

108TH CONGRESS
2D SESSION

H. R. 4679

To authorize the Secretary of Housing and Urban Development to provide assistance for privately owned low- and moderate-income housing with expiring Federal subsidies to prevent displacement of low- and moderate-income tenants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2004

Mr. FRANK of Massachusetts (for himself, Mr. KANJORSKI, Ms. WATERS, Mr. SANDERS, Mrs. MALONEY, Mr. GUTIERREZ, Ms. VELÁZQUEZ, Mr. WATT, Ms. CARSON of Indiana, Ms. LEE, Mr. CAPUANO, Mr. CROWLEY, Mr. CLAY, Mr. ISRAEL, Mrs. MCCARTHY of New York, Mr. BACA, Mr. LYNCH, Mr. EMANUEL, Mr. SCOTT of Georgia, and Mr. DAVIS of Alabama) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To authorize the Secretary of Housing and Urban Development to provide assistance for privately owned low- and moderate-income housing with expiring Federal subsidies to prevent displacement of low- and moderate-income tenants, and for other purposes.

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 “Displacement Preven-
5 tion Act of 2004”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) there exists throughout the United States a
4 need for decent, safe, and affordable housing;

5 (2) the General Accounting Office (GAO) esti-
6 mates that—

7 (A) there are 11,267 multifamily prop-
8 erties, serving approximately 914,441 house-
9 holds nationwide, that are financed with mort-
10 gages subsidized by the Department of Housing
11 and Urban Development;

12 (B) 1,835 of these properties, which con-
13 tain over 193,000 subsidized units, are financed
14 with mortgages insured under the below-market
15 interest rate program under section 221(d)(3)
16 of the National Housing Act or the interest re-
17 duction payments program under section 236 of
18 such Act, and these properties will be lost by
19 2013 when the mortgages mature and the mort-
20 gage subsidies and low-income affordability re-
21 strictions related to those subsidies terminate;
22 and

23 (C) as a result, owners of properties with-
24 out rental assistance will be permitted to raise
25 the rents in such properties to market levels,
26 putting at risk approximately 200,000 individ-

1 uals in over 101,000 units in properties having
2 no other subsidy attached;

3 (3) the GAO concludes that neither the Depart-
4 ment of Housing and Urban Development nor State
5 or local agencies offer incentives to owners to keep
6 properties affordable upon mortgage maturity;

7 (4) the GAO also concludes that no incentives
8 exist, such as enhanced vouchers, to protect tenants
9 in units without rental assistance when HUD-sub-
10 sidized mortgages mature;

11 (5) the GAO further concludes that the Depart-
12 ment of Housing and Urban Development does not
13 require owners to provide written notice to tenants
14 that the low-income affordability restrictions will ter-
15 minate when the HUD-subsidized mortgages ma-
16 ture;

17 (6) when faced with similar crises in the past,
18 the Congress acted to provide incentives for owners
19 to continue the low-income affordability restrictions,
20 thus ensuring that these properties remain afford-
21 able to low- and moderate-income households;

22 (7) the Congress also acted to provide enhanced
23 vouchers to tenants living in multifamily units re-
24 ceiving assistance under Federal low-income housing
25 programs in cases in which the owner prepaid the

1 HUD-subsidized mortgage or opted out of the rental
2 assistance contract; and

3 (8) the Congress also required owners to pro-
4 vide tenants with written notice of their intent to
5 prepay their HUD-subsidized mortgage or to opt-out
6 of their section 8 rental assistance contract.

7 (b) PURPOSE.—It is the purpose of this Act—

8 (1) to promote the preservation of affordable
9 housing units by providing assistance to owners to
10 ensure that these dwelling units remain affordable to
11 low- and moderate-income households; and

12 (2) to minimize the involuntary displacement of
13 low- and moderate-income tenants who are currently
14 residing in multifamily properties that are currently
15 receiving subsidies under Federal low-income hous-
16 ing programs, many of whom are elderly or disabled
17 persons.

18 **SEC. 3. FEDERAL ASSISTANCE AND EXTENSION OF AF-**

19 **FORDABILITY REQUIREMENTS.**

20 (a) PROVISION OF ASSISTANCE.—

21 (1) AUTHORITY.—The Secretary may use
22 amounts made available under subsection (e) to pro-
23 vide assistance under subsections (b), (c), and (d)
24 with respect to covered multifamily housing prop-
25 erties.

1 (2) APPLICATIONS AND SELECTION CRITERIA.—

2 The Secretary shall provide for owners of covered
3 multifamily housing properties to submit applica-
4 tions for assistance under subsections (b), (c), and
5 (d) for covered multifamily housing properties. Sub-
6 ject to paragraph (3), the Secretary shall establish
7 criteria for selection of properties to receive assist-
8 ance under each of subsections (b), (c), and (d),
9 which shall take into consideration the need of a
10 property for assistance for the purpose under this
11 Act for which the assistance is made available.

12 (3) PRIORITY.—The criteria established pursu-
13 ant to paragraph (2) for selection of properties to
14 receive assistance under each of subsections (b), (c),
15 and (d) shall provide priority for selection of prop-
16 erties based on the following factors:

17 (A) The proximity in time of the termi-
18 nation date for the property.

19 (B) The extent to which the dwelling units
20 in the property are occupied by low-income fam-
21 ilies.

22 (C) The extent to which assurances by the
23 owner of the property provide that the afford-
24 ability restrictions for the property will be ex-

1 tended beyond the period required under sub-
2 section (b)(4), (c)(5), or (d)(6), as applicable.

3 (D) Such other factors as the Secretary
4 may provide.

5 (b) REHABILITATION ASSISTANCE.—The Secretary
6 may provide a grant under this subsection to the owner
7 of the property, subject to the following requirements:

8 (1) PURPOSE.—The assistance shall be pro-
9 vided for the purpose of rehabilitating the property
10 for continued use as housing affordable to low- and
11 moderate-income families.

12 (2) ELIGIBLE USE.—Amounts from the grant
13 may be used only for payment of nonrecurring main-
14 tenance and capital improvements for the property,
15 under such terms and conditions as are determined
16 by the Secretary.

17 (3) PER UNIT AMOUNT LIMITATIONS.—The
18 amount from a grant used with respect to a dwelling
19 unit in the property may not exceed the per unit dol-
20 lar amount limitation as the Secretary shall establish
21 for purposes of this subsection for dwelling units of
22 the applicable size.

23 (4) REQUIRED EXTENSION OF AFFORDABILITY
24 RESTRICTIONS.—The Secretary may provide assist-
25 ance under this subsection for a property only if the

1 owner of the property enters into such binding com-
2 mitments as the Secretary may require, which shall
3 be applicable to any subsequent owner, to ensure
4 that the property will be operated, for a period of
5 not less than 20 years that begins on the termi-
6 nation date for the property, in accordance with all
7 affordability restrictions that are applicable to the
8 property under the multifamily housing subsidy pro-
9 gram under which the property is assisted before the
10 termination date.

11 (c) ASSISTANCE FOR PURCHASE BY NONPROFIT EN-
12 TITIES.—The Secretary may provide a grant under this
13 subsection to a nonprofit organization for acquisition of
14 a covered multifamily housing property, subject to the fol-
15 lowing requirements:

16 (1) PURPOSE.—The assistance shall be pro-
17 vided for the purpose of facilitating acquisition of
18 properties by nonprofit organizations whose missions
19 are to provide affordable housing to low- and mod-
20 erate-income families.

21 (2) ELIGIBLE NONPROFIT ORGANIZATIONS.—A
22 grant under this section may be made only to a non-
23 profit organization that provides such assurances as
24 the Secretary may require that the organization—

25 (A) will acquire the property; and

1 (B) is capable of managing the property
2 and related facilities (either directly or through
3 a contract) for the remaining useful life of the
4 property and related facilities.

5 (3) ELIGIBLE USE.—Amounts from the grant
6 may be used only to cover any direct costs (other
7 than the purchase price) incurred by the nonprofit
8 organization in purchasing and assuming responsi-
9 bility for the property and related facilities involved.

10 (4) PER UNIT AMOUNT LIMITATIONS.—The
11 amount from a grant used with respect to a dwelling
12 unit in the property may not exceed the per unit dol-
13 lar amount limitation as the Secretary shall establish
14 for purposes of this subsection for dwelling units of
15 the applicable size.

16 (5) REQUIRED EXTENSION OF AFFORDABILITY
17 RESTRICTIONS.—The Secretary may provide assist-
18 ance under this subsection for a property only if the
19 owner of the property enters into such binding com-
20 mitments as the Secretary may require, which shall
21 be applicable to any subsequent owner, to ensure
22 that the property will be operated, for the remaining
23 useful life of the property, in accordance with all af-
24 fordability restrictions that are applicable to the
25 property under the multifamily housing subsidy pro-

1 gram under which the property is assisted before the
2 termination date.

3 (d) LOW- AND MODERATE-INCOME AFFORDABILITY
4 ASSISTANCE.—The Secretary may make assistance avail-
5 able under this subsection to the owner of a covered multi-
6 family housing property, subject to the following require-
7 ments:

8 (1) PURPOSE.—The assistance shall be pro-
9 vided for the purpose of maintaining the afford-
10 ability of dwelling units, in properties located in
11 strong rental markets, for low- and moderate-income
12 families residing in the property.

13 (2) ELIGIBILITY.—Assistance may be made
14 available for a property only if—

15 (A) the property is located in an area in
16 which the Secretary determines, based on hous-
17 ing market indicators, such as low vacancy
18 rates or high absorption rates, that there is not
19 adequate available and affordable housing; and

20 (B) the property is not owned by a non-
21 profit organization whose purpose in owning the
22 housing is to provide affordable housing to low-
23 or moderate-income families.

24 (3) FORM AND TERM.—The assistance shall be
25 in the form of an annual payment and shall be pro-

1 vided for such term as may be agreed to by the Sec-
2 retary and the owner of the property.

3 (4) PREVENTION OF DUPLICATIVE SUB-
4 SIDIES.—Assistance may not be provided for any
5 dwelling unit in a property during any period during
6 which such unit is provided project-based or tenant-
7 based rental assistance of any kind from any source.

8 (5) AMOUNT AND RENT LEVELS.—The Sec-
9 retary shall determine the amount of annual assist-
10 ance provided for a property based on rent levels, for
11 the dwelling units in the property that are subject
12 to affordability restrictions pursuant to paragraph
13 (6), that are equal to the lesser of—

14 (A) comparable market rents for the mar-
15 ket area in which the property is located for
16 dwelling units of the applicable size; and

17 (B) 150 percent of the fair market rentals
18 established under section 8(c) of the United
19 States Housing Act of 1937 for the market
20 area in which the property is located for dwell-
21 ing units of the applicable size.

22 (6) REQUIRED EXTENSION OF AFFORDABILITY
23 RESTRICTIONS.—The Secretary may provide assist-
24 ance under this subsection for a property only if the
25 owner of the property enters into such binding com-

1 mitments as the Secretary may require, which shall
2 be applicable to any subsequent owner, to ensure
3 that the property will be operated, for a period not
4 shorter than the term of the assistance agreed to
5 pursuant to paragraph (3) or 10 years, whichever is
6 longer, that begins on the termination date for the
7 property, in accordance with all affordability restric-
8 tions that are applicable to the property under the
9 multifamily housing subsidy program under which
10 the property is assisted before the termination date.

11 (e) FUNDING.—For purposes of providing assistance
12 under this section, the Secretary may make available—

13 (1) \$675,000,000 from the amounts made
14 available under the heading “Rent Supplement” in
15 chapter VI of title I of the Supplemental Appropria-
16 tions Act, 1983 (Public Law 98–63; 97 Stat 320)
17 for amendments to contracts under section 101 of
18 the Housing and Urban Development Act of 1965
19 (12 U.S.C. 1701s) and section 236(f)(2) of the Na-
20 tional Housing Act (12 U.S.C. 1715z–1(f)(2) in
21 State-aided, noninsured rental housing projects, that
22 remain unobligated; and

23 (2) such other sums from the amounts made
24 available in any fiscal year under the heading re-

1 ferred to in paragraph (1) that remain or may be-
2 come unobligated.

3 **SEC. 4. ENHANCED VOUCHERS.**

4 (a) **REQUIREMENT.**—Upon the termination date for
5 each assisted multifamily housing project, to the extent
6 that amounts for assistance under this subsection are pro-
7 vided in advance in appropriation Acts, the Secretary shall
8 make enhanced voucher assistance under section 8(t) of
9 the United States Housing Act of 1937 (42 U.S.C.
10 1437f(t)) available on behalf of each family described in
11 subsection (b).

12 (b) **ELIGIBILITY.**—A family described in this sub-
13 section is a family who—

14 (1)(A) is a low-income family; or

15 (B) is a moderate-income family that is—

16 (i) an elderly family (as such term is used
17 in section 3(b) of the United States Housing
18 Act of 1937 (42 U.S.C. 1437a(b)));

19 (ii) a disabled family (as such term is used
20 in section 3(b) of the United States Housing
21 Act of 1937 (42 U.S.C. 1437a(b)); or

22 (iii) residing in a low-vacancy area (as de-
23 termined by the Secretary); and

24 (2) on such termination date, is residing in a
25 dwelling unit of the project that—

1 (A) immediately before such termination
2 date was assisted under the multifamily housing
3 subsidy program for the project; and

4 (B) is not assisted after such termination
5 date under section 8 of such Act or pursuant to
6 assistance under section 3 of this Act.

7 (c) **ELIGIBILITY EVENT.**—Section 8(t)(2) of the
8 United States Housing Act of 1937 (42 U.S.C.
9 1437f(t)(2)) is amended by adding after the period at the
10 end the following new sentence: “Such term includes, with
11 respect to an assisted multifamily housing project (as such
12 term is defined in section 7 of the Displacement Preven-
13 tion Act of 2004), the occurrence of the termination date
14 for the project.”.

15 **SEC. 5. NOTIFICATION REQUIREMENT.**

16 (a) **TIMING.**—An owner of an assisted multifamily
17 housing property who intends to terminate or alter the af-
18 fordability restrictions for the property on or after the ter-
19 mination date for the property shall, not less than nine
20 months before such termination date, provide written no-
21 tice of such termination date to the Secretary of Housing
22 and Urban Development, the chief executive officer of the
23 State and the unit of general local government (as such
24 term is defined in section 104 of the Cranston-Gonzalez
25 National Affordable Housing Act (42 U.S.C. 12704) in

1 which the property is located, and each tenant of the
2 project.

3 (b) CONTENTS.—The notice shall include—

4 (1) a statement specifying any changes in the
5 terms or applicability of the affordability restrictions
6 for the property that the owner intends to make on
7 or after the termination date for the property;

8 (2) a statement that, if the owner proceeds with
9 such intended changes and the Congress makes
10 funds available, the Department of Housing and
11 Urban Development will provide tenant-based rental
12 assistance to all eligible residents, enabling them to
13 choose the place they wish to rent, which may in-
14 clude the dwelling unit in which they currently re-
15 side; and

16 (3) a statement that, if the Congress makes
17 funds available, the owner and the Secretary may
18 yet agree to renewal of assistance and affordability
19 restrictions for the project, thereby obviating the
20 need for such tenant-based rental assistance.

21 (c) FAILURE TO PROVIDE NOTICE.—If the owner
22 does not provide the notice required under this section,
23 notwithstanding any inapplicability of the affordability re-
24 strictions for the project, the owner may not evict the ten-
25 ants or increase the tenants' rent payments until such

1 time as the owner has provided the notice and one year
2 has elapsed.

3 (d) OTHER TERMS.—Any notice under this section
4 shall comply with any additional requirements as the Sec-
5 retary may establish.

6 (e) SAVINGS PROVISION.—This section may not be
7 construed to annul, alter, affect, or preempt any provision
8 of the law of a State or political subdivision thereof requir-
9 ing notice regarding termination of assistance or afford-
10 ability restrictions with respect to a multifamily housing
11 project or to exempt any person from complying with such
12 a law.

13 **SEC. 6. ANNUAL AND SEMIANNUAL REVIEWS.**

14 (a) ANNUAL REVIEW.—To ensure compliance with
15 this Act, the Secretary shall conduct an annual review on
16 actions taken under this Act and the status of covered
17 multifamily housing properties and submit a report to the
18 Congress regarding each such annual review.

19 (b) SEMIANNUAL REVIEW.—Not less than semiannu-
20 ally during the 2-year period beginning on the date of the
21 enactment of this Act and not less than annually there-
22 after, the Secretary shall submit reports to the Committee
23 on Financial Services of the House of Representatives and
24 the Committee on Banking, Housing, and Urban Affairs
25 of the Senate stating, for such periods, the total number

1 of assisted multifamily housing properties for which notifi-
2 cation has been provided under section 5 during such pe-
3 riod, the total number of covered multifamily housing
4 properties for which assistance has been provided under
5 section 3, and the type or types of such assistance pro-
6 vided.

7 **SEC. 7. DEFINITIONS.**

8 For purposes of this Act:

9 (1) **AFFORDABILITY RESTRICTIONS.**—The term
10 “affordability restrictions” means, with respect to a
11 covered multifamily housing property, limits imposed
12 by regulation or regulatory agreement on tenant
13 rents, rent contributions, or income eligibility.

14 (2) **ASSISTED MULTIFAMILY HOUSING PROP-**
15 **ERTY.**—The term “assisted multifamily housing
16 property” means a multifamily housing project for
17 which assistance is provided under a multifamily
18 housing subsidy program.

19 (3) **COMPARABLE PROPERTIES.**—The term
20 “comparable properties” means, with respect to a
21 covered multifamily housing property, properties in
22 the same market area, where practicable, that—

23 (A) are similar to the covered multifamily
24 housing property as to neighborhood (including
25 risk of crime), type of location, access, street

1 appeal, age, property size, apartment mix, phys-
2 ical configuration, property and unit amenities,
3 utilities, and other relevant characteristics; and

4 (B) are not receiving project-based rental
5 assistance of any kind from any source.

6 (4) COVERED MULTIFAMILY HOUSING PROP-
7 erty.—The term “covered multifamily housing
8 property” means an assisted multifamily housing
9 project for which the termination date will occur
10 within the 10-year period beginning on the date of
11 the enactment of this Act.

12 (5) LOW-INCOME FAMILY.—The term “low-in-
13 come family” has the meaning given such term in
14 section 3(b) of the United States Housing Act of
15 1937 (42 U.S.C. 1437a(b)).

16 (6) MODERATE-INCOME FAMILY.—The term
17 “moderate-income family” has the meaning given
18 such term in section 229 of the Low-Income Hous-
19 ing Preservation and Resident Homeownership Act
20 of 1992 (12 U.S.C. 4119).

21 (7) MULTIFAMILY HOUSING SUBSIDY PRO-
22 gram.—The term “multifamily housing subsidy pro-
23 gram” means—

24 (A) the below-market interest rate mort-
25 gage insurance program under section

1 221(d)(3) of the National Housing Act (12
2 U.S.C. 1715l(d)(3)); and

3 (B) the program for interest reduction
4 payments under section 236 of the National
5 Housing Act (12 U.S.C. 1715z-1).

6 (8) NONPROFIT ORGANIZATION.—The term
7 “nonprofit organization” means any private organi-
8 zation that has no part of its net earning inuring to
9 the benefit of any member, founder, contributor, or
10 individual.

11 (9) SECRETARY.—The term “Secretary” means
12 the Secretary of Housing and Urban Development.

13 (10) TERMINATION DATE.—The term “termi-
14 nation date” means, with respect to an assisted or
15 a covered multifamily housing property, the date
16 that—

17 (A) the mortgage for the property that is
18 insured under the below-market interest rate
19 program under section 221(d)(3) of the Na-
20 tional Housing Act, or for which interest reduc-
21 tion payments are made under section 236 of
22 such Act, matures; and

23 (B) the affordability restrictions applicable
24 to the property because of assistance for the
25 property pursuant to a multifamily housing

1 subsidy program terminate with respect to the
2 property.

3 **SEC. 8. REGULATIONS.**

4 The Secretary may issue any regulations necessary
5 to carry out this Act.

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