

and that tenants do not see dramatic increases in rents.

By providing these flexibilities, property owners will have better access to capital to carry out repairs and other improvements that will help preserve these aging properties and ultimately benefit tenants. Particularly in light of the current rental housing crisis, this is an important bipartisan measure that seeks to preserve our affordable housing stock. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. PAULSEN), who has been an advocate on this issue for a long, long time.

Mr. PAULSEN. Mr. Speaker, I rise in support of the legislation, the Preservation Enhancement and Savings Opportunity Act. Let me start by thanking the gentleman and the ranking member of the committee for their long efforts to bring this legislation forward with support.

As was mentioned, in 1990 Congress enacted the Low-Income Housing Preservation and Resident Homeownership Act, or LIHPRHA, to preserve and extend the availability of low-income housing throughout the country.

Many low-income housing properties at that time were nearing the end of a 20-year period of the owner's obligation to maintain below-market rents for qualified tenants, and Congress was worried about a flood of thousands of properties coming out of the low-income housing pool.

Congress used LIHPRHA to create new incentives, in the form of low-interest restructured mortgages, to entice property owners to maintain their properties as low-income housing. In exchange for the incentives, owners who agreed to extend low-income use of properties became obligated to operate properties as low-income housing for 50 years or the remaining useful life of the properties, whichever would be greater.

Property owners also agreed to a fixed cap on their allowed annual cash distributions from rents from the properties. The cap was designed to provide the owners with an 8 percent equity return, based on property values at the time. The income from the properties above the cap is still the owner's money, but it is held at HUD in an account that the owners have no right to access until the end of that 50-year period.

These 8 percent distribution limits, while initially workable, over time have resulted in very adverse and unexpected consequences, in particular relating to the Federal income tax liabilities of the owners. Initially, owners were able to offset a portion of their taxes owed with depreciation and mortgage interest deductions. The 8 percent cash distributions were sufficient to meet those tax obligations.

However, since that time, rents have increased, and deductible mortgage interest and depreciation deductions have decreased for LIHPRHA property owners. This effectively means that the annual Federal taxable income of the owners has increased substantially, despite the fact that their allowed cash distributions have remained capped at a constant dollar amount fixed in the 1990s.

Mr. Speaker, in recent years, for example, owners' income tax liabilities have often been more than double the amount of cash permitted to be distributed to them under the law, and this is unfair to LIHPRHA property owners. It will only worsen over time.

Fortunately, there is a simple solution to the problem. The Preservation Enhancement and Savings Opportunity Act will allow LIHPRHA property owners to access their funds held at HUD, after all operating expenses and property maintenance costs have been paid. More importantly, removing the limitation on distributions will not result in any cost to the Federal Government, as the funds belong to the owners and not to HUD.

The legislation also requires individuals refinancing LIHPRHA properties to provide adequate rehabilitation and replacement reserves. It includes protections for low-income housing tenants from excessive rent increases.

Removing the limitation on distributions and the refinancing provisions will facilitate additional recapitalization of these properties by private sector developers and other preservation entities, which will in turn extend the availability of low-income housing across the country for those who most need it. This all happens at no additional cost to American taxpayers.

Mr. Speaker, I insert into the RECORD a letter to Chairman HENSARLING and Ranking Member WATERS from nine national housing organizations endorsing this bill.

I close by asking my colleagues to join me in support of this legislation.

JUNE 11, 2015.

Hon. JEB HENSARLING,  
*Chairman, Committee on Financial Services.*

Hon. MAXINE WATERS,  
*Ranking Minority Member, Committee on Financial Services.*

DEAR CHAIRMAN HENSARLING AND RANKING MEMBER WATERS: The undersigned organizations urge you to support H.R. 2482, the Preservation, Enhancement and Savings Opportunity Act of 2014. The bill provides technical changes to the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) while ensuring long-term preservation of these affordable multifamily housing properties.

When LIHPRHA was enacted, property owners were provided incentives to maintain the affordability of the properties for low and moderate income renters for the remaining useful life of the properties in exchange for relinquishing the right to prepay the mortgage after 20 years. As part of the process, the owners' equity contributions in the property were redefined but a contractual limitation on property income distributions remained, even though all surplus funds belong to the ownership entity. Such a limita-

tion was workable twenty years ago, but as the mortgages mature the annual distribution becomes insufficient to address increasing tax liabilities.

The bill would remove the limitation on distributions and provide the ownership entity/sponsor access to its own funds to address tax liabilities or other expenses while ensuring continued preservation and adherence to the properties' use agreements. Such action provides additional incentives for future investors to recapitalize these multifamily properties, therefore extending their useful life and the continuation of a scarce housing resource for years to come. For the last 15 years, HUD has administratively removed limitations on distributions where it had the authority to do so. HUD has concluded that it lacks this authority with the LIHPRHA portfolio.

The bill's changes to LIHPRHA have no associated budgetary or tax cost to the Federal Government and ensure the preservation of an important housing resource. We urge you to support H.R. 2482.

Sincerely,

Council for Affordable and Rural Housing (CARH); Institute of Real Estate Management (IREM); Institute for Responsible Housing Preservation (IRHP); Mortgage Bankers Association (MBA); National Affordable Housing Management Association (NAHMA); National Apartment Association (NAA); National Association of Home Builders (NAHB); National Leased Housing Association (NLHA); National Multifamily Housing Council (NMHC).

□ 1330

Ms. MAXINE WATERS of California. Mr. Speaker, I have no additional speakers. I encourage support for this bill, and I yield back the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, I urge support of H.R. 2482, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. LUETKEMEYER) that the House suspend the rules and pass the bill, H.R. 2482.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### PRIVATE INVESTMENT IN HOUSING ACT OF 2015

Mr. LUETKEMEYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2997) to authorize the Secretary of Housing and Urban Development to carry out a demonstration program to enter into budget-neutral, performance-based contracts for energy and water conservation improvements for multifamily residential units.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2997

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Investment in Housing Act of 2015".

**SEC. 2. BUDGET-NEUTRAL DEMONSTRATION PROGRAM FOR ENERGY AND WATER CONSERVATION IMPROVEMENTS AT MULTIFAMILY RESIDENTIAL UNITS.**

(a) **ESTABLISHMENT.**—The Secretary of Housing and Urban Development (in this section referred to as the “Secretary”) shall establish a demonstration program under which the Secretary may execute budget-neutral, performance-based agreements in fiscal years 2016 through 2019 that result in a reduction in energy or water costs with such entities as the Secretary determines to be appropriate under which the entities shall carry out projects for energy or water conservation improvements at not more than 20,000 residential units in multifamily buildings participating in—

(1) the project-based rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), other than assistance provided under section 8(o) of that Act;

(2) the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); or

(3) the supportive housing for persons with disabilities program under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(2)).

**(b) REQUIREMENTS.**—

**(1) PAYMENTS CONTINGENT ON SAVINGS.**—

(A) **IN GENERAL.**—The Secretary shall provide to an entity a payment under an agreement under this section only during applicable years for which an energy or water cost savings is achieved with respect to the applicable multifamily portfolio of properties, as determined by the Secretary, in accordance with subparagraph (B).

**(B) PAYMENT METHODOLOGY.**—

(i) **IN GENERAL.**—Each agreement under this section shall include a pay-for-success provision that—

(I) shall serve as a payment threshold for the term of the agreement; and

(II) requires that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties.

(ii) **LIMITATIONS.**—A payment made by the Secretary under an agreement under this section—

(I) shall be contingent on documented utility savings; and

(II) shall not exceed the utility savings achieved by the date of the payment, and not previously paid, as a result of the improvements made under the agreement.

(C) **THIRD-PARTY VERIFICATION.**—Savings payments made by the Secretary under this section shall be based on a measurement and verification protocol that includes at least—

(i) establishment of a weather-normalized and occupancy-normalized utility consumption baseline established pre-retrofit;

(ii) annual third-party confirmation of actual utility consumption and cost for utilities;

(iii) annual third-party validation of the tenant utility allowances in effect during the applicable year and vacancy rates for each unit type; and

(iv) annual third-party determination of savings to the Secretary.

An agreement under this section with an entity shall provide that the entity shall cover costs associated with third-party verification under this subparagraph.

(2) **TERMS OF PERFORMANCE-BASED AGREEMENTS.**—A performance-based agreement under this section shall include—

(A) the period that the agreement will be in effect and during which payments may be made, which may not be longer than 12 years;

(B) the performance measures that will serve as payment thresholds during the term of the agreement;

(C) an audit protocol for the properties covered by the agreement;

(D) a requirement that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties; and

(E) such other requirements and terms as determined to be appropriate by the Secretary.

(3) **ENTITY ELIGIBILITY.**—The Secretary shall—

(A) establish a competitive process for entering into agreements under this section; and

(B) enter into such agreements only with entities that, either jointly or individually, demonstrate significant experience relating to—

(i) financing or operating properties receiving assistance under a program identified in subsection (a);

(ii) oversight of energy or water conservation programs, including oversight of contractors; and

(iii) raising capital for energy or water conservation improvements from charitable organizations or private investors.

(4) **GEOGRAPHICAL DIVERSITY.**—Each agreement entered into under this section shall provide for the inclusion of properties with the greatest feasible regional and State variance.

(5) **PROPERTIES.**—A property may only be included in the demonstration under this section only if the property is subject to affordability restrictions for at least 15 years after the date of the completion of any conservation improvements made to the property under the demonstration program. Such restrictions may be made through an extended affordability agreement for the property under a new housing assistance payments contract with the Secretary of Housing and Urban Development or through an enforceable covenant with the owner of the property.

**(c) PLAN AND REPORTS.**—

(1) **PLAN.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committees on Appropriations and Financial Services of the House of Representatives and the Committees on Appropriations and Banking, Housing, and Urban Affairs of the Senate a detailed plan for the implementation of this section.

(2) **REPORTS.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall—

(A) conduct an evaluation of the program under this section; and

(B) submit to Congress a report describing each evaluation conducted under subparagraph (A).

(d) **FUNDING.**—For each fiscal year during which an agreement under this section is in effect, the Secretary may use to carry out this section any funds appropriated to the Secretary for the renewal of contracts under a program described in subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. LUETKEMEYER) and the gentlewoman from California (Ms. MAXINE WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

**GENERAL LEAVE**

Mr. LUETKEMEYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their re-

marks and include extraneous material on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. LUETKEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Today, I rise in support of H.R. 2997, the Private Investment in Housing Act of 2015. This bill, introduced by my colleague, the gentleman from Florida (Mr. ROSS), would authorize the Secretary of Housing and Urban Development to establish a demonstration program to make assisted multifamily properties more energy and water efficient at no cost to U.S. taxpayers.

Currently, HUD spends in excess of \$7 billion in annual energy and water costs for HUD-assisted properties. These properties are generally older, with inefficient energy and water usage. In most cases, owners of these older assisted properties lack the capital to modernize their buildings to perform energy and water efficiency.

H.R. 2997 would create a demonstration for no more than 20,000 assisted units where HUD would enter into agreements with intermediaries—most likely, nonprofit entities—to produce energy and water efficiency in exchange for a share of the savings.

This demonstration and the subsequent contract with the intermediary would allow these entities to raise capital from private investors and foundations. HUD would not provide upfront capital investments for any energy retrofits and there would be no risk to the Federal Government.

Savings due to the retrofits, verified by an independent third party, would then result in HUD remitting a portion of the savings back to the intermediaries. If savings are not realized, the loss is absorbed by the private investors or foundations.

Mr. Speaker, H.R. 2997 is an example of the public-private partnership innovation needed to attract capital investment to our public- and assisted-housing stock. This demonstration, in addition to the Rental Assistance Demonstration program, is the beginning of bipartisan legislative initiatives to bring private sector resources and management to affordable housing for low- and very low-income families.

As chairman of the Housing and Insurance Subcommittee of the Financial Services Committee, I am working with Members on both sides of the aisle to develop legislation similar to H.R. 2997, which would make the operations of HUD and its programs more efficient. Today's bill is a step in that direction.

In addition to the sponsor, Representative ROSS, I want to thank the ranking member of the Housing and Insurance Subcommittee, Mr. CLEAVER, along with Representatives HIMES of Connecticut and DELANEY of Maryland, for their hard work on this legislation.

I urge all Members to support H.R. 2997, and I reserve the balance of my time.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would create a pilot program within HUD which would allow for energy and water efficiency upgrades to be made to certain private multifamily HUD properties at no cost to the government.

Under this innovative pilot program, investors would provide all of the up-front capital to make the improvements, and they would only get paid based on a portion of the cost savings that result from the improvements. If there are no cost savings, the losses would be completely on the investors, not HUD or the taxpayers.

This is a rare win-win situation. HUD and taxpayers benefit from cost savings; tenants benefit from the improvements made to their homes; investors benefit from the profits, and of course, the environment benefits from the more responsible use of natural resources.

This bill also ensures accountability by requiring a third-party evaluation to verify any cost savings and also by requiring the Secretary to report on the outcomes of the pilot within a year of enactment.

There is simply no reason for bipartisan bickering on a bill like this. I urge my colleagues to support this bill, and I reserve the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. ROSS), a distinguished member of the Housing and Insurance Subcommittee.

Mr. ROSS. Mr. Speaker, I thank the chairman and Ranking Member WATERS for their support.

As the chairman pointed out, currently, HUD spends more than \$7 billion annually in energy and water costs. In our current fiscal environment, we must look to new technology and for innovative solutions to generate savings for both taxpayers and the Federal Government.

Today, I am proud to ask my colleagues to join me in supporting bipartisan H.R. 2997, the Private Investment and Housing Act. This legislation will establish a demonstration project that will encourage private sector entities to retrofit and modernize a limited number of HUD multifamily housing units at absolutely no cost to taxpayers.

This legislation is necessary because nonprofits and other entities that focus on financing for affordable housing are unable to enter into contractual agreements to retrofit HUD multifamily housing units. Imagine leveraging private capital to enhance the livability and inhabitability of affordable housing at no cost to the taxpayers or the Federal Government.

It doesn't involve any risk to the Federal Government or the taxpayer. In fact, investors take the first loss position on energy upgrades. If energy savings from these projects are not realized after private entities enter these

contracts, the Federal Government does not pay anything, period.

If savings through these projects are achieved, they would lower HUD's energy expenditures by as much as 20 percent, creating tremendous savings for the taxpayer. Private entities who take on the risk to retrofit these units will receive a \$1 return for every \$1 in cost savings that are verified by a third party.

The demonstration program created by this legislation would help improve up to 20,000 HUD-assisted apartments receiving project-based rental assistance, supportive housing for the elderly, or supportive housing for persons with disabilities.

The demonstration projects will help a limited number of people at first in Florida and across the country. However, over time, once it is a proven success, more than 48,000 eligible properties in the State of Florida and the 900 units in my district alone may be able to benefit, again, at no expense to the taxpayer.

In addition to the direct economic benefits to taxpayers, these upgrades will bring meaningful health and other benefits to the families living in the buildings, creating a healthier and safer environment for residents.

I want to thank my colleagues, Representative JIM HIMES; Representative EMANUEL CLEAVER, ranking member of the subcommittee; and Representative JOHN DELANEY, for their support on this legislation.

I also want to thank Enterprise Community Partners for their support of this legislation and for the support of projects that encourage a public-private partnership in affordable housing.

I ask you join me in supporting this legislation to engage the private sector to help HUD reduce their annual \$7 billion in energy and water spending.

Ms. MAXINE WATERS of California. Mr. Speaker, I urge support, and I yield back the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, I encourage support for H.R. 2997. I think it is a great idea to, again, go into a public-private partnership and utilize that as an opportunity, again, at no cost to the taxpayers.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. LUETKEMEYER) that the House suspend the rules and pass the bill, H.R. 2997.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LUETKEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

## MORTGAGE SERVICING ASSET CAPITAL REQUIREMENTS ACT OF 2015

Mr. LUETKEMEYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1408) to require certain Federal banking agencies to conduct a study of the appropriate capital requirements for mortgage servicing assets for nonsystemic banking institutions, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1408

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

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Mortgage Servicing Asset Capital Requirements Act of 2015".

### SEC. 2. STUDY OF MORTGAGE SERVICING ASSETS.

(a) DEFINITIONS.—In this section:

(1) BANKING INSTITUTION.—The term "banking institution" means an insured depository institution, Federal credit union, State credit union, bank holding company, or savings and loan holding company.

(2) BASEL III CAPITAL REQUIREMENTS.—The term "Basel III capital requirements" means the Global Regulatory Framework for More Resilient Banks and Banking Systems issued by the Basel Committee on Banking Supervision on December 16, 2010, as revised on June 1, 2011.

(3) FEDERAL BANKING AGENCIES.—The term "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

(4) MORTGAGE SERVICING ASSETS.—The term "mortgage servicing assets" means those assets that result from contracts to service loans secured by real estate, where such loans are owned by third parties.

(5) NCUA CAPITAL REQUIREMENTS.—The term "NCUA capital requirements" means the proposed rule of the National Credit Union Administration entitled "Risk-Based Capital" (80 Fed. Reg. 4340 (January 27, 2015)).

(6) OTHER DEFINITIONS.—

(A) BANKING DEFINITIONS.—The terms "bank holding company", "insured depository institution", and "savings and loan holding company" have the meanings given those terms in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(B) CREDIT UNION DEFINITIONS.—The terms "Federal credit union" and "State credit union" have the meanings given those terms in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(b) STUDY OF THE APPROPRIATE CAPITAL FOR MORTGAGE SERVICING ASSETS.—

(1) IN GENERAL.—The Federal banking agencies shall jointly conduct a study of the appropriate capital requirements for mortgage servicing assets for banking institutions.

(2) ISSUES TO BE STUDIED.—The study required under paragraph (1) shall include, with a specific focus on banking institutions—

(A) the risk to banking institutions of holding mortgage servicing assets;

(B) the history of the market for mortgage servicing assets, including in particular the market for those assets in the period of the financial crisis;