

106TH CONGRESS
2D SESSION

S. 2997

To establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2000

Mr. KERRY (for himself, Mr. JEFFORDS, Mr. SARBANES, Mr. LEAHY, Mr. BRYAN, Mr. REED, Mr. L. CHAFEE, and Mr. WELLSTONE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing and Urban Affairs

A BILL

To establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families.

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 “National Affordable
5 Housing Trust Fund Act of 2000”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

1 (1) fill the growing gap in the national ability
 2 to build affordable housing by using profits gen-
 3 erated by Federal housing programs to fund addi-
 4 tional housing activities, and not supplant existing
 5 housing appropriations; and

6 (2) enable rental housing to be built for those
 7 families with the greatest need in areas with the
 8 greatest opportunities in mixed-income settings and
 9 to promote homeownership for low-income families.

10 **SEC. 3. NATIONAL HOUSING TRUST FUND.**

11 (a) ESTABLISHMENT OF TRUST FUND.—There is es-
 12 tablished in the Treasury of the United States a trust fund
 13 to be known as the “National Affordable Housing Trust
 14 Fund” (referred to in this Act as the “Trust Fund”) for
 15 the purposes of promoting the development of affordable
 16 housing.

17 (b) DEPOSITS TO THE TRUST FUND.—For fiscal
 18 year 2001 and each fiscal year thereafter, there is appro-
 19 priated to the Trust Fund an amount equal to the sum
 20 of—

21 (1) any revenue generated by the Mutual Mort-
 22 gage Insurance Fund of the Federal Housing Ad-
 23 ministration in excess of the amount necessary for
 24 the Mutual Mortgage Insurance Fund to maintain a

1 capital ratio of 3 percent for the preceding fiscal
 2 year; and

3 (2) any revenue generated by the Government
 4 National Mortgage Association in excess of the
 5 amount necessary to pay the administrative costs
 6 and expenses necessary to ensure the safety and
 7 soundness of the Government National Mortgage As-
 8 sociation for the preceding fiscal year, as determined
 9 by the Secretary.

10 (c) EXPENDITURES FROM THE TRUST FUND.—For
 11 fiscal year 2001 and each fiscal year thereafter, amounts
 12 appropriated to the Trust Fund shall be available to the
 13 Secretary of Housing and Urban Development for use in
 14 accordance with section 4.

15 **SEC. 4. ADMINISTRATION OF NATIONAL AFFORDABLE**
 16 **HOUSING TRUST FUND.**

17 (a) DEFINITIONS.—In this section:

18 (1) AFFORDABLE HOUSING.—The term “afford-
 19 able housing” means housing for rental that bears
 20 rents not greater than the lesser of—

21 (A) the existing fair market rent for com-
 22 parable units in the area, as established by the
 23 Secretary under section 8 of the United States
 24 Housing Act of 1937 (42 U.S.C. 1437f); or

1 (B) a rent that does not exceed 30 percent
2 of the adjusted income of a family whose in-
3 come equals 65 percent of the median income
4 for the area, as determined by the Secretary,
5 with adjustment for number of bedrooms in the
6 unit, except that the Secretary may establish
7 income ceilings higher or lower than 65 percent
8 of the median for the area on the basis of the
9 findings of the Secretary that such variations
10 are necessary because of prevailing levels of
11 construction costs or fair market rents, or un-
12 usually high or low family incomes.

13 (2) CONTINUED ASSISTANCE RENTAL SUBSIDY
14 PROGRAM.—The term “continued assistance rental
15 subsidy program” means a program under which—

16 (A) project-based assistance is provided for
17 not more than 3 years to a family in an afford-
18 able housing unit developed with assistance
19 made available under subsection (c) or (d) in a
20 project that partners with a public housing
21 agency, which agency agrees to provide the as-
22 sisted family with a priority for the receipt of
23 a voucher under section 8(o) of the United
24 States Housing Act of 1937 (42 U.S.C.
25 1437f(o)) if the family chooses to move after an

1 initial year of occupancy and the public housing
 2 agency agrees to refer eligible voucher holders
 3 to the property when vacancies occur; and

4 (B) after 3 years, subject to appropria-
 5 tions, continued assistance is provided under
 6 section 8(o) of the United States Housing Act
 7 of 1937 (42 U.S.C. 1437f(o)), notwithstanding
 8 any provision to the contrary in that section, if
 9 administered to provide families with the option
 10 of continued assistance with tenant-based
 11 vouchers, if such a family chooses to move after
 12 an initial year of occupancy and the public
 13 housing agency agrees to refer eligible voucher
 14 holders to the property when vacancies occur.

15 (3) ELIGIBLE ACTIVITIES.—The term “eligible
 16 activities” means activities relating to the develop-
 17 ment of affordable housing, including—

18 (A) the construction of new housing;

19 (B) the acquisition of real property;

20 (C) site preparation and improvement, in-
 21 cluding demolition;

22 (D) substantial rehabilitation of existing
 23 housing; and

1 (E) rental subsidy for not more than 3
2 years under a continued assistance rental sub-
3 sidy program.

4 (4) ELIGIBLE ENTITY.—The term “eligible enti-
5 ty” includes any public or private nonprofit or for-
6 profit entity, unit of local government, regional plan-
7 ning entity, and any other entity engaged in the de-
8 velopment of affordable housing, as determined by
9 the Secretary.

10 (5) ELIGIBLE INTERMEDIARY.—The term “eli-
11 gible intermediary” means—

12 (A) a nonprofit community development
13 corporation;

14 (B) a community development financial in-
15 stitution (as defined in section 103 of the Com-
16 munity Development Banking and Financial In-
17 stitutions Act of 1994 (12 U.S.C. 4702));

18 (C) a State or local trust fund;

19 (D) any entity eligible for assistance under
20 section 4 of the HUD Demonstration Act of
21 1993 (42 U.S.C. 9816 note);

22 (E) a national, regional, or statewide non-
23 profit organization; and

24 (F) any other appropriate nonprofit entity,
25 as determined by the Secretary.

1 (6) EXTREMELY LOW-INCOME FAMILIES.—The
 2 term “extremely low-income families” means very
 3 low-income families (as defined in section 3(b) of the
 4 United States Housing Act of 1937 (42 U.S.C.
 5 1437a(b)) whose incomes do not exceed 30 percent
 6 of the median family income for the area, as deter-
 7 mined by the Secretary with adjustments for smaller
 8 and larger families, except that the Secretary may
 9 establish income ceilings higher or lower than 30
 10 percent of the median for the area on the basis of
 11 the Secretary’s findings that such variations are nec-
 12 essary because of unusually high or low family in-
 13 comes.

14 (7) LOW-INCOME FAMILIES.—The term “low-in-
 15 come families” has the meaning given the term in
 16 section 3(b) of the United States Housing Act of
 17 1937 (42 U.S.C. 1437a(b)).

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

20 (9) STATE.—The term “State” has the mean-
 21 ing given the term in section 3(b) of the United
 22 States Housing Act of 1937 (42 U.S.C. 1437a(b)).

23 (b) ALLOCATION TO STATES AND ELIGIBLE INTER-
 24 MEDIARIES.—For fiscal year 2001 and each fiscal year
 25 thereafter, the total amount made available to the Sec-

1 retary from the Trust Fund under section 3(c) shall be
2 allocated by the Secretary as follows:

3 (1) 75 percent shall be used to award grants to
4 States in accordance with subsection (c).

5 (2) 25 percent shall be used to award grants to
6 eligible intermediaries in accordance with subsection
7 (d).

8 (c) GRANTS TO STATES.—

9 (1) IN GENERAL.—Subject to paragraph (2),
10 from the amount made available for each fiscal year
11 under subsection (b)(1), the Secretary shall award
12 grants to States, in accordance with an allocation
13 formula established by the Secretary, based on the
14 pro rata share of each State of the total need among
15 all States for an increased supply of affordable hous-
16 ing, as determined on the basis of—

17 (A) the number and percentage of families
18 in the State that live in substandard housing;

19 (B) the number and percentage of families
20 in the State that pay more than 50 percent of
21 their annual income for housing costs;

22 (C) the number and percentage of persons
23 living at or below the poverty level in the State;

1 (D) the cost of developing or carrying out
 2 substantial rehabilitation of housing in the
 3 State;

4 (E) the age of the multifamily housing
 5 stock in the State; and

6 (F) such other factors as the Secretary de-
 7 termines to be appropriate.

8 (2) GRANT AMOUNT.—

9 (A) IN GENERAL.—The amount of a grant
 10 award to a State under this subsection shall be
 11 equal to the lesser of—

12 (i) 4 times the amount of assistance
 13 provided by the State from non-Federal
 14 sources; and

15 (ii) the allocation determined in ac-
 16 cordance with paragraph (1).

17 (B) NON-FEDERAL SOURCES.—The fol-
 18 lowing shall be considered non-Federal sources
 19 for purposes of this section:

20 (i) 50 percent of funds allocable to tax
 21 credits allocated under section 42 of the
 22 Internal Revenue Code of 1986.

23 (ii) 50 percent of revenue from mort-
 24 gage revenue bonds issued under section
 25 143 of such Code.

1 (iii) 50 percent of proceeds from the
2 sale of tax exempt bonds.

3 (3) AWARD OF STATE ALLOCATION TO CERTAIN
4 ENTITIES.—

5 (A) IN GENERAL.—If the amount provided
6 by a State from non-Federal sources is less
7 than 25 percent of the amount that would be
8 awarded to the State under this subsection
9 based on the allocation formula described in
10 paragraph (1), not later than 60 days after the
11 date on which the Secretary determines that the
12 State is not eligible for the full allocation deter-
13 mined under paragraph (1), the Secretary shall
14 issue a notice regarding the availability of the
15 funds for which the State is ineligible.

16 (B) APPLICATIONS.—Not later than 9
17 months after publication of a notice of funding
18 availability under subparagraph (A), a non-
19 profit or public entity (or a consortium thereof,
20 which may include units of local government
21 working together on a regional basis) may sub-
22 mit to the Secretary an application for the
23 available assistance or a portion thereof, which
24 application shall include—

1 (i) a certification that the applicant
2 will provide assistance in an amount equal
3 to 25 percent of the amount of assistance
4 made available to the applicant under this
5 paragraph; and

6 (ii) an allocation plan that meets the
7 requirements of paragraph (4)(B) for use
8 or distribution in the State of any assist-
9 ance made available to the applicant under
10 this paragraph and the assistance provided
11 by the applicant for purposes of clause (i).

12 (C) AWARD OF ASSISTANCE.—The Sec-
13 retary shall award the amount that is not
14 awarded to a State by operation of paragraph
15 (2) to 1 or more applicants that meet the re-
16 quirements of subparagraph (B) of this para-
17 graph that are selected by the Secretary based
18 on selection criteria, which shall be established
19 by the Secretary by regulation.

20 (4) DISTRIBUTION TO ELIGIBLE ENTITIES.—

21 (A) IN GENERAL.—Each State that re-
22 ceives a grant award under this subsection shall
23 distribute the amount made available under the
24 grant and the assistance provided by the State
25 from non-Federal sources for purposes of para-

graph (2)(A) to eligible entities for the purpose of assisting those entities in carrying out eligible activities in the State as follows:

(i) 75 percent shall be distributed to eligible entities for eligible activities relating to the development of affordable housing for rental by extremely low-income families in the State.

(ii) 25 percent shall be distributed to eligible entities for eligible activities relating to the development of affordable housing for rental by low-income families in the State, or for homeownership assistance for low-income families in the State.

(B) ALLOCATION PLAN.—Each State shall, after notice to the public, an opportunity for public comment, and consideration of public comments received, establish an allocation plan for the distribution of assistance under this paragraph, which shall be submitted to the Secretary and shall be made available to the public by the State, and which shall include—

(i) application requirements for eligible entities seeking to receive such assist-

1 ance, including a requirement that each
2 application include—

3 (I) a certification by the appli-
4 cant that any housing developed with
5 assistance under this paragraph will
6 remain affordable for extremely low-
7 income families or low-income fami-
8 lies, as applicable, for not less than 40
9 years;

10 (II) a certification by the appli-
11 cant that the tenant contribution to-
12 wards rent for a family residing in a
13 unit developed with assistance under
14 this paragraph will not exceed 30 per-
15 cent of the adjusted income of that
16 family; and

17 (III) a certification by the appli-
18 cant that the owner of a project in
19 which any housing developed with as-
20 sistance under this paragraph is lo-
21 cated will make a percentage of units
22 in the project available to families as-
23 sisted under the voucher program
24 under section 8(o) of the United
25 States Housing Act of 1937 (42

1 U.S.C. 1437f(o)) on the same basis as
2 other families eligible for the housing
3 (except that only the voucher holder's
4 expected share of rent shall be consid-
5 ered), which percentage shall not be
6 less than the percentage of the total
7 cost of developing or rehabilitating the
8 project that is funded with assistance
9 under this paragraph; and
10 (ii) factors for consideration in select-
11 ing among applicants that meet such appli-
12 cation requirements, which shall give pref-
13 erence to applicants based on—
14 (I) the amount of assistance for
15 the eligible activities leveraged by the
16 applicant from private and other non-
17 Federal sources, including assistance
18 made available under section 8 of the
19 United States Housing Act of 1937
20 (42 U.S.C. 1437f) that is devoted to
21 the project in which the housing to be
22 developed with assistance under this
23 paragraph is located;

- 1 (II) the extent of local assistance
2 that will be provided in carrying out
3 the eligible activities, including—
- 4 (aa) financial assistance;
5 and
- 6 (bb) the extent to which the
7 applicant has worked with the
8 unit of local government in which
9 the housing will be located to ad-
10 dress issues of siting and exclu-
11 sionary zoning or other policies
12 that are barriers to affordable
13 housing;
- 14 (III) the degree to which the de-
15 velopment in which the housing will
16 be located is mixed-income;
- 17 (IV) whether the housing will be
18 located in a census tract in which the
19 poverty rate is less than 20 percent or
20 in a community undergoing revitaliza-
21 tion;
- 22 (V) the extent of employment
23 and other opportunities for low-in-
24 come families in the area in which the
25 housing will be located; and

1 (VI) the extent to which the ap-
2 plicant demonstrates the ability to
3 maintain units as affordable for ex-
4 tremely low-income or low-income
5 families, as applicable, through the
6 use of assistance made available under
7 this paragraph, assistance leveraged
8 from non-Federal sources, assistance
9 made available under section 8 of the
10 United States Housing Act of 1937
11 (42 U.S.C. 1437f), State or local as-
12 sistance, programs to increase tenant
13 income, cross-subsidization, and any
14 other resources.

15 (C) FORMS OF ASSISTANCE.—

16 (i) IN GENERAL.—Assistance distrib-
17 uted under this paragraph may be in the
18 form of capital grants, non-interest bearing
19 or low-interest loans or advances, deferred
20 payment loans, guarantees, and any other
21 forms of assistance approved by the Sec-
22 retary.

23 (ii) REPAYMENTS.—If a State awards
24 assistance under this paragraph in the
25 form of a loan or other mechanism by

1 which funds are later repaid to the State,
 2 any repayments received by the State shall
 3 be distributed by the State in accordance
 4 with the allocation plan described in sub-
 5 paragraph (B) the following fiscal year.

6 (D) COORDINATION WITH OTHER ASSIST-
 7 ANCE.—In distributing assistance under this
 8 paragraph, each State shall, to the maximum
 9 extent practicable, coordinate such distribution
 10 with the provision of other affordable housing
 11 assistance by the State, including—

12 (i) housing credit dollar amounts allo-
 13 cated by the State under section 42(h) of
 14 the Internal Revenue Code of 1986;

15 (ii) assistance made available under
 16 the HOME Investment Partnerships Act
 17 or the community development block grant
 18 program; and

19 (iii) private activity bonds.

20 (d) NATIONAL COMPETITION.—

21 (1) IN GENERAL.—From the amount made
 22 available for each fiscal year under subsection
 23 (b)(2), the Secretary shall award grants on a com-
 24 petitive basis to eligible intermediaries, which shall

1 be used in accordance with paragraph (3) of this
2 subsection.

3 (2) APPLICATION REQUIREMENTS AND SELEC-
4 TION CRITERIA.—The Secretary by regulation shall
5 establish application requirements and selection cri-
6 teria for the award of competitive grants to eligible
7 intermediaries under this subsection, which criteria
8 shall include—

9 (A) the ability of the eligible intermediary
10 to meet housing needs of low-income families on
11 a national or regional scope;

12 (B) the capacity of the eligible inter-
13 mediary to use the grant award in accordance
14 with paragraph (3), based on the past perform-
15 ance and management of the applicant; and

16 (C) the extent to which the eligible inter-
17 mediary has leveraged funding from private and
18 other non-Federal sources for the eligible activi-
19 ties.

20 (3) USE OF GRANT AWARD.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), each eligible intermediary
23 that receives a grant award under this sub-
24 section shall ensure that the amount made
25 available under the grant is used as follows:

1 (i) 75 percent shall be used for eligi-
2 ble activities relating to the development of
3 affordable housing for rental by extremely
4 low-income families.

5 (ii) 25 percent shall be used for eligi-
6 ble activities relating to the development of
7 affordable housing for rental by low-income
8 families, or for homeownership assistance
9 for low-income families.

10 (B) EXCEPTION.—

11 (i) IN GENERAL.—If the amount
12 made available under a grant award under
13 this subsection is used for a project de-
14 scribed in clause (ii), an eligible inter-
15 mediary may use the amount made avail-
16 able under the grant for eligible activities
17 relating to the development of housing for
18 rental by families whose incomes are less
19 than 60 percent of the area median in-
20 come, and for homeownership activities for
21 families whose incomes are less than 80
22 percent of area median income.

23 (ii) PROJECT CONTRIBUTING TO A
24 CONCERTED COMMUNITY REVITALIZATION

1 PLAN.—A project is described in this
2 clause if—

3 (I) it is located in a community
4 undergoing concerted revitalization
5 and is contributing to a community
6 revitalization plan; and

7 (II) it is located in a census tract
8 in which—

9 (aa) the median household
10 income is less than 60 percent of
11 the area median income; or

12 (bb) the rate of poverty is
13 greater than 20 percent.

14 (C) PLAN OF USE.—Each eligible inter-
15 mediary that receives a grant award under this
16 subsection shall establish a plan for the use or
17 distribution of the amount made available under
18 the grant, which shall be submitted to the Sec-
19 retary, and which shall include information re-
20 lating to the manner in which the eligible inter-
21 mediary will either use or distribute that
22 amount, including—

23 (i) a certification that assistance made
24 available under this subsection will be used
25 to supplement assistance leveraged from

1 private and other non-Federal sources, in-
2 cluding assistance made available under
3 section 8 of the United States Housing Act
4 of 1937 (42 U.S.C. 1437f) that is devoted
5 to the project in which the housing to be
6 developed is located;

7 (ii) a certification that local assistance
8 will be provided in the carrying out the eli-
9 gible activities, which may include—

10 (I) financial assistance; and

11 (II) a good faith effort to work
12 with the unit of local government in
13 which the housing will be located to
14 address issues of siting and exclu-
15 sionary zoning or other policies that
16 are barriers to affordable housing;

17 (iii) a certification that any housing
18 developed with assistance under this sub-
19 section will remain affordable for extremely
20 low-income families or low-income families,
21 as applicable, for not less than 40 years;

22 (iv) a certification that any housing
23 developed by the applicant with assistance
24 under this subsection will be located—

1 (I) in a mixed-income develop-
2 ment in a census tract having a pov-
3 erty rate of not more than 20 percent,
4 and near employment and other op-
5 portunities for low-income families; or

6 (II) in a community undergoing
7 revitalization;

8 (v) a certification that the tenant con-
9 tribution towards rent for a family residing
10 in a unit developed with assistance under
11 this paragraph will not exceed 30 percent
12 of the adjusted income of that family; and

13 (vi) a certification by the applicant
14 that the owner of a project in which any
15 housing developed with assistance under
16 this subsection is located will make a per-
17 centage of units in the project available to
18 families assisted under the voucher pro-
19 gram under section 8(o) of the United
20 States Housing Act of 1937 (42 U.S.C.
21 1437f(o)) on the same basis as other fami-
22 lies eligible for the housing (except that
23 only the voucher holder's expected share of
24 rent shall be considered), which percentage
25 shall not be less than the percentage of the

1 total cost of developing or rehabilitating
2 the project that is funded with assistance
3 under this subsection.

4 (D) FORMS OF ASSISTANCE.—

5 (i) IN GENERAL.—An eligible inter-
6 mediary may distribute the amount made
7 available under a grant under this sub-
8 section in the form of capital grants, non-
9 interest bearing or low-interest loans or
10 advances, deferred payment loans, guaran-
11 tees, and other forms of assistance.

12 (ii) REPAYMENTS.—If an eligible
13 intermediary awards assistance under this
14 subsection in the form of a loan or other
15 mechanism by which funds are later repaid
16 to the eligible intermediary, any repay-
17 ments received by the eligible intermediary
18 shall be distributed by the eligible inter-
19 mediary in accordance with the plan of use
20 described in subparagraph (C) the fol-
21 lowing fiscal year.

1 **SEC. 5. REGULATIONS.**

2 Not later than 6 months after the date of enactment
3 of this Act, the Secretary of Housing and Urban Develop-
4 ment shall promulgate regulations to carry out this Act.

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