

114TH CONGRESS  
1ST SESSION

# S. 2292

To reform laws relating to small public housing agencies, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2015

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

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## A BILL

To reform laws relating to small public housing agencies, 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 “Small Public Housing  
5       Agency Opportunity Act of 2015”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress finds the following:

8               (1) Although small public housing agencies are  
9       numerous, they administer only a small fraction of

1 the financial resources provided under the Federal  
2 housing programs.

3 (2) The oversight of small public housing agen-  
4 cies by the Department of Housing and Urban De-  
5 velopment is disproportionate to the financial risk  
6 the operations of these agencies pose to the Federal  
7 Government.

8 (3) Small public housing agencies perform bet-  
9 ter than larger agencies, as public housing agency  
10 performance is presently measured by the Federal  
11 Government.

12 (4) The Department of Housing and Urban De-  
13 velopment should deploy its administrative oversight  
14 resources in a manner that reflects relative risk to  
15 the Federal Government.

16 (5) Regulatory and administrative burdens that  
17 may be reasonable for larger public housing agencies  
18 may not be so for smaller public housing agencies  
19 with more limited resources.

20 (6) Eliminating unnecessary or unreasonable  
21 regulatory and administrative burdens will improve  
22 the effectiveness of small public housing agencies as  
23 providers of housing assistance to low-income fami-  
24 lies.

1           (7) Small public housing agencies and their  
2 residents would benefit from, and small public hous-  
3 ing agencies should be afforded, maximum flexibility  
4 in the use of their resources.

5           (8) Congress and the Department of Housing  
6 and Urban Development should reduce administra-  
7 tive and regulatory burdens on small public housing  
8 agencies.

9           (9) Public housing revitalization funding has  
10 been largely unavailable to small public housing  
11 agencies.

12           (10) Congress should establish a program of as-  
13 sistance to enable public housing revitalization ac-  
14 tivities by small public housing agencies.

15       (b) PURPOSES.—The purposes of this Act are—

16           (1) to assure the long-term viability and effec-  
17 tiveness of the small public housing agencies and the  
18 housing assistance programs they operate;

19           (2) to ensure that small public housing agencies  
20 are not subject to unnecessary Federal regulatory  
21 control and administrative requirements;

22           (3) to afford flexibility to small public housing  
23 agencies in the use of their resources;

24           (4) to adjust Federal oversight requirements for  
25 small public housing agencies to better reflect finan-

1        cial risk to the Federal Government and the relative  
 2        resources of such agencies;

3            (5) to explore innovative approaches to simpli-  
 4        fying determination of income and tenant rents; and

5            (6) to ensure that small public housing agencies  
 6        have access to the resources necessary for the mod-  
 7        ernization and revitalization of their public housing  
 8        stock.

9    **SEC. 3. SMALL PUBLIC HOUSING AGENCIES.**

10        (a) IN GENERAL.—Title I of the United States Hous-  
 11        ing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by  
 12        adding at the end the following:

13    **“SEC. 37. SMALL PUBLIC HOUSING AGENCIES.**

14        “(a) DEFINITIONS.—In this section, the following  
 15        definitions shall apply:

16            “(1) HOUSING VOUCHER PROGRAM.—The term  
 17        ‘housing voucher program’ means a program for ten-  
 18        ant-based assistance under section 8.

19            “(2) SMALL PUBLIC HOUSING AGENCY.—The  
 20        term ‘small public housing agency’ means a public  
 21        housing agency for which the sum of the number of  
 22        public housing dwelling units administered by the  
 23        agency and the number of vouchers under section  
 24        8(o) administered by the agency is 550 or fewer.

1           “(3) TROUBLED SMALL PUBLIC HOUSING AGEN-  
 2           CY.—The term ‘troubled small public housing agen-  
 3           cy’ means a small public housing agency designated  
 4           by the Secretary as a troubled small public housing  
 5           agency under subsection (c)(4).

6           “(b) APPLICABILITY.—Except as otherwise provided  
 7           in this section, a small public housing agency shall be sub-  
 8           ject to the same requirements as a public housing agency.

9           “(c) PROGRAM INSPECTIONS AND EVALUATIONS.—

10           “(1) PUBLIC HOUSING PROJECTS.—

11           “(A) PHYSICAL INSPECTIONS.—

12           “(i) FREQUENCY OF INSPECTIONS BY  
 13           SECRETARY.—The Secretary shall carry  
 14           out an inspection of the physical condition  
 15           of a small public housing agency’s public  
 16           housing projects not more frequently than  
 17           once every 3 years, unless the agency has  
 18           been designated by the Secretary as trou-  
 19           bled small public housing agency based on  
 20           deficiencies in the physical condition of its  
 21           public housing projects.

22           “(ii) STANDARDS.—The Secretary  
 23           shall apply to small public housing agen-  
 24           cies the same standards for the acceptable

condition of public housing projects that  
apply to projects assisted under section 8.

“(B) FINANCIAL CONDITION.—

“(i) IN GENERAL.—The Secretary  
shall determine the financial condition of  
the public housing program of a small pub-  
lic housing agency solely on the basis of  
the ratio of current assets to current liabil-  
ities.

“(ii) RATIO.—A ratio described in  
clause (i) of not less than 1 shall result in  
a determination that the financial condi-  
tion of a small public housing agency is ac-  
ceptable.

“(C) MANAGEMENT CONDITION.—

“(i) DETERMINATION.—

“(I) IN GENERAL.—Except as  
provided in clause (ii), the Secretary  
shall determine the management con-  
dition of the public housing program  
of a small public housing agency sole-  
ly on the basis of the ratio of vacant  
unit months to eligible unit months.

“(II) RATIO.—Except as pro-  
vided in subclause (III), a ratio de-

scribed in subclause (I) of not more than 10 percent shall result in a determination that the management condition of a small public housing agency is acceptable.

“(III) EXCEPTION.—In determining the management condition of a program or project of a small public housing agency with an extremely low number of public housing units, the Secretary may apply a ratio or standard that is different than the standard under this subparagraph.

“(ii) CHANGING MARKET CONDITIONS.—In determining the management condition of the public housing program of a small public housing agency, the Secretary shall take into consideration a demonstration by the small public housing agency that the inability of the small public housing agency to lease an adequate number of units is a result of changes in market conditions.

“(2) HOUSING VOUCHER PROGRAM.—

1           “(A) PHYSICAL INSPECTION OF ASSISTED  
2           UNITS.—A small public housing agency admin-  
3           istering assistance under section 8(o) shall  
4           make periodic physical inspections of each as-  
5           sisted dwelling unit not less frequently than  
6           once every 3 years to determine whether the  
7           unit is maintained in accordance with the re-  
8           quirements under section 8(o)(8)(A).

9           “(B) MANAGEMENT ASSESSMENT.—

10           “(i) IN GENERAL.—The Secretary  
11           shall evaluate the management of a vouch-  
12           er program of a small public housing agen-  
13           cy solely on the basis of the lease-up rate  
14           or the budget utilization rate of the small  
15           public housing agency.

16           “(ii) RATE.—A lease-up rate or budg-  
17           et utilization rate described in clause (i) of  
18           not less than 90 percent shall result in a  
19           determination that the management of the  
20           voucher program is acceptable.

21           “(3) HIGH-PERFORMING AGENCIES.—The Sec-  
22           retary shall designate a small public housing agency  
23           as a high-performing agency if the Secretary deter-  
24           mines that the small public housing agency exceeds  
25           the criteria for acceptability established under para-



graphs (1) and (2) by an extent established by rule  
by the Secretary.

“(4) TROUBLED SMALL PUBLIC HOUSING AGEN-  
CIES.—

“(A) PUBLIC HOUSING PROGRAM.—Not-  
withstanding any other provision of law, the  
Secretary may designate a small public housing  
agency as a troubled small public housing agen-  
cy with respect to the public housing program  
of the small public housing agency only if the  
Secretary determines that the agency—

“(i) has failed—

“(I) to maintain the public hous-  
ing units of the small public housing  
agency in a satisfactory physical con-  
dition, based upon an inspection con-  
ducted by the Secretary; and

“(II) to correct deficiencies be-  
fore the date that is 90 days after the  
date on which the Secretary verifies  
the inspection results;

“(ii) does not have, as of the last day  
of any fiscal year, an acceptable ratio of  
current assets to current liabilities, as de-  
termined under paragraph (1)(B);

1 “(iii) has failed to maintain an accept-  
2 able average ratio of vacant unit months to  
3 eligible unit months during any calendar  
4 year, as determined under paragraph  
5 (1)(C), and that the failure is not the re-  
6 sult of changes in market conditions; or

7 “(iv) has failed to account for the rev-  
8 enues and expenses of the small public  
9 housing agency, misappropriated Federal  
10 funds, or otherwise failed to comply with  
11 applicable Federal law.

12 “(B) HOUSING VOUCHER PROGRAM.—Not-  
13 withstanding any other provision of law, the  
14 Secretary may designate a small public housing  
15 agency as a troubled small public housing agen-  
16 cy with respect to the housing voucher program  
17 of the small public housing agency only if the  
18 Secretary determines that the agency—

19 “(i) has failed to comply with the in-  
20 spection requirements under paragraph  
21 (2)(A);

22 “(ii) during a calendar year has failed  
23 to maintain an acceptable lease-up rate or  
24 budget utilization rate, as determined  
25 under paragraph (2)(B); or

1 “(iii) has failed to account for the rev-  
 2 enues and expenses of the small public  
 3 housing agency, misappropriated Federal  
 4 funds, or otherwise failed to comply with  
 5 applicable Federal law.

6 “(C) APPEALS.—

7 “(i) ESTABLISHMENT.—The Secretary  
 8 shall establish an appeals process under  
 9 which a small public housing agency may  
 10 dispute a designation as a troubled small  
 11 public housing agency.

12 “(ii) OFFICIAL.—The appeals process  
 13 established under clause (i) shall provide  
 14 for a decision by an official who has not  
 15 been involved, and is not subordinate to a  
 16 person who has been involved, in the origi-  
 17 nal determination to designate a small  
 18 public housing agency as a troubled small  
 19 public housing agency.

20 “(D) CORRECTIVE ACTION AGREEMENT.—

21 “(i) AGREEMENT REQUIRED.—Not  
 22 later than 60 days after the date on which  
 23 a small public housing agency is des-  
 24 ignated as a troubled public housing agen-  
 25 cy under subparagraph (A) or (B), the

1 Secretary and the small public housing  
2 agency shall enter into a corrective action  
3 agreement under which the small public  
4 housing agency shall undertake actions to  
5 correct the deficiencies upon which the des-  
6 ignation is based.

7 “(ii) TERMS OF AGREEMENT.—A cor-  
8 rective action agreement entered into  
9 under clause (i) shall—

10 “(I) have a term of 1 year, and  
11 shall be renewable at the option of the  
12 Secretary;

13 “(II) provide, where feasible, for  
14 technical assistance to assist the pub-  
15 lic housing agency in curing its defi-  
16 ciencies;

17 “(III) provide for—

18 “(aa) reconsideration of the  
19 designation of the small public  
20 housing agency as a troubled  
21 small public housing agency not  
22 less frequently than annually;  
23 and

24 “(bb) termination of the  
25 agreement when the Secretary

1 determines that the small public  
2 housing agency is no longer a  
3 troubled small public housing  
4 agency; and

5 “(IV) provide that in the event of  
6 substantial noncompliance by the  
7 small public housing agency under the  
8 agreement, the Secretary may—

9 “(aa) contract with another  
10 public housing agency or a pri-  
11 vate entity to manage the public  
12 housing of the troubled small  
13 public housing agency;

14 “(bb) withhold funds other-  
15 wise distributable to the troubled  
16 small public housing agency;

17 “(cc) assume possession of,  
18 and direct responsibility for,  
19 managing the public housing of  
20 the troubled small public housing  
21 agency;

22 “(dd) petition for the ap-  
23 pointment of a receiver, in ac-  
24 cordance with section  
25 6(j)(3)(A)(ii); and

1                   “(ee) exercise any other  
2                   remedy available to the Secretary  
3                   in the event of default under the  
4                   public housing annual contribu-  
5                   tions contract entered into by the  
6                   small public housing agency  
7                   under section 5.

8                   “(E) EMERGENCY ACTIONS.—Nothing in  
9                   this paragraph may be construed to prohibit the  
10                  Secretary from taking any emergency action  
11                  necessary to protect Federal financial resources  
12                  or the health or safety of residents of public  
13                  housing projects.

14               “(d) REDUCTION OF ADMINISTRATIVE BURDENS.—

15               “(1) REPORTS.—

16               “(A) COMPARABILITY WITH SECTION 8 RE-  
17               QUIREMENTS.—Notwithstanding any other pro-  
18               vision of law, and except as otherwise provided  
19               in this section, the Secretary may not require a  
20               small public housing agency to submit any re-  
21               port, plan, or other information with respect to  
22               the public housing units, projects, or programs  
23               of the small public housing agency if the report,  
24               plan, or other information is not required to be  
25               submitted by the owner of a project assisted

1 under section 8 that is covered by a mortgage  
2 insured by the Secretary.

3 “(B) EXCEPTION FOR DESIGNATED HOUS-  
4 ING FOR ELDERLY AND DISABLED FAMILIES.—  
5 A small public housing agency shall submit to  
6 the Secretary the plan required under section 7  
7 in order to designate occupancy in public hous-  
8 ing units in accordance with section 7.

9 “(C) COMPLIANCE.—For purposes of de-  
10 termining the benefits or funding available to a  
11 small public housing agency, the small public  
12 housing agency shall be deemed to be in compli-  
13 ance with a requirement under Federal law to  
14 submit a report, plan, or other information with  
15 respect to the public housing units, projects, or  
16 programs of the small public housing agency if  
17 the small public housing agency submits the re-  
18 ports, plans, or other information required  
19 under subparagraphs (A) and (B).

20 “(2) COMMUNITY SERVICE.—

21 “(A) IN GENERAL.—Notwithstanding any  
22 other provision of law, a small public housing  
23 agency may elect to comply with the require-  
24 ments under section 12(c)(3) through the use of  
25 tenant certifications.

“(B) MONITORING OF COMPLIANCE.—

“(i) DEFINITION.—In this subparagraph, the term ‘administrative burden or requirement’ includes a requirement to review or verify information contained in a tenant certification.

“(ii) REQUIREMENT.—The Secretary may not impose any administrative burden or requirement with respect to the monitoring of compliance with section 12(c) on a small public housing agency that has made an election under subparagraph (A), except a requirement to obtain tenant certifications and make the tenant certifications available to the Secretary.

“(C) DETERMINATION OF NONCOMPLIANCE.—A small public housing agency may not make an election under subparagraph (A) if the Secretary determines that there is substantial noncompliance by the tenants at the small public housing agency with the requirements under section 12(c).

“(3) ECONOMIC OPPORTUNITY.—Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) shall apply to a small public



1 housing agency only to the extent that such section  
2 3 applies to the owner of a project assisted under  
3 section 8 of this Act.

4 “(4) ASSET MANAGEMENT.—At the request of a  
5 small public housing agency or a public housing  
6 agency that administers not more than 400 public  
7 housing dwelling units, the Secretary shall exempt  
8 the small public housing agency or public housing  
9 agency from any asset management requirement  
10 otherwise imposed by the Secretary on public hous-  
11 ing agencies.

12 “(5) ENVIRONMENTAL REVIEWS.—

13 “(A) EXEMPTION.—Notwithstanding any  
14 other provision of law, a small public housing  
15 agency shall be exempt from any environmental  
16 review requirements with respect to a develop-  
17 ment or modernization project having a total  
18 cost of not more than \$100,000.

19 “(B) STREAMLINED PROCEDURES.—The  
20 Secretary shall, by rule, establish streamlined  
21 procedures for environmental reviews of small  
22 public housing agency development and mod-  
23 ernization projects having a total cost of more  
24 than \$100,000.

25 “(e) FUNGIBILITY.—

1           “(1) IN GENERAL.—Notwithstanding any other  
2           provision of law and subject to paragraph (2), a  
3           small public housing agency may—

4                   “(A) combine funds provided to the small  
5           public housing agency for voucher assistance  
6           under section 8(o), from the Capital Fund, and  
7           from the Operating Fund; and

8                   “(B) use the funds combined under sub-  
9           paragraph (A) for any activity authorized under  
10          section 8(o) or subsection (d) or (e) of section  
11          9.

12          “(2) LIMITATION.—In using funds combined  
13          under paragraph (1)(A), a small public housing  
14          agency shall assist substantially the same number of  
15          low-income families, with a comparable mix of fami-  
16          lies by family size, as the small public housing agen-  
17          cy did in the year preceding its qualification as a  
18          small public housing agency, with appropriate ad-  
19          justments made by the Secretary on the basis of any  
20          increase or decrease in the number of vouchers or  
21          units assisted.

22          “(f) PROJECT-BASED VOUCHERS.—With respect to a  
23          program carried out by a small public housing agency  
24          under section 8(o)—

1 “(1) section 8(o)(13)(B) shall be applied by  
2 substituting ‘50 percent’ for ‘20 percent’; and

3 “(2) section 8(o)(13)(C) shall not apply.

4 “(g) REPLACEMENT HOUSING FACTOR FUNDS.—  
5 During the first year of each 5-year period for which a  
6 small public housing agency qualifies for the addition of  
7 a replacement housing factor under section 905.400(i) of  
8 title 24, Code of Federal Regulations (or any successor  
9 thereto), the Secretary shall pay to the small public hous-  
10 ing agency the portion of the total amount that the Sec-  
11 retary plans to make available to the small public housing  
12 agency from the Capital Fund established under section  
13 9(d) during that 5-year period that is attributable to the  
14 addition of the replacement housing factor.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
16 Section 5A of the United States Housing Act of 1937 (42  
17 U.S.C. 1437c–1) is amended—

18 (1) in subsection (b), by striking paragraph (3);

19 (2) in subsection (e), by striking paragraph (4);

20 and

21 (3) in subsection (f), by striking paragraph (5).

22 **SEC. 4. RENT REFORM DEMONSTRATION PROJECT FOR**  
23 **SMALL PUBLIC HOUSING AGENCIES.**

24 (a) DEFINITIONS.—In this section, the following defi-  
25 nitions shall apply:

1           (1) EXTREMELY LOW-INCOME FAMILY.—The  
2           term “extremely low-income family” means a family  
3           whose income does not exceed the higher of—

4                   (A) the poverty guidelines updated periodi-  
5                   cally by the Department of Health and Human  
6                   Services under the authority of section 673(2)  
7                   of the Community Services Block Grant Act  
8                   (42 U.S.C. 9902(2)) applicable to a family of  
9                   the size involved (except that this subparagraph  
10                  shall not apply in the case of public housing  
11                  agencies or projects located in Puerto Rico or  
12                  any other territory or possession of the United  
13                  States); or

14                  (B) 30 percent of the median income for  
15                  the area, as determined by the Secretary, with  
16                  adjustments for smaller and larger families (ex-  
17                  cept that the Secretary may establish income  
18                  ceilings higher or lower than 30 percent of the  
19                  median income for the area on the basis of the  
20                  Secretary’s findings that such variations are  
21                  necessary because of unusually high or low fam-  
22                  ily incomes).

23           (2) INCOME.—The term “income” has the  
24           meaning given that term by section 3(b)(4) of the

1 United States Housing Act of 1937 (42 U.S.C.  
2 1437a(b)(4)).

3 (3) LOW-INCOME FAMILY.—The term “low-in-  
4 come family” means a family whose income does not  
5 exceed 80 percent of the median income for the  
6 area, as determined by the Secretary with adjust-  
7 ments for smaller and larger families, except the  
8 Secretary may establish income ceilings higher or  
9 lower than 80 percent of the median income for the  
10 area if the Secretary determines that such variations  
11 are necessary because of unusually high or low fam-  
12 ily incomes in the area.

13 (4) MEDIAN INCOME FOR THE AREA.—The  
14 term “median income for the area” means the me-  
15 dian income of all families in a geographic area, as  
16 determined by the Secretary.

17 (5) SECRETARY.—The term “Secretary” means  
18 the Secretary of Housing and Urban Development.

19 (6) SMALL PUBLIC HOUSING AGENCY.—The  
20 term “small public housing agency” has the same  
21 meaning as in section 37(a) of the United States  
22 Housing Act of 1937, as added by this Act.

23 (7) VERY LOW-INCOME FAMILY.—The term  
24 “very low-income family” means a family whose in-  
25 come does not exceed 50 percent of the median in-

1       come for the area, as determined by the Secretary  
2       with adjustments for smaller and larger families, ex-  
3       cept the Secretary may establish income ceilings  
4       higher or lower than 50 percent of the median in-  
5       come for the area if the Secretary determines that  
6       such variations are necessary because of unusually  
7       high or low family incomes in the area.

8       (b) DEMONSTRATION PROJECT.—The Secretary shall  
9       carry out a demonstration project to examine how various  
10      methods of determining rent in public housing affect—

11           (1) the administrative burden on small public  
12      housing agencies; and

13           (2) the residents of public housing.

14      (c) SCOPE OF DEMONSTRATION PROJECT.—

15           (1) REQUEST TO PARTICIPATE.—The Secretary  
16      shall select small public housing agencies to partici-  
17      pate in the demonstration project from among small  
18      public housing agencies that request to participate in  
19      the project.

20           (2) NUMBER.—The Secretary shall select not  
21      more than 20 percent of the total number of small  
22      public housing agencies to participate in the dem-  
23      onstration project.

24           (3) REPRESENTATION.—The Secretary shall se-  
25      lect small public housing agencies representing a

1 broad range of geographic areas and urban and  
 2 rural locations.

3 (d) RENT-SETTING MECHANISMS.—A small public  
 4 housing agency participating in the demonstration project  
 5 shall select one or more of the following methods for estab-  
 6 lishing a family's rent contribution for a dwelling unit in  
 7 public housing:

8 (1) TIERED SYSTEM.—

9 (A) INITIAL RENTS.—A tiered system  
 10 under which the amount of initial rent is as fol-  
 11 lows:

12 (i) For an extremely low-income fam-  
 13 ily, an amount equal to 30 percent of 10  
 14 percent of the median income for the area.

15 (ii) For a very low-income family, an  
 16 amount equal to 30 percent of 30 percent  
 17 of the median income for the area.

18 (iii) For a low-income family, an  
 19 amount equal to 30 percent of 50 percent  
 20 of the median income for the area.

21 (B) SUBSEQUENT RENTS.—

22 (i) ANNUAL ADJUSTMENT.—The rent  
 23 established in accordance with subpara-  
 24 graph (A) shall be adjusted annually by

1 the small public housing agency on the  
2 basis of changes in area median incomes.

3 (ii) CONTINUED OCCUPANCY.—The  
4 annual adjustment in rent under clause (i)  
5 shall apply to the continued occupancy of  
6 an assisted family.

7 (C) OVER-INCOME FAMILIES.—A family  
8 assisted under a tiered system established  
9 under subparagraph (A) whose income exceeds  
10 80 percent of the median income for the area  
11 shall pay a rent equal to the higher of—

12 (i) 30 percent of 80 percent of the  
13 median income for the area; or

14 (ii) the market rent for the unit as de-  
15 termined by the small public housing agen-  
16 cy.

17 (2) GROSS INCOME.—

18 (A) INITIAL RENTS.—A method under  
19 which rent is established in an amount that var-  
20 ies between 26 to 28 percent of a family's in-  
21 come, based on family characteristics as deter-  
22 mined by the small public housing agency.

23 (B) SUBSEQUENT RENTS.—The rent es-  
24 tablished under subparagraph (A) shall be ad-  
25 justed annually between income recertifications



1           on the basis of factors selected by a small pub-  
2           lic housing agency that are most relevant to the  
3           status of a resident.

4           (C) MINIMUM RENT.—In establishing rents  
5           in accordance with subparagraph (A), a small  
6           public housing agency may impose a minimum  
7           rent.

8           (3) EXISTING RENT MECHANISMS.—The meth-  
9           od for establishing rents under section 3 of the  
10          United States Housing Act of 1937 (42 U.S.C.  
11          1437a).

12         (e) INCOME RECERTIFICATIONS.—

13           (1) IN GENERAL.—Not less frequently than  
14           once every 5 years, a small public housing agency  
15           shall review family income for purposes of adjusting  
16           rent under paragraphs (1), (2), and (3) of sub-  
17           section (d), except a family may request a recertifi-  
18           cation and adjustment in rent at any time if the  
19           family income has changed by an amount established  
20           by the small public housing agency.

21           (2) DETERMINATION OF FAMILY INCOME.—In  
22           determining family income, a small public housing  
23           agency may use the income of the family as deter-  
24           mined by the small public housing agency for the  
25           preceding year.

1 (f) **HARDSHIP EXCEPTION.**—A small public housing  
 2 agency shall adopt a hardship policy, comparable to the  
 3 policy described in section 3(a)(3)(B) of the United States  
 4 Housing Act of 1937 (42 U.S.C. 1437a(a)(3)(B)), for use  
 5 in connection with a minimum rent imposed under sub-  
 6 section (d)(2)(C) and in connection with rents established  
 7 under paragraphs (1), (2), and (3) of subsection (d).

8 (g) **REPORTS.**—

9 (1) **IN GENERAL.**—Not later than 5 years after  
 10 the date of enactment of this Act, the Secretary  
 11 shall submit to Congress a report on the results of  
 12 the demonstration project carried out under this sec-  
 13 tion.

14 (2) **RECOMMENDATIONS FOR ACTION.**—The re-  
 15 port submitted under paragraph (1) shall rec-  
 16 ommend that Congress take one or more of the fol-  
 17 lowing actions:

18 (A) Continue the demonstration project for  
 19 a specified period of time.

20 (B) Expand the number of participants in  
 21 the demonstration project.

22 (C) Apply the terms of the demonstration  
 23 project to all small public housing agencies.

24 (D) Change any of the terms of the dem-  
 25 onstration project.

1 (E) Terminate the demonstration project.

2 (3) RECOMMENDATIONS FOR PERMANENT LEG-  
3 ISLATION.—The Secretary shall submit to Congress  
4 recommendations for permanent legislation that im-  
5 plements rent reform for small public housing agen-  
6 cies—

7 (A) with the report required under para-  
8 graph (1); or

9 (B) before the date on which the Secretary  
10 submits the report required under paragraph  
11 (1).

12 **SEC. 5. ENERGY CONSERVATION.**

13 Section 9(e)(2) of the United States Housing Act of  
14 1937 (42 U.S.C. 1437g(e)(2)) is amended by adding at  
15 the end the following:

16 “(D) FREEZE OF CONSUMPTION LEV-  
17 ELS.—

18 “(i) IN GENERAL.—A small public  
19 housing agency, as defined in section  
20 37(a), may elect to be paid for its utility  
21 and waste management costs under the  
22 formula for a period, at the discretion of  
23 the small public housing agency, of not  
24 more than 20 years based on the small  
25 public housing agency’s average annual

consumption during the 3-year period preceding the year in which the election is made (referred to in this subparagraph as the ‘consumption base level’).

“(ii) INITIAL ADJUSTMENT IN CONSUMPTION BASE LEVEL.—The Secretary shall make an initial one-time adjustment in the consumption base level to account for differences in the heating degree day average over the most recent 20-year period compared to the average in the consumption base level.

“(iii) ADJUSTMENTS IN CONSUMPTION BASE LEVEL.—The Secretary shall make adjustments in the consumption base level to account for an increase or reduction in units, a change in fuel source, a change in resident controlled electricity consumption, or for other reasons.

“(iv) SAVINGS.—All cost savings resulting from an election made by a small public housing agency under this subparagraph—

“(I) shall accrue to the small public housing agency; and

1 “(II) may be used for any public  
2 housing purpose at the discretion of  
3 the small public housing agency.

4 “(v) THIRD PARTIES.—A small public  
5 housing agency making an election under  
6 this subparagraph—

7 “(I) may use, but shall not be re-  
8 quired to use, the services of a third  
9 party in its energy conservation pro-  
10 gram; and

11 “(II) shall have the sole discre-  
12 tion to determine the source, and  
13 terms and conditions, of any financing  
14 used for its energy conservation pro-  
15 gram.”.

16 **SEC. 6. CONSORTIA.**

17 Not later than 180 days after the date of enactment  
18 of this Act, the Secretary of Housing and Urban Develop-  
19 ment shall develop and deploy all electronic information  
20 systems necessary to accommodate full consolidated re-  
21 porting by public housing agencies electing to operate in  
22 consortia under section 13(a) of the United States Hous-  
23 ing Act of 1937 (42 U.S.C. 1437k(a)).

1 **SEC. 7. EFFECTIVE DATE.**

2       This Act, and the amendments made by this Act,  
3 shall take effect 60 days after the date of enactment of  
4 this Act.

