

107TH CONGRESS
1ST SESSION

S. 1365

To authorize the Secretary of the Department of Housing and Urban Development to make grants to States for affordable housing for low-income persons, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2001

Mr. JEFFORDS (for himself, Mr. KERRY, Mr. GRASSLEY, Mr. DAYTON, Mrs. FEINSTEIN, Mr. SCHUMER, and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To authorize the Secretary of the Department of Housing and Urban Development to make grants to States for affordable housing for low-income persons, 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 AND TABLE OF CONTENTS.**

4 This Act may be cited as the “Affordable Housing
5 Preservation Act of 2001”.

1 **SEC. 2. MATCHING GRANT PROGRAM FOR AFFORDABLE**
2 **HOUSING PRESERVATION.**

3 (a) FINDINGS AND PURPOSES.—

4 (1) FINDINGS.—Congress finds that—

5 (A) the availability of low-income housing
6 rental units has declined nationwide in the last
7 several years;

8 (B) as rents for low-income housing in-
9 crease and the development of new units of af-
10 fordable housing decreases, there are fewer pri-
11 vately owned, federally assisted affordable hous-
12 ing units available to low-income individuals in
13 need;

14 (C) the demand for affordable housing far
15 exceeds the supply of affordable housing, as evi-
16 denced by recent studies; and

17 (D) the efforts of nonprofit organizations
18 have significantly preserved and expanded ac-
19 cess to low-income housing.

20 (2) PURPOSES.—The purposes of this section
21 are—

22 (A) to continue the partnerships among
23 the Federal Government, State and local gov-
24 ernments, nonprofit organizations, and the pri-
25 vate sector in operating and assisting housing

1 that is affordable to low-income persons and
2 families;

3 (B) to promote the preservation of afford-
4 able housing units by providing matching
5 grants to States and localities that have devel-
6 oped and funded programs for the preservation
7 of privately owned housing that is affordable to
8 low-income families and persons; and

9 (C) to minimize the involuntary displace-
10 ment of tenants who are currently residing in
11 such housing, many of whom are elderly or dis-
12 abled persons and families with children.

13 (b) DEFINITIONS.—In this section:

14 (1) CAPITAL EXPENDITURES.—The term “cap-
15 ital expenditures” includes expenditures for acquisi-
16 tion and rehabilitation.

17 (2) LOW-INCOME AFFORDABILITY RESTRIC-
18 TION.—The term “low-income affordability restric-
19 tion” means, with respect to a housing project, any
20 limitation imposed by law, regulation, or regulatory
21 agreement on rents for tenants of the project, rent
22 contributions for tenants of the project, or income-
23 eligibility for occupancy in the project.

24 (3) PROJECT-BASED ASSISTANCE.—The term
25 “project-based assistance” has the same meaning as

1 in section 16(c) of the United States Housing Act
2 of 1937 (42 U.S.C. 1437n(c)), except that the term
3 includes assistance under any successor programs to
4 the programs referred to in that section.

5 (4) SECRETARY.—The term “Secretary” means
6 the Secretary of the Department of Housing and
7 Urban Development.

8 (5) STATE.—The term “State” means each of
9 the several States of the United States and the Dis-
10 trict of Columbia.

11 (c) AUTHORITY TO MAKE GRANTS.—The Secretary
12 shall, to the extent that amounts are made available in
13 advance under subsection (k), award grants under this
14 section to States and localities for low-income housing
15 preservation and promotion.

16 (d) APPLICATIONS.—

17 (1) IN GENERAL.—Any State or locality that
18 seeks a grant under this section shall submit an ap-
19 plication (through appropriate State and local agen-
20 cies) to the Secretary.

21 (2) CONTENTS.—Each application submitted
22 pursuant to paragraph (1) shall contain any infor-
23 mation and certifications necessary for the Secretary
24 to determine who is eligible to receive a grant under
25 this section.

1 (e) USE OF GRANTS.—

2 (1) ELIGIBLE USES.—

3 (A) IN GENERAL.—Grants awarded under
4 this section may be used by States and local-
5 ities only for the purpose of providing assist-
6 ance for acquisition, rehabilitation, operating
7 costs, and capital expenditures for a housing
8 project that meets the requirements of para-
9 graph (2), (3), (4), or (5).

10 (B) FACTORS FOR CONSIDERATION.—In
11 selecting a housing project described in sub-
12 paragraph (A) for assistance under this
13 section—

14 (i) the State or locality shall take into
15 consideration—

16 (I) whether the assistance will be
17 used to transfer the project to a resi-
18 dent-endorsed nonprofit organization;

19 (II) whether the owner of the
20 project has extended the low-income
21 affordability restrictions on the
22 project for a period of more than 15
23 years;

24 (III) the extent to which the
25 project is consistent with the com-

1 prehensive housing affordability strat-
2 egy approved in accordance with sec-
3 tion 105 of the Cranston-Gonzalez
4 National Affordable Housing Act (42
5 U.S.C. 12705) for the jurisdiction in
6 which the project is located;

7 (IV) the extent to which the
8 project location provides access to
9 transportation, jobs, shopping, and
10 other similar conveniences;

11 (V) the extent to which the
12 project meets fair housing goals under
13 applicable State and Federal laws;

14 (VI) the extent to which the
15 project serves specific needs that are
16 not otherwise met by the local market,
17 such as housing for the elderly or dis-
18 abled, or families with children;

19 (VII) the extent of local govern-
20 ment resources provided to the
21 project; and

22 (VIII) such other factors as the
23 Secretary or the State or locality may
24 establish; and

1 (ii) States receiving funds shall ensure
 2 that, to the maximum extent practicable,
 3 projects in both urban and rural areas in
 4 the State receive assistance.

5 (2) PROJECTS WITH HUD-INSURED MORT-
 6 GAGES.—A project meets the requirements of this
 7 paragraph only if—

8 (A) the project is financed by a loan or
 9 mortgage that is—

10 (i) insured or held by the Secretary
 11 under section 221(d)(3) of the National
 12 Housing Act (12 U.S.C. 1715l(d)(3)) and
 13 receiving loan management assistance
 14 under section 8 of the United States Hous-
 15 ing Act of 1937 (42 U.S.C. 1437f) due to
 16 a conversion from section 101 of the Hous-
 17 ing and Urban Development Act of 1965
 18 (12 U.S.C. 1701s);

19 (ii) insured or held by the Secretary
 20 and bears interest at a rate determined
 21 under the proviso of section 221(d)(5) of
 22 the National Housing Act (12 U.S.C.
 23 1715l(d)(5)); or

24 (iii) insured, assisted, or held by the
 25 Secretary or a State or State agency under

1 section 236 of the National Housing Act
2 (12 U.S.C. 1715z-1);

3 (B) with respect to the mortgage referred
4 to in subparagraph (A), the project is subject to
5 an unconditional waiver of—

6 (i) all rights to any prepayment of the
7 mortgage; and

8 (ii) all rights to any voluntary termi-
9 nation of the mortgage insurance contract
10 for the mortgage; and

11 (C) the owner of the project has entered
12 into binding commitments (applicable to any
13 subsequent owner) to extend any low-income af-
14 fordability restrictions on the project that are
15 for less than 15 years, including any such re-
16 strictions imposed because of any contract for
17 project-based assistance for the project, for a
18 period of not less than 15 years (beginning on
19 the date on which assistance is made available
20 for the project by the State or locality under
21 this section).

22 (3) PROJECTS WITH SECTION 8 PROJECT-BASED
23 ASSISTANCE.—A project meets the requirements of
24 this paragraph only if—

1 (A) the project is subject to a contract for
 2 project-based assistance; and

3 (B) the owner of the project has entered
 4 into binding commitments (applicable to any
 5 subsequent owner)—

6 (i) to continue to renew the contract
 7 for project-based assistance (if offered on
 8 the same terms and conditions) until the
 9 later of—

10 (I) the last day of the remaining
 11 term of the mortgage; or

12 (II) the date that is 15 years
 13 after the date on which assistance is
 14 made available for the project by the
 15 State or locality under this subsection;
 16 and

17 (ii) to extend any low-income afford-
 18 ability restrictions applicable to the project
 19 in connection with the project-based assist-
 20 ance.

21 (4) PROJECTS PURCHASED BY RESIDENTS.—A
 22 project meets the requirements of this paragraph
 23 only if the project—

24 (A) is or was eligible low-income housing
 25 (as defined in section 229 of the Low-Income

1 Housing Preservation and Resident Home-
2 ownership Act of 1990 (12 U.S.C. 4119)) or is
3 or was a project assisted under section 613(b)
4 of the Cranston-Gonzalez National Affordable
5 Housing Act (12 U.S.C. 4125);

6 (B) has been purchased by a resident
7 council or resident-approved nonprofit organiza-
8 tion for the housing, or is approved by the Sec-
9 retary for such purchase, for conversion to
10 homeownership housing under a resident home-
11 ownership program meeting the requirements of
12 section 226 of the Low-Income Housing Preser-
13 vation and Resident Homeownership Act of
14 1990 (12 U.S.C. 4116); and

15 (C) the owner of the project has entered
16 into binding commitments (applicable to any
17 subsequent owner) to extend project-based as-
18 sistance for not less than 15 years (beginning
19 on the date on which assistance is made avail-
20 able for the project by the State or locality
21 under this section) and to extend any low-in-
22 come affordability restrictions applicable to the
23 project in connection with that assistance.

1 (5) RURAL RENTAL ASSISTANCE PROJECTS.—A
2 project meets the requirements of this paragraph
3 only if—

4 (A) the project is a rural rental housing
5 project financed under section 515 of the Hous-
6 ing Act of 1949 (42 U.S.C. 1485); and

7 (B) the restriction on the use of the
8 project (as required under section 502 of the
9 Housing Act of 1949 (42 U.S.C. 1472)) will ex-
10 pire not later than 12 months after the date on
11 which assistance is made available for the
12 project by the State or locality under this sub-
13 section.

14 (f) AMOUNT OF STATE AND LOCAL GRANTS.—

15 (1) IN GENERAL.—Subject to subsection (g), in
16 each fiscal year, the Secretary shall award to each
17 State and locality approved for a grant under this
18 section a grant in an amount based upon the propor-
19 tion of the need for assistance of that State or local-
20 ity under this section (as determined by the Sec-
21 retary in accordance with paragraph (2)) to the ag-
22 gregate need among all States and localities ap-
23 proved for assistance under this section for that fis-
24 cal year.

1 (2) DETERMINATION OF NEED.—In deter-
2 mining the proportion of the need of a State or lo-
3 cality under paragraph (1), the Secretary shall
4 consider—

5 (A) the number of units in projects in the
6 State or locality that are eligible for assistance
7 under section 524(e)(1) of the Multifamily As-
8 sisted Housing Reform and Affordability Act of
9 1997 (42 U.S.C. 1437f note), as amended by
10 this Act, that, due to market conditions or
11 other factors, are at risk for prepayment, opt-
12 out, or otherwise at risk of being lost to the in-
13 ventory of affordable housing; and

14 (B) the difficulty that residents of projects
15 in the State or locality that are eligible for as-
16 sistance under subsection (e) would face in
17 finding adequate, available, decent, comparable,
18 and affordable housing in neighborhoods of
19 comparable quality in the local market, if those
20 projects were not assisted by the State or local-
21 ity under subsection (e).

22 (g) MATCHING REQUIREMENT.—

23 (1) IN GENERAL.—A grant under this section
24 to a State or locality for any fiscal year may not ex-
25 ceed an amount that is twice the amount that the

1 State or locality certifies, as the Secretary shall re-
2 quire, that the State or locality will contribute for
3 such fiscal year, or has contributed since January 1,
4 2001, from non-Federal sources for the purposes de-
5 scribed in subsection (e)(1).

6 (2) TREATMENT OF PREVIOUS CONTRIBU-
7 TIONS.—Any portion of amounts contributed after
8 January 1, 2001, that are counted for the purpose
9 of meeting the requirement under paragraph (1) for
10 a fiscal year may not be counted for that purpose
11 for any subsequent fiscal year.

12 (3) TREATMENT OF TAX INCENTIVES.—Fifty
13 percent of the funds used for the project that are al-
14 locable to tax credits allocated under section 42 of
15 the Internal Revenue Code of 1986, revenue from
16 mortgage revenue bonds issued under section 143 of
17 that Code, or proceeds from the sale of tax-exempt
18 bonds by any State or local government entity shall
19 be considered non-Federal sources for purposes of
20 this subsection.

21 (h) TREATMENT OF SUBSIDY LAYERING REQUIRE-
22 MENTS.—Neither subsection (g) nor any other provision
23 of this section may be construed to prevent the use of tax
24 credits allocated under section 42 of the Internal Revenue
25 Code of 1986, in connection with housing assisted with

1 amounts from a grant awarded under this section, to the
2 extent that such use is in accordance with section 102(d)
3 of the Department of Housing and Urban Development
4 Reform Act of 1989 (42 U.S.C. 3545(d)) and section 911
5 of the Housing and Community Development Act of 1992
6 (42 U.S.C. 3545 note).

7 (i) REPORTS.—

8 (1) REPORTS TO SECRETARY.—Not later than
9 90 days after the last day of each fiscal year, each
10 State and locality that receives a grant under this
11 section during that fiscal year shall submit to the
12 Secretary a report on the housing projects assisted
13 with amounts made available under the grant.

14 (2) REPORTS TO CONGRESS.—Based on the re-
15 ports submitted under paragraph (1), the Secretary
16 shall annually submit to Congress a report on the
17 grants awarded under this section during the pre-
18 ceding fiscal year and the housing projects assisted
19 with amounts made available under those grants.

20 (j) REGULATIONS.—Not later than 12 months after
21 the date of enactment of this Act, the Secretary shall issue
22 regulations to carry out this section.

23 (k) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated for grants under this

1 section such sums as may be necessary for each of fiscal
2 years 2002 through 2005.

3 **SEC. 3. ASSISTANCE FOR NONPROFIT PURCHASERS PRE-**
4 **SERVING AFFORDABLE HOUSING.**

5 (a) CONGRESSIONAL FINDINGS.—Congress finds
6 that—

7 (1) a substantial number of existing federally
8 assisted or federally insured multifamily properties
9 are at risk of being lost from the affordable housing
10 inventory of the Nation through market rate conver-
11 sion, deterioration, or demolition;

12 (2) it is in the interest of the Nation to encour-
13 age transfer of control of such properties to com-
14 petent national, regional, and local nonprofit entities
15 and intermediaries, the missions of which involve
16 maintaining the affordability of such properties;

17 (3) such transfers may be inhibited by a short-
18 age of such entities that are appropriately capital-
19 ized; and

20 (4) the Nation would be well served by pro-
21 viding assistance to such entities to aid in accom-
22 plishing this purpose.

23 (b) DEFINITIONS.—In this section:

1 (1) ELIGIBLE AFFORDABLE HOUSING.—The
 2 term “eligible affordable housing” means housing
 3 that—

4 (A) consists of more than 4 dwelling units;

5 (B) is insured or assisted under a program
 6 of the Department of Housing and Urban De-
 7 velopment or the Department of Agriculture
 8 under which the property is subject to limita-
 9 tions on tenant rents, rent contributions, or in-
 10 comes; and

11 (C) is at risk, as determined by the Sec-
 12 retary, of termination of any of the limitations
 13 referred to in subparagraph (B).

14 (2) ELIGIBLE ENTITIES.—The term “eligible
 15 entities” means any entity that meets the require-
 16 ments of subsection (d) and the rules issued under
 17 that subsection.

18 (3) LOW-INCOME FAMILIES; VERY LOW-INCOME
 19 FAMILIES.—The terms “low-income families” and
 20 “very low-income families” have the meanings given
 21 such terms in section 3(b) of the United States
 22 Housing Act of 1937 (42 U.S.C. 1437a(b)).

23 (4) SECRETARY.—The term “Secretary” means
 24 the Secretary of the Department of Housing and
 25 Urban Development.

1 (c) GRANTS.—The Secretary may make grants, to
 2 the extent that amounts are made available for such
 3 grants, to eligible entities for use only for—

4 (1) operational, working capital, and organiza-
 5 tional expenses of eligible entities; and

6 (2) activities by eligible entities to acquire eligi-
 7 ble affordable housing for the purpose of ensuring
 8 that the housing will remain affordable, as the Sec-
 9 retary considers appropriate, for low-income or very
 10 low-income families (including elderly persons).

11 (d) ELIGIBLE ENTITIES.—

12 (1) IN GENERAL.—The Secretary shall establish
 13 by regulation, standards for eligible entities under
 14 this subsection.

15 (2) REQUIREMENTS.—An eligible entity shall—

16 (A) be a nonprofit organization (as defined
 17 in section 104 of the Cranston-Gonzalez Na-
 18 tional Affordable Housing Act (42 U.S.C.
 19 12704));

20 (B) have among its purposes, maintaining
 21 the affordability to low-income or very low-in-
 22 come families of multifamily properties that are
 23 at risk of loss from the inventory of housing
 24 that is affordable to low-income or very low-in-
 25 come families; and

1 (C) demonstrate to the Secretary—

2 (i) the need for the types of assistance
3 described in subsection (c);

4 (ii) experience in providing assistance
5 described in that subsection; and

6 (iii) its ability to provide the assist-
7 ance described in that subsection.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated for grants under this
10 section, such sums as may be necessary for each of fiscal
11 years 2002 through 2005.

12 **SEC. 4. PRESERVATION PROJECTS.**

13 Section 524(e)(1) of the Multifamily Assisted Hous-
14 ing Reform and Affordability Act of 1997 (42 U.S.C.
15 1437f note) is amended by striking “amounts are specifi-
16 cally” and inserting “sufficient amounts are”.

○