II

110TH CONGRESS
1ST SESSION

# S. 131

To extend for 5 years the Mark-to-Market program of the Department of Housing and Urban Development.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

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

# A BILL

To extend for 5 years the Mark-to-Market program of the Department of Housing and Urban Development.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Mark-to-Market Extension Act of 2007".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.
Sec. 4. Extension of Mark-to-Market program.
Sec. 5. Exception rents.
Sec. 6. Otherwise eligible projects.

Sec. 7. Disaster-damaged eligible projects.
Sec. 8. Period of eligibility for nonprofit debt relief.
Sec. 9. Effective date.

**SEC. 2. PURPOSES.**

The purpose of this Act is to—

(1) continue the progress of the Multifamily Assisted Housing Reform and Affordability Act of 1997, as amended by the Mark-To-Market Extension Act of 2001;

(2) expand eligibility for Mark-to-Market restructuring so as to further the preservation of affordable housing in a cost-effective manner; and

(3) provide for the preservation and rehabilitation of projects damaged by Hurricanes Katrina, Rita, and Wilma, or by other natural disasters.

**SEC. 3. DEFINITIONS.**

Section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1473f note) is amended by adding at the end the following:

"(20) DISASTER-DAMAGED ELIGIBLE PROJECT.—

"(A) IN GENERAL.—The term 'disaster-damaged eligible project' means an otherwise eligible multifamily housing project—

"(i) that is located in a county that was designated a major disaster area on or after January 1, 2005, by the President pursuant to title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

"(ii) whose owner carried casualty and liability insurance covering such project in an amount required by the Secretary;

"(iii) that suffered damages not covered by such insurance that the Secretary determines is likely to exceed $5,000 per unit in connection with the natural disaster that was the subject of the designation described in subparagraph (A); and

"(iv) whose owner requests restructuring of the project not later than 2 years after the date that such damage occurred.

"(B) RULE OF CONSTRUCTION.—A disaster-damaged eligible project shall be eligible for amounts under this Act without regard to the relationship between rent levels for the assisted units in such project and comparable rents for the relevant market area.".

**SEC. 4. EXTENSION OF MARK-TO-MARKET PROGRAM.**

Section 579 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1473f note) is amended by striking ‘‘October 1, 2006’’ each place that term appears and inserting ‘‘October 1, 2011’’.

**SEC. 5. EXCEPTION RENTS.**

Section 514(g)(2) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1473f note) is amended—

(1) by inserting ‘‘disaster-damaged eligible projects and’’ after ‘‘waive this limit’’; and

(2) by striking ‘‘five percent’’ and inserting ‘‘9 percent’’.

**SEC. 6. OTHERWISE ELIGIBLE PROJECTS.**

Section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1473f note) is amended by adding at the end the following:

‘‘(i) OTHER ELIGIBLE PROJECTS.—

‘‘(1) IN GENERAL.—Notwithstanding any other provision of this subtitle, a project that meets the requirements of subparagraphs (B) and (C) of section 512(2) but does not meet the requirements of subparagraph (A) of section 512(2), may be treated as an eligible multifamily housing project on an exception basis if the Secretary determines, subject to paragraph (2), that such treatment is necessary to preserve the project in the most cost-effective manner in relation to other alternative preservation options.

"(2) OWNER REQUEST.—

"(A) REQUEST REQUIRED.—The Secretary shall not treat an otherwise eligible project described under paragraph (1) as an eligible multifamily housing project unless the owner of the project requests such treatment.

"(B) NO ADVERSE TREATMENT IF NO REQUEST MADE.—If the owner of a project does not make a request under subparagraph (A), the Secretary shall not withhold from such project any other available preservation option.

"(3) CANCELLATION.—

"(A) TIMING.—At any time prior to the completion of a mortgage restructuring under this subtitle, the owner of a project may—

"(i) withdraw any request made under paragraph (2)(A); and

"(ii) pursue any other option with respect to the renewal of such owner's section 8 contract pursuant to any applicable statute or regulation.

"(B) DOCUMENTATION.—If an owner of a project withdraws such owner's request and pursues other renewal options under this paragraph, such owner shall be entitled to submit documentation or other information to replace the documentation or other information used during processing for mortgage restructuring under this subtitle.

"(4) LIMITATION.—The Secretary may exercise the authority to treat projects as eligible multifamily housing projects pursuant to this subsection only to the extent that the number of units in such projects do not exceed 10 percent of all units for which mortgage restructuring pursuant to section 517 is completed.".

**SEC. 7. DISASTER-DAMAGED ELIGIBLE PROJECTS.**

(a) MARKET RENT DETERMINATIONS.—Section 514(g)(1)(B) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1473f note) is amended by striking "determined, are equal" and inserting the following: "determined—

"(i) with respect to a disaster-damaged eligible property, are equal to 100 percent of the fair market rents for the relevant market area (as such rents were in effect at the time of such disaster; and "(ii) with respect to other eligible multifamily housing projects, are equal".

(b) OWNER INVESTMENT.—Section 517(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1473f note) is amended by adding at the end the following:

"(3) PROPERTIES DAMAGED BY NATURAL DISASTERS.—With respect to a disaster-damaged eligible property, the owner contribution toward rehabilitation needs shall be determined in accordance with paragraph (2)(C).".

**SEC. 8. PERIOD OF ELIGIBILITY FOR NONPROFIT DEBT RELIEF.**

Section 517(a)(5) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1473f note) is amended by adding at the end the following: "If such purchaser acquires such project subsequent to the date of recordation of the affordability agreement described in section 514(e)(6)—

"(1) such purchaser shall acquire such project on or before the later of—

"(A) 5 years after the date of recordation of the affordability agreement; or

"(B) 2 years after the date of enactment of the Mark-to-Market Extension Act of 2007; and

"(2) the Secretary shall have received, and determined acceptable, such purchaser's application for modification, assignment, or forgiveness prior to the acquisition of the project by such purchaser.".

**SEC. 9. EFFECTIVE DATE.**

This Act, and the amendments made by this Act, shall take effect on the earlier of—

(1) the date of enactment of this Act; or

(2) September 30, 2007.

○