

104TH CONGRESS
2D SESSION

H. R. 3390

To reform occupancy standards for public and other federally assisted housing to provide safer living environments and increased local control, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 1996

Mr. MORAN introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To reform occupancy standards for public and other federally assisted housing to provide safer living environments and increased local control, 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 “One Strike You’re Out,
5 Part II Act”.

6 **SEC. 2. SCREENING OF PROSPECTIVE ASSISTED FAMILIES.**

7 (a) IN GENERAL.—Section 8 of the United States
8 Housing Act of 1937 (42 U.S.C. 1437f) is amended by
9 inserting after subsection (k) the following new subsection:

1 “(1) DENIAL OF ASSISTANCE TO CRIMINAL OFFEND-
2 ERS.—In making assistance under this section available
3 on behalf of eligible families, a public housing agency may
4 deny the provision of such assistance in the same manner,
5 for the same period, and subject to the same conditions
6 that an owner of federally assisted housing may deny occu-
7 pancy in such housing under section 642(b) of the Hous-
8 ing and Community Development Act of 1992.”.

9 (b) CONFORMING AMENDMENT.—Clause (A) of sec-
10 tion 8(d)(1) of the United States Housing Act of 1937
11 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

12 “(A) the selection of tenants for such units
13 shall be function of the owner, subject to the provi-
14 sions of the annual contributions contract between
15 the Secretary and the public housing agency, except
16 that in making such assistance available the public
17 housing agency may limit the provision of assistance
18 pursuant to subsection (l);”.

19 **SEC. 3. OCCUPANCY SCREENING.**

20 Section 642 of the Housing and Community Develop-
21 ment Act of 1992 (42 U.S.C. 13602)—

22 (1) by inserting “(a) GENERAL CRITERIA.—”
23 before “In”; and

24 (2) by adding at the end the following new sub-
25 sections:

1 “(b) AUTHORITY TO DENY OCCUPANCY FOR CRIMI-
2 NAL OFFENDERS.—In selecting tenants for occupancy of
3 dwelling units in federally assisted housing, if the owner
4 of such housing determines that an applicant for occu-
5 pancy in the housing or any member of the applicant’s
6 household is or was, during the preceding 3 years, engaged
7 in any activity described in paragraph (2)(C) of section
8 645, the owner may—

9 “(1) deny such applicant occupancy and con-
10 sider the applicant (for purposes of any waiting list)
11 as not having applied for such occupancy ; and

12 “(2) after the expiration of the 3-year period
13 beginning upon such activity, require the applicant,
14 as a condition of occupancy in the housing or appli-
15 cation for occupancy in the housing, to submit to the
16 owner evidence sufficient (as the Secretary shall by
17 regulation provide) to ensure that the individual or
18 individuals in the applicant’s household who engaged
19 in criminal activity for which denial was made under
20 paragraph (1) have not engaged in any criminal ac-
21 tivity during such 3-year period.

22 “(c) AUTHORITY TO REQUIRE ACCESS TO CRIMINAL
23 RECORDS.—An owner of federally assisted housing may
24 require, as a condition of providing occupancy in a dwell-
25 ing unit in such housing to an applicant for occupancy

1 and the members of the applicant’s household, that each
2 adult member of the household provide the owner with a
3 signed, written authorization for the owner to obtain
4 records described in section 646(a) regarding such mem-
5 ber of the household from the National Crime Information
6 Center, police departments, and other law enforcement
7 agencies.”.

8 **SEC. 4. TERMINATION OF TENANCY.**

9 (a) PUBLIC HOUSING.—

10 (1) EXPEDITED GRIEVANCE PROCEDURE.—Sec-
11 tion 6(k) of the United States Housing Act of 1937
12 (42 U.S.C. 1437d(k)) is amended in the first sen-
13 tence of the matter following paragraph (6) by strik-
14 ing “For” and all that follows through “off such
15 premises” and inserting the following: “For any
16 grievance concerning an eviction or termination of
17 tenancy that involves any activity that is described
18 in subsection (l)(5)”.

19 (2) LEASES.—Section 6(l) of the United States
20 Housing Act of 1937 (42 U.S.C. 1437d(l)) is
21 amended by striking paragraphs (4) and (5) and in-
22 serting the following new paragraphs:

23 “(4) require that the public housing agency
24 may not terminate the tenancy except for violation
25 of the terms and conditions of the lease, violation of

1 applicable Federal, State, or local law, or other good
2 cause;

3 “(5) provide that any activity, engaged in by
4 the tenant, any member of the tenant’s household,
5 or any guest or other person under the tenant’s con-
6 trol (regardless of whether the tenant had actual
7 knowledge of such activity), that—

8 “(A) threatens the health or safety of, or
9 right to peaceful enjoyment of the premises by,
10 other tenants or employees of the public hous-
11 ing agency or other manager of the housing,

12 “(B) threatens the health or safety of, or
13 right to peaceful enjoyment of their residences
14 by, persons residing in the immediate vicinity of
15 the premises, or

16 “(C) is criminal activity (including drug-re-
17 lated criminal activity) on or off the premises,
18 shall be cause for termination of tenancy; and”.

19 (b) SECTION 8 ASSISTANCE.—Section 8(d)(1)(B) of
20 the United States Housing Act of 1937 (42 U.S.C.
21 1437f(d)(1)(B)) is amended by striking clauses (ii) and
22 (iii) and inserting the following new clauses:

23 “(ii) the owner may not terminate the tenancy
24 except for violation of the terms and conditions of

1 the lease, violation of applicable Federal, State, or
2 local law, or other good cause;

3 “(iii) any activity, engaged in by the tenant,
4 any member of the tenant’s household, or any guest
5 or other person under the tenant’s control (regard-
6 less of whether the tenant had actual knowledge of
7 such activity), that—

8 “(I) threatens the health or safety of, or
9 right to peaceful enjoyment of the premises by,
10 other tenants or employees of the owner or
11 other manager of the housing,

12 “(II) threatens the health or safety of, or
13 right to peaceful enjoyment of their residences
14 by, persons residing in the immediate vicinity of
15 the premises, or

16 “(III) is criminal activity (including drug-
17 related criminal activity) on or off the premises,
18 shall be cause for termination of tenancy; and”.

19 (c) **FEDERALLY ASSISTED HOUSING.**—Subtitle C of
20 title VI of the Housing and Community Development Act
21 of 1992 (42 U.S.C. 13601 et seq.) is amended—

22 (1) by adding at the end the following new sec-
23 tion:

1 **“SEC. 645. TERMINATION OF TENANCY.**

2 “Each lease for a dwelling unit in federally assisted
3 housing shall provide that—

4 “(1) the owner may not terminate the tenancy
5 except for violation of the terms and conditions of
6 the lease, violation of applicable Federal, State, or
7 local law, or other good cause; and

8 “(2) any activity, engaged in by the tenant, any
9 member of the tenant’s household, or any guest or
10 other person under the tenant’s control (regardless
11 of whether the tenant had actual knowledge of such
12 activity), that—

13 “(A) threatens the health or safety of, or
14 right to peaceful enjoyment of the premises by,
15 other tenants or employees of the owner or
16 other manager of the housing,

17 “(B) threatens the health or safety of, or
18 right to peaceful enjoyment of their residences
19 by, persons residing in the immediate vicinity of
20 the premises, or

21 “(C) is criminal activity (including drug-re-
22 lated criminal activity) on or off the premises,
23 shall be cause for termination of tenancy.”; and

24 (2) in section 683 (42 U.S.C. 13641), by add-
25 ing at the end the following new paragraph:

1 “(6) DRUG-RELATED CRIMINAL ACTIVITY.—The
 2 term ‘drug-related criminal activity’ means the ille-
 3 gal manufacture, sale, distribution, use, or posses-
 4 sion with intent to manufacture, sell, distribute, or
 5 use, of a controlled substance (as defined in section
 6 102 of the Controlled Substances Act).”.

7 **SEC. 6. AVAILABILITY OF CRIMINAL RECORDS FOR TENANT**
 8 **SCREENING AND EVICTION.**

9 Subtitle C of title VI of the Housing and Community
 10 Development Act of 1992 (42 U.S.C. 13601 et seq.) is
 11 amended adding after section 645 (as added by section
 12 5(c) of this Act) the following new section:

13 **“SEC. 646. AVAILABILITY OF RECORDS.**

14 “(a) IN GENERAL.—

15 “(1) PROVISION OF INFORMATION.—Notwith-
 16 standing any other provision of law other than para-
 17 graph (2), upon the request of an owner of federally
 18 assisted housing, the National Crime Information
 19 Center, a police department, and any other law en-
 20 forcement agency shall provide to the owner of fed-
 21 erally assisted housing information regarding the
 22 criminal conviction records of an adult applicant for,
 23 or tenants of, the federally assisted housing for pur-
 24 poses of applicant screening, lease enforcement, and
 25 eviction, but only if such Center, department, or

1 agency is presented with a written authorization,
2 signed by such applicant, for the release of such in-
3 formation to such owner.

4 “(2) EXCEPTION.—A law enforcement agency
5 described in paragraph (1) shall provide information
6 under this paragraph relating to any criminal con-
7 viction of a juvenile only to the extent that the re-
8 lease of such information is authorized under the
9 law of the applicable State, tribe, or locality.

10 “(b) OPPORTUNITY TO DISPUTE.—Before an adverse
11 action is taken with regard to assistance for federally as-
12 sisted housing on the basis of a criminal record, the public
13 housing agency or owner, as applicable, shall provide the
14 tenant or applicant with a copy of the criminal record and
15 an opportunity to dispute the accuracy and relevance of
16 that record.

17 “(c) FEE.—A public housing agency or owner of fed-
18 erally assisted housing may be charged a reasonable fee
19 for information provided under subsection (a).

20 “(d) RECORDS MANAGEMENT.—Each public housing
21 agency and owner of federally assisted housing that re-
22 ceives criminal record information under this section shall
23 establish and implement a system of records management
24 that ensures that any criminal record received by the
25 agency or owner is—

1 “(1) maintained confidentially;

2 “(2) not misused or improperly disseminated;

3 and

4 “(3) destroyed, once the purpose for which the
5 record was requested has been accomplished.

6 “(e) DEFINITION.—For purposes of this section, the
7 term ‘adult’ means a person who is 18 years of age or
8 older, or who has been convicted of a crime as an adult
9 under any Federal, State, or tribal law.”.

○