

many areas, there may not be housing to supplant this housing that has been constructed.

I do not intend and will not try to justify the decisions which were made to get us into this crack. We are in a very difficult financial situation. We have a commitment to provide housing. It is my view that this is the best way we can get out of it. If the Senator and his staff would like to work with us and have a better way to do it, I am anxious to have improvements. But from our standpoint, having worked with all of the competing interests in this, this seems to be the best way to minimize the exposure to taxpayers and maintain vitally important housing for those who need assistance.

Mr. DORGAN. Mr. President, I am not suggesting there may be a better idea. It appears to me that this is a maze from which there is not an easy escape. I guess I do not yet understand what a soft second mortgage is, and I also want to try to understand how this \$10 billion in deferred maintenance on these projects, projects for which there have been substantial tax advantages paid up front and substantial rent advantages given over a contract period, how that relates to what one might or might not do with these properties.

So I guess the first question I would ask is, what is a soft second mortgage? Is there an anticipation that that will be paid? And why might not a landlord simply walk away from a soft second mortgage? After satisfying the obligation of the next contract period over which the original mortgage is written down and rents are sufficient to provide a profit ostensibly to those property holders, why would they not walk away from a soft second mortgage? I am asking the question only because I do not know anything about this proposal.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri.

Mr. BOND. In answer to that question, there are significant tax liabilities for an owner who walks away from a project. There were tax benefits which accrued to the people who produced the project in the first place. Walking away means they lose not only the property, but they also are subject to significant tax recapture.

There is a proposal from HUD that the write-down include funds sufficient to pay any tax liabilities. I do not agree with that. I do not think that in the housing business we should change the tax implications. But there are very serious tax implications if they walk away. The second mortgage is one which does not require payments in the initial years while the first mortgage is being paid off.

To address the deferred maintenance, the owners will have access, for the first time, to residual sums which had been set aside in the past for maintenance, and by converting a portion of

the debt on the project to the soft second and freeing the owners from the responsibility of paying that portion, paying current debt service on that portion, that will free up money for the deferred maintenance. Will it handle all of it? We cannot say. But there will be a substantial sum made available. We are calling it a demonstration project because we do not know for sure how this will work, but it is our best idea of how to deal with these related problems.

Ms. MIKULSKI. If I could comment—

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Ms. MIKULSKI. To the Senator from North Dakota, the Senator first of all is right; we use a vocabulary nobody understands, like "mark-to-market," "soft seconds," and all of that. It is part of budget speak and one of the reasons the American people cannot follow much of the debate. The language of Washington is not the language of everyday people nor the language of everyday mortgage speaking, and so on. So I want to acknowledge that.

Let me first explain to the Senator what "mark-to-market" means. It is really called multifamily portfolio re-engineering. It is a program designed simply to refinance the FHA-insured project base, meaning that it is the actual building. Section 8 assisted multifamily, meaning more than one family lives in it. It is private sector housing. It is not public housing. The Senator is right. It was a program created during the Nixon era and worked, but every good intention got layered on and now we are in a situation where there is a tremendous possible liability to the U.S. Government if these mortgages go into default. If so, it is like a mini S&L crisis. What we are all trying to avoid, including working with the Clinton administration and Secretary Cisneros, is that.

There is no answer. So what we are doing is providing the flexibility for refinancing and restructuring. If you are a lousy landlord, you are going to be pushed out. They will not renew it. We are all in kind of this quagmire. This demonstration project is providing flexibility to the local government.

But let me come back to what the Senator says, how he needs to understand this. I want to understand it, too. The best explanation, quite frankly—and I mention it for the Senator's staff—the Baltimore Sun in a column called, "The Perspective," August 18, had an exceptional article done by John Barth, who was the chief economist at the Office of Thrift Supervision during President Bush, and Robert Litan, who is the director of economic studies at Brookings. He goes through what this time bomb is, and it is a time bomb, including a variety of the options that we have at our disposal. There are none that are easy. There are none that are simple. There are none

that are cheap. So what we are in the process of doing with the Bond amendment is beginning the process of getting our hand around it.

Now, I could go through item after item after item on tax consequences, and so on. But I do not know that it would serve the Senator, and also perhaps we could get this even Xeroxed because we will be debating this tomorrow. But one thing the Clinton administration agrees upon, and I believe the Republican Caucus as well as our side, is this is a time bomb, and where ultimately we might go to vouchers or some other thing, right now we have this, and we will be faced with this I would say for the next 3 to 5 years.

I know this because of a problem in Maryland where the guy took the section 8 money, did nothing on maintaining it. HUD, Maryland HUD, preferred sitting in an air-conditioned office rather than going out standing sentry on these projects, and now this guy is walking away from it. I have an IG report on it. I cannot go into it in more detail.

So you have the bums like what I had in Riverdale, in Maryland, and then you have others that got into it—well-intentioned, aging projects, section 8, tax credits—but now they cannot continue to pay that rent and so they say, "Whoops, we are now caught. How can we work it out?" And the Bond amendment is how to deal at the local level with landlords, owners who are ready to deal in good faith so we do not place the tenants in jeopardy and we do not place the taxpayers in jeopardy. It is the beginning of a process, and the only tool we have is to restructure these mortgages and to begin to kind of phase them out. Will the Senator characterize that as accurate?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I am advised by the distinguished majority whip that he needs to offer amendments, I believe, that are required on the unanimous consent.

If there is no objection, I will yield the floor to allow him to meet the 5 o'clock deadline which was previously entered into. I yield the floor.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Oklahoma [Mr. NICKLES] is recognized.

UNANIMOUS-CONSENT      AGREE-  
MENT—DEFENSE OF MARRIAGE  
ACT

Mr. NICKLES. Mr. President, I will be very brief. Under the unanimous consent agreement entered into prior to our recess for the August break, we entered into a unanimous consent agreement on a bill called the Defense of Marriage Act. Under the time agreement, it called for bringing this act up on Thursday of this week with each side permitted to offer up to four amendments. Those amendments must be submitted, each side, by 5 o'clock today.

This Senator, on behalf of Senator LOTT and others, submitted three amendments. But I want to tell the minority leader and others it is our hope there will be no amendments adopted to the Defense of Marriage Act. We submitted those basically so we would have those in as possible amendments, should an amendment on the other side be adopted. So I wanted to make sure that the minority leader, that Senator KENNEDY and others, who have an interest in this—at least it is this Senator's hope and desire there will be no amendments adopted to the Defense of Marriage Act. Under the unanimous consent agreement that was called for, we did just submit three amendments for their consideration. But, again, it is this Senator's hope that we will consider the bill and pass it expeditiously. The House passed it overwhelmingly. Hopefully, the Senate will as well, without any further amendments, so it can go to the President for his expected signature.

I thank my colleagues from Missouri and Maryland and North Dakota for their willingness to let me make this statement. I yield the floor.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Missouri [Mr. BOND] is recognized.

Mr. BOND. I thank the Senator from Oklahoma. I also wanted to follow up on the question the Senator from Maryland addressed. I think the information she provided is most helpful. I note many of the contractual arrangements, including the excessively large mortgages and excessive contract rents, are due to contractual agreements made by the Federal Government 20 or 30 years ago. Some excessive costs have resulted from some of the Federal regulations and standards, which could be characterized as onerous, that applied to these projects. Other costs are due to the very difficult areas where the projects were being built. They were trying to get people into areas where you would not normally build multifamily housing. This included going into rural areas where there is elderly population, or projects in depressed inner city areas where costs of construction were very high.

Some of the multifamily housing in this portfolio represents the only—or certainly the best standard housing in many areas, or the only housing available to low-income families. Our purpose is to squeeze out the excessive subsidies. But we also have to be sensitive to the critical housing needs of the low-income families, and especially the elderly who were subsidized—assisted by the project. That is why this

is a very difficult problem. That is why we are engaged in this discussion of how we get out of a bad situation.

I yield the floor.

Mr. DORGAN. It is not my intention to be critical, and I hope I have not in any way been critical of what the Senator is trying to do.

Ms. MIKULSKI. Not at all.

Mr. DORGAN. I am trying to understand what the problem is and what the potential solutions are. While there are undoubtedly some other elements of the cause of the problems in section 8, I think it is fair to say the 500-pound gorilla here started with an idea that must have seemed right to those who propounded it, but in retrospect it was a pretty dumb idea. It put us in the position, in small towns in this country, of having the Federal taxpayer pay \$500 or \$600 a month rent for one-bedrooms that everybody in town knows would not rent for that, would not rent for half that.

The problem is not only that you are wasting a lot of money—when I say, “you,” I mean the Federal Government—not only are we wasting a lot of money, we are also undermining public confidence again in Government. Because instead of this being the right approach that thoughtfully provides housing for those who need it, it provides housing, over a period of some many years, at rents that are so substantially above the market. That is why I am asking the questions.

It may be that the approach suggested is the right approach, I just do not know. I am trying to think through this myself. I do not know that there is the right idea to extract ourselves from this problem. But both the Senator from Missouri and the Senator from Maryland indicated this is kind of a time bomb because this problem does not get better, it gets worse unless it gets solved. The quicker it gets solved the better off are the taxpayers.

The Senator from Missouri just made a point I fully agree with. You cannot solve this problem without being mindful of the housing needs of the people who rely on the housing stock. I understand that. If there are 132,000 units that are going to come up for renewal this year in section 8, and somewhere between 800,000 and 1 million that eventually will come up whose contracts expire, the question is: what happens to those who rely on or who have needs for public housing that are now satisfied by those units. I do not know the answer to that. But it is also clear to me we cannot sustain nor should the taxpayers expect us to make a decision ever to sustain what has been done. Because it has grown into a circumstance where it is a grotesque caricature of what it ought to be.

When you ask someone in a small town, small county in North Dakota, how much should you have to pay for a one-bedroom unit to solve some low-income person's housing needs, no one would come up with the amount that is now being paid to that project owner.

The project owner has not done anything wrong, he has simply taken advantage of a program that, in my judgment, was inappropriately constructed, that allows this mangled result to occur.

Let me ask one additional question and, again, I do not mean to be putting you on the spot because this is not the area you would necessarily be involved in. You are involved in the appropriations necessary to pursue the goals of these housing programs that are authorized.

In today's paper, Mr. Gugliotta has an article that talks about section 8 landlords. It says, “Law Says Section 8 Landlords Can Keep It All in the Family.” The article talks about a fellow in Allegheny County, the controller for that county, who is supposed to be collecting taxes who thought he would start dunning low-income landlords for failing to pay local property taxes. This is a quote now:

During his investigation, however, he happened upon an anomaly. Nearly 100 landlords in the greater Pittsburgh area were receiving federal subsidies for renting apartments and houses to their supposedly poor relatives.

All of this, according to this story, was under section 8. That, it seems to me, is a dilemma. He sent this to Secretary Cisneros, who indicated he had not heard of such practices.

It is just another small example of something in that system that just smells to high heaven.

Ms. MIKULSKI. If I might respond to the Senator from North Dakota, I read that article this morning, too. It was the first I have ever heard of this in my 10 years of being on this subcommittee, where someone owns a property, rents it to a relative, and then gets a section 8 to pay for the relative's rent. The gentleman referred to is Mr. Frank Lucchino, a very well-regarded public official in, I believe, the Pittsburgh area of the State of Pennsylvania. That is Allegheny County.

I was quite concerned and had intended to talk with Senator BOND about that this afternoon. No. 1, I think Cisneros owes us an explanation. No. 2, this says exactly the point that I made: HUD is not standing sentry on its section 8, nor is local government. It has met often compelling needs. There are many good landlords. But there have also been bums and scams and schemes along the way. We need to clear those out.

I was going to suggest to Senator BOND that we have an inspector general look into this, rather than GAO, because I think we will get a quicker response. And as you know, the inspector general is intimately familiar with all the details of both the financing and management of HUD.

So I assure the Senator from North Dakota and anyone who has read that article and wonders what is up that we are going to get a response from Mr. Cisneros. I would like to recommend that we get an IG report on it. But I am like you. There are the tenants, the