when applied to the funds approved
 10 under this section in appropriations Acts for a fiscal year,
 11 would result in funding of less than \$6,000,000 for any
 12 State, the allocation for such State shall be \$6,000,000
 13 and the increase shall be deducted pro rata from the allo-
 14 cation of all the other States.

15 (c) CRITERIA FOR REALLOCATION.—The Secretary
 16 shall reallocate any funds previously allocated to a State
 17 housing finance agency for any fiscal year in which the
 18 State housing finance agency fails to provide its match
 19 requirements or fails to submit an affordable housing ex-
 20 pansion plan that is approved by the Secretary. All such
 21 funds shall be reallocated pursuant to the formula pro-
 22 vided under subsection (a).

23 **SEC. 103. AFFORDABLE HOUSING EXPANSION PLAN.**

24 (a) SUBMISSION OF AFFORDABLE HOUSING EXPAN-
 25 SION PLAN.—The Secretary shall allocate funds under

1 section 102 to a State housing finance agency only if the
2 State housing finance agency has submitted an affordable
3 housing expansion plan, with annual updates, approved by
4 the Secretary and designed to meet the overall very low-
5 and low-income housing needs of both the rural and urban
6 areas of the State in which the State housing finance
7 agency is located. This plan shall be developed in conjunc-
8 tion with the housing strategies developed for the applica-
9 ble States and localities under section 105 of Cranston-
10 Gonzalez National Affordable Housing Act.

11 (b) CITIZEN PARTICIPATION.—Before submitting an
12 affordable housing expansion plan to the Secretary, a
13 State housing finance agency shall—

14 (1) make available to citizens of the State, pub-
15 lic agencies and other interested parties information
16 regarding the amount of assistance expected to be
17 made available under this title and the range of in-
18 vestment or other uses of such assistance that the
19 State housing finance agency may undertake;

20 (2) publish the proposed plan in a manner that,
21 in the determination of the Secretary, affords af-
22 fected citizens, public agencies, and other interested
23 parties a reasonable opportunity to review its con-
24 tents and to submit comments on the proposed plan;

1 (3) hold one or more public hearings to obtain
2 the views of citizens, public agencies, and other in-
3 terested parties on the housing needs of the State;
4 and

5 (4) provide citizens, public agencies, and other
6 interested parties with reasonable access to records
7 regarding the uses of any assistance that the State
8 housing finance agency may have received under this
9 title during the preceding 5 years.

10 **SEC. 104. ELIGIBLE USE OF FUNDS.**

11 Funds made available under this title shall be used
12 for—

13 (1) the acquisition, new construction, recon-
14 struction, or moderate or substantial rehabilitation
15 of affordable housing for mixed income rental hous-
16 ing where the assistance provided under section 102
17 shall be used to assist units targeted to very low-
18 income and extremely low-income families, including
19 large families, the elderly, and persons with disabil-
20 ities;

21 (2) the moderate and substantial rehabilitation
22 of rental housing units that are currently assisted
23 under State or Federal low-income housing pro-
24 grams;

1 (3) the preservation of Federal and State low-
 2 income housing units that are at risk of being no
 3 longer affordable to low-income families;

4 (4) the purchase and creation of land trusts to
 5 allow low-income families an opportunity to rent
 6 homes in areas of low-vacancy;

7 (5) conversion of public housing to assisted
 8 living facilities for the very low- and extremely low-
 9 income elderly;

10 (6) conversion of section 202 elderly housing to
 11 assisted living facilities for the very low- and ex-
 12 tremely low-income elderly;

13 (7) conversion of HUD-owned or HUD-held
 14 multifamily properties upon disposition to housing
 15 for the very low- and extremely low-income elderly,
 16 housing for very low-income and extremely low-
 17 income persons with disabilities and to assisted liv-
 18 ing facilities for the very low- and extremely low-
 19 income elderly; and

20 (8) creation of sinking funds to maintain re-
 21 serves held by State housing finance agencies to pre-
 22 serve the low-income character of the housing.

23 **SEC. 105. MATCHING REQUIREMENTS.**

24 (a) IN GENERAL.—Each State housing finance agen-
 25 cy shall make contributions for activities under this title

1 that total, throughout a fiscal year, not less than 25 per-
2 cent of the funds made available under this title.

3 (b) ALLOWABLE AMOUNTS.—

4 (1) APPLICATION TO HOUSING.—A contribution
5 shall be recognized for purposes of a match under
6 subsection (a) only if—

7 (A) made with respect to housing that
8 qualifies as affordable housing under section
9 107; or

10 (B) made with respect to any portion of a
11 project for which not less than 50 percent of
12 the units qualify as affordable housing under
13 section 107.

14 (2) FORM.—A contribution may be in the form
15 of—

16 (A) cash contributions from non-Federal
17 sources, which may not include funds from a
18 grant under section 106(b) or section 106(d) of
19 the Housing and Community Development Act
20 of 1974 or from the value of low income tax
21 credits allocated pursuant to the Internal Rev-
22 enue Code;

23 (B) the value of taxes, fees or other
24 charges that are normally and customarily im-
25 posed but are waived, forgone, or deferred in a

1 manner that achieves affordability of housing
 2 assisted under this title;

3 (C) the value of land or other real property
 4 as appraised according to procedures acceptable
 5 to the Secretary;

6 (D) the value of investment in on-site and
 7 off-site infrastructure directly required for af-
 8 fordable housing assisted under this title;

9 (E) the reasonable value of any site-prepa-
 10 ration and construction materials and any do-
 11 nated or voluntary labor in connection with the
 12 site-preparation for, construction or rehabilita-
 13 tion of affordable housing; and

14 (F) such other contributions to affordable
 15 housing as the Secretary considers appropriate.

16 (3) ADMINISTRATIVE EXPENSES.—Contribu-
 17 tions for administrative expenses may not be recog-
 18 nized for purposes of this section.

19 **SEC. 106. DISTRIBUTION OF ASSISTANCE.**

20 Each State housing finance agency shall ensure that
 21 the development of new housing under this section is de-
 22 signed to meet both urban and rural needs, and prioritize
 23 funding, to the extent practicable, in conjunction with the
 24 economic redevelopment of an area.

1 **SEC. 107. ELIGIBLE AFFORDABLE HOUSING.**

2 (a) PRODUCTION OF AFFORDABLE HOUSING.—In
3 the case of new construction, housing shall qualify for as-
4 sistance under this title only if the housing—

5 (1) is required to have not less than 30 percent
6 of the assisted units occupied by extremely low-in-
7 come families who pay as a contribution towards
8 rent (not including any Federal or State rental sub-
9 sidy provided on behalf of the family) not more than
10 25 percent of the adjusted income of a family whose
11 income equals 30 percent of the median income for
12 the area, as determined by the Secretary, with ad-
13 justments for the number of bedrooms in the unit,
14 except that the Secretary may establish income ceil-
15 ings higher or lower than 30 percent of the median
16 income for the area on the basis of the Secretary's
17 findings that variations are necessary because of the
18 prevailing levels of construction costs or fair market
19 rents, or unusually high or low family incomes;

20 (2) except as provided under paragraph (1), is
21 required to have all assisted units be occupied by
22 very low-income families who pay as a contribution
23 towards rent (not including any Federal or State
24 rental subsidy provided on behalf of the family) not
25 more than 25 percent of 50 percent of the median
26 income for an area; and

1 (3) will remain affordable under the require-
2 ments provided in paragraphs (1) and (2), according
3 to legally binding commitments satisfactory to the
4 Secretary, for not less than 40 years, without regard
5 to the term of the mortgage or to the transfer of
6 ownership, or for such period that the Secretary de-
7 termines is the longest feasible period of time con-
8 sistent with sound economics and the purposes of
9 this Act, including foreclosure where the responsi-
10 bility for maintaining the low-income character of
11 the property will be the responsibility of the State
12 housing finance agency.

13 (b) **PRIORITY FOR EXTREMELY LOW-INCOME FAMI-**
14 **LIES.**—State housing finance agencies shall give priority
15 for funding to those projects that maximize the availability
16 and affordability of housing for extremely low-income fam-
17 ilies.

18 **SEC. 108. TENANT SELECTION.**

19 An owner of any housing assisted under this title
20 shall establish tenant selection procedures consistent with
21 the affordable housing expansion plan of the State housing
22 finance agency.

1 **SEC. 109. PROHIBITION ON USE OF FUNDS FOR SERVICE**
2 **COORDINATORS OR SUPPORTIVE SERVICES.**

3 No funds under this Act may be used for service coor-
4 dinators or supportive services.

5 **SEC. 110. PENALTIES FOR MISUSE OF FUNDS.**

6 The Secretary shall recapture any assistance awarded
7 under this title to the extent the assistance has been used
8 for impermissible purposes. To the extent the Secretary
9 identifies a pattern and practice regarding the misuse of
10 funds awarded under this title, the Secretary shall deny
11 assistance to that State for up to 5 years, subject to notice
12 and an opportunity for judicial review.

13 **SEC. 111. SUBSIDY LAYERING REQUIREMENTS.**

14 The requirements of section 102(d) of the Depart-
15 ment of Housing and Urban Development Reform Act of
16 1989 may be satisfied in connection with assistance, in-
17 cluding a commitment to insure a mortgage, provided
18 under this title by a certification of a State housing fi-
19 nance agency to the Secretary that the combination of as-
20 sistance within the jurisdiction of the Secretary and other
21 government assistance provided in connection with a prop-
22 erty assisted under this title shall not be any greater than
23 is necessary to provide affordable housing.

1 **SEC. 112. MULTIFAMILY RISK-SHARING MORTGAGE INSUR-**
2 **ANCE PROGRAM.**

3 The Secretary shall carry out a mortgage insurance
4 program through the Federal Housing Administration in
5 conjunction with State housing finance agencies to insure
6 multifamily mortgages for housing that qualifies under
7 this title. This program shall be consistent with the re-
8 quirements established under section 542 of the Housing
9 and Community Development Act of 1992, except that
10 housing that meet the requirements of this title shall be
11 eligible for mortgage insurance.

12 **SEC. 113. EFFECTIVE DATE AND REGULATIONS.**

13 (a) **EFFECTIVE DATE.**—This title shall take effect
14 upon the date of enactment of this Act.

15 (b) **RULES.**—The Secretary shall issue notice and
16 comment rulemaking with final regulations issued no later
17 than 6 months after the date of enactment of this Act.

18 **SEC. 114. AUTHORIZATION OF APPROPRIATIONS.**

19 There is authorized to be appropriated
20 \$1,000,000,000 for fiscal year 2003, of which no more
21 than 20 percent of such funds may be used for rehabilita-
22 tion needs and to preserve existing housing for low-
23 income families.

1 **TITLE II—SECTION 8 HOUSING**
 2 **PRODUCTION**

3 **SEC. 201. PROJECT-BASED VOUCHERS AND THRIFTY**
 4 **VOUCHERS.**

5 (a) IN GENERAL.—Section 8(o)(13) of the United
 6 States Housing Act of 1937 is amended—

7 (1) in subparagraph (C)(ii), by inserting before
 8 the period at the end the following: “, revitalizing a
 9 low-income community, or preventing the displace-
 10 ment of extremely low-income families”;

11 (2) in subparagraph (D)(ii), by striking “apply
 12 in the case of” and all that follows through the pe-
 13 riod and inserting the following: “apply—

14 “(I) in the case of assistance
 15 under a contract for housing con-
 16 sisting of single family properties
 17 (buildings with 1 to 4 units);

18 “(II) for dwelling units that are
 19 specifically made available for house-
 20 holds comprised of elderly families or
 21 disabled families; or

22 “(III) outside of a qualified cen-
 23 sus tract, for buildings with 5 to 25
 24 units or with dwelling units that are

1 specifically made available for families
 2 receiving supportive services.

3 For purposes of this clause, the term ‘qualified
 4 census tract’ has the same meaning given that
 5 term in section 42(d) of the Internal Revenue
 6 Code of 1986. The Secretary may waive the
 7 limitations of this clause, consistent with the
 8 obligation to affirmatively further fair housing
 9 practices.”;

10 (3) in subparagraph (F), by striking “10 years”
 11 and inserting “15 years”;

12 (4) by adding the following to the end:

13 “(L) USE OF ASSISTANCE IN CONJUNC-
 14 TION WITH PUBLIC HOUSING CAPITAL
 15 FUNDS.—

16 “(i) CAPITAL FUND.—Notwith-
 17 standing any provision to the contrary in
 18 this Act, a public housing agency may at-
 19 tach assistance under this paragraph to a
 20 structure or unit that receives assistance
 21 allocated to the public housing agency
 22 under the Capital Fund, established by
 23 section 9(d).

24 “(ii) OPERATING FUND.—A unit that
 25 receives assistance under this paragraph

1 shall not be eligible for assistance under
2 the Operating Fund established by section
3 9(e).

4 “(M) THRIFTY VOUCHERS.—

5 “(i) IN GENERAL.—For the purpose
6 of encouraging the production or preserva-
7 tion of housing affordable to extremely
8 low-income families, a public housing agen-
9 cy may use amounts provided under an an-
10 nual contributions contract under this sub-
11 section to enter into a housing assistance
12 payment contract for Thrifty Voucher as-
13 sistance that is attached to the structure.
14 Except as otherwise specified in this para-
15 graph, such housing assistance contract
16 shall be subject to the limitations and re-
17 quirements of subparagraphs (A), (B), (C),
18 (D), (E), (F), (G), (J), (K), and (L).

19 “(ii) USE FOR NEW PRODUCTION,
20 SUBSTANTIAL REHABILITATION, AND
21 PRESERVATION.—Assistance under this
22 paragraph may only be attached to a
23 structure that is newly constructed, ac-
24 quired for preservation as affordable hous-
25 ing, or substantially rehabilitated.

1 “(iii) ELIGIBLE FAMILIES.—A pro-
 2 spective tenant of a unit that is assisted
 3 under this subparagraph must qualify as
 4 an extremely low-income family at the
 5 commencement of the proposed occupancy
 6 by the tenant.

7 “(iv) LIMITATION.—Assistance under
 8 this subparagraph may not be attached to
 9 more than 25 percent of the units in a
 10 building. For purposes of this clause, a
 11 project consisting of single family struc-
 12 tures shall be treated as 1 building if the
 13 single family structures are owned, and
 14 constructed, substantially rehabilitated, or
 15 acquired for preservation under a common
 16 plan.

17 “(v) RENT CALCULATION.—

18 “(I) IN GENERAL.—A housing
 19 assistance payment contract entered
 20 into under this subparagraph shall es-
 21 tablish the gross rent for each unit as-
 22 sisted in an amount equal to the per
 23 unit operating cost of the property
 24 plus the applicable utility allowance of
 25 the public housing agency for tenant-

1 paid utilities. An owner may accept a
2 gross rent that is less than the per
3 unit operating cost of the property
4 plus the applicable utility allowance, if
5 the gross rent exceeds the limitation
6 under subclause (IV).

7 “(II) UNIT OPERATING COST.—

8 As used in this subparagraph, the
9 unit operating cost is the allocable
10 share of the ordinary and customary
11 expenses of the unit incurred to oper-
12 ate the property, including applicable
13 owner-paid utilities, contribution to
14 the replacement reserve, asset man-
15 agement fees, and a cash flow allow-
16 ance equal to 15 percent of all other
17 allocable operating costs. A public
18 housing agency shall require an owner
19 to demonstrate that the unit oper-
20 ating cost for units assisted under
21 this subparagraph does not exceed the
22 operating cost of other units in the
23 property that are not assisted under
24 this subparagraph, with appropriate
25 adjustments for unit size, and shall

1 establish policies to ensure that ex-
2 penses included in the unit operating
3 cost that are paid to the owner or a
4 related entity are reasonable and con-
5 sistent with prevailing costs in the
6 community in which the property is
7 located. Required verification shall be
8 determined by the public housing
9 agency.

10 “(III) ADJUSTMENT.—A public
11 housing agency shall, upon request,
12 make an appropriate annual adjust-
13 ment in the rent established under
14 this clause based on documented
15 changes in unit operating costs and
16 any increase in the applicable fair
17 market rent or payment standard.

18 “(IV) LIMITATION.—Gross rent
19 established under this paragraph shall
20 not exceed the greater of—

21 “(aa) 75 percent of the pay-
22 ment standard used by the public
23 housing agency for a dwelling
24 unit of the same size; or

1 “(bb) 75 percent of the ap-
2 plicable fair market rental.

3 “(V) EXCEPTION.—The Sec-
4 retary is authorized to approve an ex-
5 ception to the 75 percent limitation in
6 subclause (IV) for not more than 2
7 percent of the total number of vouch-
8 ers funded under this subsection, not
9 to exceed 90 percent of the payment
10 standard or applicable fair market
11 rental, if the permitted maximum rent
12 could not otherwise support the rea-
13 sonable operating cost of rental hous-
14 ing, and the public housing agency
15 can demonstrate a need for produc-
16 tion or preservation of affordable
17 housing.

18 “(vi) RENEWAL OF ASSISTANCE.—

19 “(I) IN GENERAL.—The Sec-
20 retary shall increase the adjusted allo-
21 cation baseline for renewal of funding
22 under subsection (dd) for public hous-
23 ing agencies that attach assistance
24 under this paragraph to a structure.

1 “(II) INCREASE EQUIVALENT.—

2 An increase under subclause (I) shall
3 equal the number of additional fami-
4 lies that a public housing agency can
5 assist as a result of the reduced pay-
6 ments permitted under this para-
7 graph.

8 “(III) EXCEPTION TO LIMITA-
9 TION ON PROJECT-BASED ASSIST-
10 ANCE.—The additional units assisted
11 as a result of the reduced payments
12 permitted under this paragraph shall
13 not be considered in determining the
14 compliance of a public housing agency
15 with the percentage limitation in sub-
16 paragraph (B).

17 “(IV) APPLICABILITY.—This
18 subparagraph shall not apply to incre-
19 mental assistance initially issued
20 under this paragraph.

21 “(vii) ALLOCATION OF INCREMENTAL
22 ASSISTANCE FOR USE UNDER THIS PARA-
23 GRAPH.—

1 “(I) IN GENERAL.—Incremental
2 assistance appropriated for use under
3 this paragraph—

4 “(aa) shall be allocated for
5 public housing agencies within
6 each State, after reserving appro-
7 priate amounts for insular areas,
8 in accordance with the formula
9 established by the Secretary
10 under section 217(b) of the
11 Cranston-Gonzalez National Af-
12 fordable Housing Act (42 U.S.C.
13 12747(b)); and

14 “(bb) the Secretary shall ob-
15 ligate amounts that are available
16 for public housing agencies with-
17 in each State, as determined
18 under item (aa), to qualified pub-
19 lic housing agencies within the
20 State pursuant to specific criteria
21 for the selection of recipients for
22 assistance in a notice published
23 in the Federal Register.

24 “(II) RECIPIENTS.—Subject to
25 the allocation referred to in subclause

1 (I) and any additional criteria that
2 the Secretary may establish, the Sec-
3 retary shall award such incremental
4 assistance for use under this para-
5 graph to a public housing agency that
6 administers a program of tenant-
7 based assistance under this subsection
8 and—

9 “(aa) administers funds for
10 the construction, preservation, or
11 substantial rehabilitation of rent-
12 al housing other than public
13 housing; or

14 “(bb) has an agreement with
15 an agency or entity that admin-
16 isters funds for the construction,
17 preservation, or substantial reha-
18 bilitation of

19 “(III) LIMITATION.—Incremental
20 assistance for use under this para-
21 graph shall not be considered in deter-
22 mining compliance by a public hous-
23 ing agency with the limitation in sub-
24 paragraph (B).

1 “(IV) NATIONAL COMPETI-
2 TION.—If the Secretary determines
3 that sufficient funds for incremental
4 assistance for use under this para-
5 graph have not been appropriated for
6 public housing agencies within each
7 State in accordance with the formula
8 established under section 217(b) of
9 the Cranston-Gonzalez National Af-
10 fordable Housing Act (42 U.S.C.
11 12747(b)), the Secretary may award
12 such funds to qualified public housing
13 agencies through a national competi-
14 tion.

15 “(viii) DEFINITIONS.—In this sub-
16 paragraph—

17 “(I) the term ‘substantial reha-
18 bilitation’ means rehabilitation ex-
19 penditures paid or incurred with re-
20 spect to a unit, including its prorated
21 share of work on common areas or
22 systems, of at least \$25,000, which
23 amount shall be increased annually by
24 the Secretary to reflect inflation, and

1 such increased amount shall be pub-
 2 lished in the Federal Register; and

3 “(II) the term ‘extremely low-in-
 4 come families’ means persons and
 5 families (as that term is defined in
 6 section 3(b)(3)) whose incomes do not
 7 exceed—

8 “(aa) 30 percent of the area
 9 median income, as determined by
 10 the Secretary with adjustments
 11 for smaller and larger families
 12 and for unusually high or low
 13 family incomes; or

14 “(bb) 30 percent of the na-
 15 tional nonmetropolitan median
 16 income, if it is higher than the
 17 area median income.”.

18 (b) EFFECTIVE DATE.—

19 (1) IN GENERAL.—This section and the amend-
 20 ments made by this section shall take effect upon
 21 the date of enactment of this Act.

22 (2) RULES.—The Secretary shall promulgate
 23 rules, as may be necessary, to carry out section
 24 8(o)(13) of the United States Housing Act of 1937,
 25 as amended by this Act, and shall publish—

1 (A) either proposed rules or interim rules
 2 not later than 6 months after the date of enact-
 3 ment of this Act; and

4 (B) final rules not later than 1 year after
 5 the date of enactment of this Act.

6 **SEC. 202. REALLOCATION OF VOUCHERS.**

7 (a) IN GENERAL.—Section 8(dd) of the United
 8 States Housing Act of 1937 (42 U.S.C. 1437f(dd)) is
 9 amended—

10 (1) by striking “Subject to” and inserting the
 11 following:

12 “(1) IN GENERAL.—Subject to”; and

13 (2) by adding at the end the following:

14 “(2) REALLOCATION OF CHRONICALLY UNUTI-
 15 LIZED VOUCHERS.—

16 “(A) IN GENERAL.—The Secretary may re-
 17 duce the allocation baseline, only to the extent
 18 that the reduction reflects the lesser of the un-
 19 utilized portion of tenant-based subsidies or of
 20 budget authority provided under this section, of
 21 a public housing agency that—

22 “(i) fails, in a fiscal year, beginning in
 23 the fiscal year in which this Act is enacted,
 24 to utilize at least 90 percent of its allo-
 25 cated number of tenant-based subsidies or

1 at least 90 percent of the budget authority
2 provided under this section that has been
3 under annual contributions contract for 12
4 months on the first day of the fiscal year,
5 not taking into account, in the numerator,
6 funds used for services and other activities
7 under section 4; and

8 “(ii) fails, within 16 months after
9 written notice by the Secretary of a failure
10 described in clause (i), to utilize at least 95
11 percent of allocated vouchers for rental as-
12 sistance provided under this section or con-
13 tracted budget authority provided under
14 this section with respect to vouchers that
15 have been under annual contributions con-
16 tract for 12 months on the first day of the
17 fiscal year, not taking into account, in the
18 numerator, funds used for services and
19 other activities under section 4.

20 “(B) NOTICE TO TENANTS AND COMMU-
21 NITY.—When the Secretary provides written
22 warning to a public housing agency of a failure
23 described in subparagraph (A)(i), the Secretary
24 shall also publish notice of such failure in the
25 Federal Register and shall provide written no-

tice of such failure to the chairman of the subject public housing agency's resident advisory board established pursuant to section 5A(e). Not later than 14 days after the date of receipt by the public housing agency of notice of a failure described in subparagraph (A)(i), that public housing agency shall provide a copy of such notice to all members of its resident advisory board or boards.

“(C) UTILIZATION RATE DETERMINATION.—

“(i) IN GENERAL.—At the request of a public housing agency, the Secretary shall determine the voucher utilization rate of the public housing agency for use under subparagraph (A), based on data regarding the utilization of vouchers from the period beginning 6 months prior to the request of the public housing agency.

“(ii) ELIGIBILITY OF A PHA TO REQUEST A NEW SURVEY OF FAIR MARKET RENTS.—If a public housing agency requests, within 60 days of receipt of the written notice by the Secretary of a failure described in subparagraph (A)(i), that the

1 Secretary conduct a further survey of mar-
2 ket rents in the area to determine the ac-
3 curacy of the applicable fair market rent or
4 the need for an exception payment stand-
5 ard, and the Secretary determines as a re-
6 sult of such survey to increase the fair
7 market rent or payment standard, the
8 written notice shall be considered null and
9 void. Whether a public housing agency
10 complies with the standard under subpara-
11 graph (A)(i) shall be determined based on
12 the first complete fiscal year in which the
13 agency has the opportunity to use the in-
14 creased fair market rent or approved ex-
15 ception payment standard. To be eligible to
16 request a rent survey under this clause, a
17 public housing agency must use the max-
18 imum allowable payment standard for that
19 area for a period of not less than 6 months
20 prior to such request.

21 “(D) DETERMINATION OF INEFFECTIVE
22 PERFORMANCE.—A reallocation of chronically
23 unutilized vouchers under this subsection shall
24 be deemed to be a determination that the agen-

1 cy is not performing effectively under section
2 3(b)(6)(B)(iii).

3 “(3) REALLOCATION.—

4 “(A) IN GENERAL.—The Secretary shall
5 allocate the contracts for the vouchers made
6 available by the reduction in baseline authority
7 authorized under paragraph (2) in a manner
8 that ensures that applicants on the waiting list
9 of the public housing agency from which vouch-
10 ers are reallocated may continue to be served,
11 consistent with this paragraph.

12 “(B) METROPOLITAN AREA.—

13 “(i) DESIGNATION OF METROPOLITAN
14 ADMINISTRATOR.—If vouchers are reallo-
15 cated from a public housing agency located
16 in a metropolitan area, the Secretary shall,
17 based on a public competitive process, des-
18 ignate a metropolitan administrator for all
19 or a portion of the metropolitan statistical
20 area in which that public housing agency is
21 located, in a manner consistent with clause
22 (iv).

23 “(ii) DISTRIBUTION OF VOUCHERS.—

24 A metropolitan administrator designated
25 under clause (i) shall receive all vouchers

1 in that administrator's region made avail-
2 able pursuant to paragraph (2).

3 “(iii) ELIGIBLE ADMINISTRATORS.—
4 The Secretary may select as a metropolitan
5 administrator an agency—

6 “(I) that—

7 “(aa) currently administers
8 a voucher program serving resi-
9 dents of the geographic area
10 served by the agency whose
11 voucher allocation has been re-
12 duced;

13 “(bb) has the legal ability to
14 serve such area; or

15 “(cc) has an agreement with
16 the Secretary to serve such area
17 pursuant to section
18 3(b)(6)(B)(iii); and

19 “(II) that is—

20 “(aa) a public housing agen-
21 cy that administers a voucher
22 program;

23 “(bb) a State or local agency
24 that has experience in admin-

1 istering tenant-based assistance
2 programs; or

3 “(cc) a nonprofit or for-prof-
4 it agency that has experience in
5 administering tenant-based as-
6 sistance programs.

7 “(iv) SELECTION PROCESS.—

8 “(I) PREFERENCE FOR CERTAIN
9 PUBLIC HOUSING AGENCIES.—The
10 Secretary may give preference in a
11 competitive selection to a public hous-
12 ing agency described in clause
13 (iii)(II)(aa) over other eligible admin-
14 istrators described in items (bb) and
15 (cc) of that clause (iii)(II), if the pub-
16 lic housing agency—

17 “(aa) is a well-managed
18 agency, based on objective indica-
19 tors, including a high rate of uti-
20 lization of allocated vouchers or
21 contracted budget authority pro-
22 vided under this section, and a
23 high rate of compliance with eli-
24 gibility and rent determination
25 requirements; and

1 “(bb) has demonstrated an
2 ability to increase the number of
3 voucher holders residing in low
4 poverty areas.

5 “(II) SELECTION CRITERIA.—In
6 selecting a metropolitan adminis-
7 trator, the Secretary shall take into
8 account—

9 “(aa) whether the entity has
10 operated tenant-based assistance
11 programs in a manner that has
12 not led to an overconcentration of
13 tenant-based subsidy holders in
14 certain areas;

15 “(bb) whether the entity has
16 the administrative capacity to ad-
17 minister the number of additional
18 vouchers it is likely to receive if
19 it is selected as a metropolitan
20 administrator and to serve the
21 geographic area served by agen-
22 cies from which vouchers are re-
23 allocated;

24 “(cc) the relative need for
25 assistance under subsection (o) of

1 the eligible population not receiv-
2 ing housing assistance in the
3 area currently served by the enti-
4 ty; and

5 “(dd) any other criteria for
6 choosing a metropolitan adminis-
7 trator that the Secretary deter-
8 mines to be appropriate.

9 “(C) NONMETROPOLITAN AREA.—

10 “(i) IN GENERAL.—If vouchers are re-
11 allocated pursuant to this subsection from
12 a public housing agency that is located in
13 a nonmetropolitan area, the Secretary shall
14 reallocate such authority to a public hous-
15 ing agency or other eligible administrator
16 as specified in subparagraph (B)(iii). The
17 Secretary may designate an entity to re-
18 ceive vouchers reallocated from all or a
19 portion of the nonmetropolitan area in a
20 State.

21 “(ii) SELECTION.—In selecting an en-
22 tity to receive vouchers reallocated from a
23 nonmetropolitan area, the Secretary shall
24 utilize the preferences and criteria in sub-
25 paragraph (B)(iv), and shall consider the

1 relative administrative costs likely to be in-
2 curred to serve families that reside in the
3 geographic area of the agency from which
4 the vouchers were reallocated.

5 “(D) DESIGNATION OF A NEW ADMINIS-
6 TRATOR.—If, at any time, the Secretary deter-
7 mines that the criteria established under this
8 paragraph for a metropolitan or nonmetropoli-
9 tan administrator are not met, the Secretary
10 shall designate another administrator.

11 “(E) ADDITIONAL VOUCHERS.—The Sec-
12 retary shall ensure that certain criteria or
13 benchmarks regarding voucher success rates
14 and concentration of voucher holders are met
15 each year before providing an administrator
16 with additional vouchers.

17 “(F) LACK OF ELIGIBLE FAMILIES.—If the
18 Secretary determines that the primary cause of
19 voucher underutilization by a public housing
20 agency under paragraph (2)(A) is a lack of eli-
21 gible families in the area of operation of the
22 public housing agency, the Secretary may estab-
23 lish criteria and procedures to reallocate vouch-
24 ers from that agency to another public housing
25 agency or another metropolitan or nonmetro-

1 politan administrator outside of the area of op-
 2 eration of the public housing agency. First pri-
 3 ority for vouchers reallocated under this sub-
 4 paragraph shall be given to an entity that has
 5 previously voluntarily relinquished to the Sec-
 6 retary a portion of its allocated voucher budget
 7 authority and has subsequently demonstrated a
 8 need for, and an ability to use, such budget au-
 9 thority under criteria established by the Sec-
 10 retary. Second priority shall be given to an enti-
 11 ty that serves a jurisdiction in the same State
 12 as the agency from which vouchers are being
 13 reallocated.

14 “(4) SPECIAL POPULATIONS.—Vouchers that
 15 have been designated by the Secretary to be used by
 16 special populations shall—

17 “(A) retain such designation on realloca-
 18 tion; and

19 “(B) be reallocated, if there is an eligible
 20 applicant within the State or area that has ex-
 21 perience administering a voucher program for a
 22 special population, in accordance with para-
 23 graphs (2) and (3).

24 “(5) PROMPT REALLOCATION.—Within 60 days
 25 of reducing a public housing agency’s allocation of

1 vouchers pursuant to paragraph (2) in an area for
2 which the Secretary has designated an administrator
3 to receive vouchers reallocated pursuant to this sub-
4 section, the Secretary shall enter into a contract
5 with the designated administrator for the reallocated
6 vouchers.”.

7 (b) RULES OF THE SECRETARY.—The Secretary
8 shall promulgate rules to carry out this section not later
9 than 6 months after the date of enactment of this Act.

10 **SEC. 203. DISPOSITION OF HUD-HELD AND HUD-OWNED**
11 **MULTIFAMILY PROJECTS.**

12 Notwithstanding any other provision of law, the Sec-
13 retary of Housing and Urban Development shall maintain
14 any rental assistance payments attached to any dwelling
15 units under section 8 of the United States Housing Act
16 of 1937 for all multifamily properties owned by the Sec-
17 retary and multifamily properties held by the Secretary
18 for purposes of management and disposition of such prop-
19 erties. To the extent, the Secretary determines that a mul-
20 tifamily property owned by the Secretary or held by the
21 Secretary is not feasible for continued rental assistance
22 payments under section 8, the Secretary may, in consulta-
23 tion with the tenants of that property, contract for project-
24 based rental assistance payments with an owner or owners
25 of other existing housing properties.

1 **TITLE III—PUBLIC HOUSING**
 2 **LOAN GUARANTEE PROGRAM**

3 **SEC. 301. PUBLIC HOUSING LOAN GUARANTEE PROGRAM.**

4 (a) Section 9 of the United States Housing Act of
 5 1937 is amended by inserting at the end the following new
 6 subsection:

7 “(o) LOAN GUARANTEE DEVELOPMENT FUNDING.—

8 “(1) In order to facilitate the financing of the
 9 rehabilitation and development needs of public hous-
 10 ing, the Secretary is authorized, upon such terms
 11 and conditions as the Secretary may prescribe, to
 12 guarantee and make commitments to guarantee,
 13 only to the extent or in such amounts as the pro-
 14 vided in appropriations Acts, loans or other financial
 15 obligations entered between financial institutions
 16 and public housing agencies, for the purpose of fi-
 17 nancing the rehabilitation of a portion of public
 18 housing or the development off-site of public housing
 19 in mixed income developments (including demolition
 20 costs of the public housing units to be replaced),
 21 provided that the number of public housing units de-
 22 veloped off-site replaces no less than an equal num-
 23 ber of on-site public housing units in a project.
 24 Loans or other obligations guaranteed pursuant to
 25 this subsection shall be in such form and denomina-

1 tions, have such maturities, and be subject to such
2 conditions as may be prescribed by regulations
3 issued by the Secretary.

4 “(2) Subject to the availability of appropriated
5 funds, the Secretary may not object to making a
6 loan guarantee under this subsection unless the re-
7 habilitation or replacement housing proposed by a
8 public housing agency is inconsistent with its Public
9 Housing Agency Plan, as submitted under section
10 5A, or the proposed terms of the guaranteed loan
11 constitutes an unacceptable financial risk to the pub-
12 lic housing agency or for repayment of the loan
13 under this subsection.

14 “(3) Notwithstanding any other provision of
15 this title, funding allocated to a public housing agen-
16 cy under subsections (d)(2) and (e)(2) of this section
17 for the capital and operating funds are authorized
18 for use in the payment of the principal and interest
19 due (including such servicing, underwriting or other
20 costs as may be specified in the regulations of the
21 secretary) on the loans or other obligations guaran-
22 teed pursuant to this subsection.

23 “(4) The amount of any loan or other obliga-
24 tion guaranteed under this subsection shall not ex-
25 ceed in total the pro-rata amount of funds that

1 would be allocated over a period not to exceed 30
2 years under subsections (d)(2) and (e)(2) of this sec-
3 tion on a per unit basis as a percentage of the num-
4 ber of units that are designated to be rehabilitated
5 or replaced under this subsection by a public hous-
6 ing agency as compared to the total number of units
7 in the public housing development, as determined on
8 the basis of funds made available under such sub-
9 sections (d)(2) and (e)(2) in the previous year. Any
10 reduction in the total amount of funds provided to
11 a public housing agency under this section in subse-
12 quent years shall not reduce the amount of funds to
13 be paid under a loan guaranteed under this sub-
14 section but instead shall reduce the capital and oper-
15 ating funds which are available for the other housing
16 units in the public housing development in that fis-
17 cal year. Any additional income, including the re-
18 ceipt of rental income from tenants, generated by
19 the rehabilitated or replaced units may be used to
20 establish a loan loss reserve for the public housing
21 agency to assist in the repayment of the guaranteed
22 loans or other obligations under this subsection or to
23 address any shortfall in the operating or capital
24 needs of the public housing agency in any fiscal
25 year. The Secretary may require the payment of

1 guaranteed loan premiums by a public housing agen-
2 cy to support the creation of a loan loss reserve ac-
3 count within the Department of Housing and Urban
4 Development to minimize the risk of loss associated
5 with the repayment of these guaranteed loans.

6 “(5) Subject to appropriations, the Secretary
7 may use funds from the Public Housing Capital
8 Fund to (A) establish a loan loss reserve account
9 within the Department of Housing and Urban De-
10 velopment to minimize the risk of loss associated
11 with the repayment of guaranteed loans made under
12 this subsection, or (B) make grants to a public hous-
13 ing agency for capital investment needs or for the
14 creation of a loan loss reserve account to be used in
15 conjunction with a loan guarantee made under this
16 subsection for the rehabilitation of a portion of pub-
17 lic housing or the development off-site of public
18 housing in mixed income developments (including
19 demolition costs of the public housing units to be re-
20 placed).

21 “(6) To assure the repayment of loans or other
22 obligations and charges incurred under this sub-
23 section and as a condition for receiving such guaran-
24 tees, the Secretary shall require the public housing
25 agency to enter into a contract, in a form acceptable

1 to the Secretary, for the repayment of notes or other
2 obligations guaranteed under this subsection and
3 furnish, at the discretion of the Secretary, such se-
4 curity as may be deemed appropriate by the Sec-
5 retary in making such guarantees.

6 “(7) The full faith and credit of the United
7 States is pledged to the payment of all guarantees
8 under this subsection. Any such guarantee made by
9 the Secretary shall be conclusive evidence of the eli-
10 gibility of the obligations for such guarantee with re-
11 spect to principal and interest, and the validity of
12 such guarantee so made shall be incontestable in the
13 hand of the holder of the guaranteed obligations.

14 “(8) The Secretary may, to the extent approved
15 in appropriations Acts, assist in the payment of all
16 or a portion of the principal and interest amount
17 due under the note or other obligation guaranteed
18 under this subsection, if the Secretary determines
19 that the public housing agency is unable to pay the
20 amount it owes because of circumstances of extreme
21 hardship beyond the control of the public housing
22 agency.”.

23 (b) EFFECTIVE DATE.—

1 (1) IN GENERAL.—This section and the amend-
2 ments made by this section shall take effect upon
3 the date of enactment of this Act.

4 (2) RULES.—The Secretary shall promulgate
5 rules, as may be necessary, to carry out section
6 8(o)(13) of the United States Housing Act of 1937,
7 as amended by this Act, and shall publish—

8 (A) either proposed rules or interim rules
9 not later than 6 months after the date of enact-
10 ment of this Act; and

11 (B) final rules not later than 1 year after
12 the date of enactment of this Act.

○