

109TH CONGRESS
2^D SESSION

H. R. 5039

To establish a program to revitalize rural multifamily housing assisted under the Housing Act of 1949.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2006

Mr. DAVIS of Kentucky (for himself, Mr. FRANK of Massachusetts, Mr. NEY, Mr. DAVIS of Alabama, Mr. GARY G. MILLER of California, Mr. HINOJOSA, and Mr. RENZI) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish a program to revitalize rural multifamily housing assisted under the Housing Act of 1949.

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 “Saving America’s
5 Rural Housing Act of 2006”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) section 502(c) of the Housing Act of 1949
9 restricts the rights of certain owners of projects for

1 which loans were made or insured under section 515
2 of such Act to prepay such loans;

3 (2) expensive litigation against the Department
4 of Agriculture has cost the taxpayers of the United
5 States millions of dollars to date, funds that would
6 be better spent preserving affordable multifamily
7 housing;

8 (3) if such section 502(c) is partially repealed
9 and the prepayment restrictions are eliminated for
10 multifamily housing loans made before 1989 under
11 section 515, it is expected, according to a report,
12 that approximately 10 percent of the portfolio of
13 such loans would be prepaid and those projects
14 would leave the program;

15 (4) the average age of a multifamily housing
16 project with a section 515 loan is 28 years, and
17 therefore much of the portfolio of such projects is
18 aging and in need of revitalization, while the need
19 for affordable rural housing is increasing;

20 (5) section 515 projects house some of the
21 poorest families in rural America, with almost 60
22 percent of the units occupied by senior citizens or
23 persons with disabilities and an average annual
24 household income among all occupants of approxi-
25 mately \$9,000;

1 (6) in many small towns and communities, rent-
2 al housing financed by direct loans under section
3 515 is the only decent, affordable rental housing
4 available.; and

5 (7) consequently, any revitalization or disposi-
6 tion of this portfolio, which houses nearly 500,000
7 low-income families and seniors, should be handled
8 with great care.

9 (b) PURPOSES.—The purposes of this Act are—

10 (1) to authorize the Secretary of Agriculture to
11 carry out a program that encourages, to the extent
12 practicable, the retention of section 515 housing
13 projects developments for long-term use and the re-
14 pair and preservation of such properties, and en-
15 sures that the minimum number of residents are dis-
16 placed;

17 (2) to repeal a portion of section 502(c) of the
18 Housing Act of 1949 to avoid further costly litiga-
19 tion against the Department of Agriculture;

20 (3) to preserve the availability of affordable
21 rural housing by providing a voluntary mechanism
22 for owners of multifamily rural housing projects with
23 loans under section 515 to enter into loan restruc-
24 turing agreements with the Secretary to provide cap-
25 ital for revitalization activities; and

1 (4) to provide for affordable rents for tenants
2 who live in such projects that are revitalized under
3 this Act and to protect tenants who live in such
4 projects for which the loan is prepaid.

5 **SEC. 3. REVITALIZATION OF MULTIFAMILY HOUSING.**

6 (a) REVITALIZATION PROGRAM.—Title V of the
7 Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended
8 by adding at the end the following new section:

9 **“SEC. 544. REVITALIZATION AND TENANT PROTECTION**
10 **VOUCHERS.**

11 “(a) PURPOSE.—The purposes of this section are—

12 “(1) to protect tenants who live in multifamily
13 housing projects that are subsidized under this title
14 and, in the case of prepayments of loans under sec-
15 tion 515, to protect tenants that are displaced when
16 the projects cease being eligible projects;

17 “(2) to strengthen the long-term viability of eli-
18 gible projects;

19 “(3) to promote the revitalization of rural mul-
20 tifamily housing projects; and

21 “(4) to accomplish such several purposes—

22 “(A) by providing a voluntary mechanism
23 for project owners to enter into loan restruc-
24 turing agreements with the Secretary to obtain

1 new types of financial assistance to rehabilitate
2 and maintain the projects; and

3 “(B) by deregulating certain projects in a
4 manner that still provides measurable perform-
5 ance standards and effective financing and re-
6 habilitation of multifamily housing.

7 “(b) REVITALIZATION.—

8 “(1) IN GENERAL.—The Secretary shall, sub-
9 ject to the availability of amounts appropriated,
10 carry out a revitalization program in accordance
11 with this subsection to provide financial incentives
12 and other assistance to owners of eligible projects
13 through voluntary long-term use agreements entered
14 into between the project owners and the Secretary.

15 “(2) APPLICATIONS TO PARTICIPATE.—The
16 Secretary may accept applications from owners of el-
17 igible projects to participate in the revitalization pro-
18 gram under this section.

19 “(3) LONG-TERM VIABILITY PLAN.—

20 “(A) REQUIREMENT.—The Secretary may
21 prepare and approve a long-term viability plan
22 under this paragraph with respect to each eligi-
23 ble project for which the owner requests to par-
24 ticipate.

1 “(B) CONTENTS.—Each long-term viability
2 plan for an eligible project shall include the fol-
3 lowing information:

4 “(i) COMPREHENSIVE NEEDS ASSESS-
5 MENT.—A comprehensive needs assess-
6 ment of the project that identifies and
7 projects, for the following 20 years—

8 “(I) all necessary repairs, im-
9 provements, maintenance, and man-
10 agement standards for the project,
11 and when they will be made, in order
12 to meet the requirements of this title;
13 and

14 “(II) the costs associated with
15 the items referred to in this subpara-
16 graph (A).

17 “(ii) FINANCIAL PLAN.—A financial
18 plan for the project that—

19 “(I) reviews the financial stability
20 of the project;

21 “(II) includes the loan restruc-
22 turing elements, rent adjustments,
23 management and operational effi-
24 ciencies, and other financial adjust-
25 ments to the project that are nec-

1 necessary to cover operating expenses for
2 the project and maintain an adequate
3 financial reserve for the future main-
4 tenance and capital needs of the
5 project;

6 “(III) provides the project owner
7 with a long-term rate of return on
8 new capital, including any portion of
9 low-income housing tax credit pro-
10 ceeds used for hard construction
11 costs, as determined by the Secretary,
12 commensurate to comparable commer-
13 cial multifamily housing projects;

14 “(IV) meets the comprehensive
15 needs for the project determined
16 under the comprehensive needs assess-
17 ment; and

18 “(V) ensures that rents available
19 under the plan are affordable to eligi-
20 ble households in accordance with
21 paragraph (7).

22 “(C) DEVELOPMENT THROUGH PARTICI-
23 PATING ADMINISTRATIVE ENTITIES.—The Sec-
24 retary may develop long-term viability plans
25 through the use of third-party participating ad-

1 ministrative entities, who may be a private con-
2 tractor, a State housing finance agency, or a
3 nonprofit organization.

4 “(D) REVITALIZATION DETERMINATION.—
5 Based on the long-term viability plan for an eli-
6 gible project, the Secretary shall determine
7 whether to offer the project owner a financial
8 restructuring plan under paragraph (4) and the
9 financial incentives to be included in any such
10 plan offered.

11 “(E) FINAL REVIEW AND COMMENT.—
12 With respect to any long-term viability plan
13 prepared by the Secretary, the Secretary shall
14 provide the project owner an opportunity to re-
15 view the plan and discuss the plan with the Sec-
16 retary or its agent before a determination is
17 made under subparagraph (D).

18 “(F) FEES.—The Secretary may charge
19 the project owner a fee for preparation of the
20 long-term viability plan.

21 “(G) PAYMENT OF FEES.—If a long-term
22 viability for a project is approved, the payment
23 of such fee may be incorporated into a project
24 owner’s financial restructuring plan for the

1 project provided by the Secretary pursuant to
2 paragraph (4)

3 “(4) FINANCIAL RESTRUCTURING PLAN; REVI-
4 TALIZATION INCENTIVES.—Based on the long-term
5 viability plan for an eligible project, the Secretary
6 may offer a project owner a financial restructuring
7 plan for the project. Such a plan may include one
8 or more of the following revitalization incentives:

9 “(A) Reduction or elimination of interest
10 on the loan for the project made under section
11 515.

12 “(B) Partial or full deferral of payments
13 due under such loan.

14 “(C) Forgiveness of such loan.

15 “(D) Subordination of such loan, subject
16 to such terms and conditions as the Secretary
17 shall determine.

18 “(E) Reamortization of loan payments
19 under such loan over extended terms.

20 “(F) A grant from the Secretary for the
21 project.

22 “(G) Payment of project costs associated
23 with developing the long-term viability plan.

1 “(H) Opportunity for project owners to ob-
2 tain further investment equity from third par-
3 ties in the project.

4 “(I) A direct loan or guarantee of a loan
5 for the project, with a subsidized interest rate
6 without regard to the value of the project.

7 “(5) LONG-TERM USE AGREEMENT.—

8 “(A) IN GENERAL.—If the owner of an eli-
9 gible project agrees to the terms of a financial
10 restructuring plan for the project providing re-
11 vitalization benefits under paragraph (4), in ex-
12 change for such benefits, the Secretary and the
13 project owner shall enter into a long-term use
14 agreement under this paragraph for the project.

15 “(B) AGREEMENT.—A long-term use
16 agreement for an eligible project shall include—

17 “(i) the terms of the financial restruc-
18 turing plan for the project, including any
19 revitalization incentives to be provided;

20 “(ii) an agreement by the project
21 owner—

22 “(I) to continue the property use
23 restrictions with respect to the project
24 in accordance with this title for a pe-
25 riod of (aa) 20 years, or (bb) the re-

1 maintaining term of any loans under this
2 title for the project, whichever ends
3 later;

4 “(II) to comply with the long-
5 term viability plan for the project;

6 “(III) to comply with the rent
7 terms under paragraph (7) for the
8 project; and

9 “(IV) to make value payments
10 under paragraph (6) to the Secretary,
11 and the terms of such payments;

12 “(iii) provisions terminating the
13 agreement if any revitalization incentives
14 for the project to be provided under the
15 agreement are no longer available and the
16 Secretary determines that such unavail-
17 ability is not the fault of the owner;

18 “(iv) any rent terms for the project
19 pursuant to paragraph (7);

20 “(v) a covenant which runs with the
21 land; and

22 “(vi) such other terms as the Sec-
23 retary determines are necessary to imple-
24 ment the purposes of this section.

1 “(6) SHARED VALUE AGREEMENTS.—Each
2 long-term use agreement shall include a shared value
3 agreement secured by the property of the eligible
4 project that is the subject of the long-term use
5 agreement, which shall determine how proceeds are
6 divided at the end of the term of the loan and shall
7 require the project owner, at the end of such loan
8 term, to pay the lesser of—

9 “(A) the sum of—

10 “(i) the amounts of any loan
11 writedowns, write-offs, and interest sub-
12 sidies provided in connection with the loan
13 restructuring under this subsection, at the
14 closing of revitalization;

15 “(ii) any outstanding principal and in-
16 terest; and

17 “(iii) any non-loan funds provided by
18 the Secretary under this subsection; or

19 “(B) 75 percent of the appraised value of
20 the eligible project.

21 “(7) RENTS UNDER LONG-TERM USE AGREE-
22 MENT.—In any eligible project that is subject to a
23 long-term use agreement, rents for eligible house-
24 holds shall comply with the following requirements:

1 “(A) MINIMUM RENT.—The Secretary, act-
2 ing through the director of the applicable local
3 agency or office of the Department responsible
4 for carrying out the programs under this title
5 in such area, may provide that each eligible
6 household is charged a minimum monthly rent
7 in an amount determined by such local director
8 that does not in any case exceed \$25. The Sec-
9 retary may allow exceptions to such minimum
10 rent for an eligible household or groups of eligi-
11 ble households for demonstrated hardship, as
12 determined by the Secretary, which hardship
13 exceptions, if allowed by the Secretary, shall in-
14 clude the hardship exceptions provided or estab-
15 lished by the Secretary of Housing and Urban
16 Development, as appropriate, under subclauses
17 (I) through (V) of section 3(a)(3)(B)(i) of the
18 United States Housing Act of 1937 (42 U.S.C.
19 1437a(a)(3)(B)(i)).

20 “(B) MAXIMUM RENT.—Notwithstanding
21 any minimum monthly rent established pursu-
22 ant to subparagraph (A), the amount of month-
23 ly rent charged to any eligible household may
24 not exceed 30 percent of the adjusted income of
25 the eligible household. Such local director may

1 take such actions as may be necessary to verify
2 tenant incomes for purposes of carrying out this
3 subparagraph.

4 “(C) RENT ADJUSTMENTS.—The rents for
5 eligible households may be increased or de-
6 creased only on an annual basis and only in ac-
7 cordance with standards incorporated in such
8 agreement. The Secretary shall issue regula-
9 tions establishing such standards, which shall
10 include standards for rents that are considered
11 affordable for eligible households for the area in
12 which a project is located and for establishing
13 rents that conform to such standards.

14 “(8) LOWEST COST REQUIREMENT.—In deter-
15 mining the terms of a restructuring plan, and the
16 type and amount of revitalization benefits under
17 such plan to approve under this subsection for an el-
18 igible project, the Secretary shall, to the extent prac-
19 ticable, approve assistance that imposes the least
20 cost to the Secretary while meeting the requirements
21 of the long-term viability plan for the project.

22 “(c) HOMEOWNERSHIP OPPORTUNITIES.—The owner
23 of an eligible project may, in conjunction with revitaliza-
24 tion of the project pursuant to this section, propose a sale
25 to a tenant-based condominium or cooperative. Any such

1 proposal shall be subject to a notice to tenants under
2 terms that the Secretary shall establish.

3 “(d) DETERMINATION OF INELIGIBILITY.—

4 “(1) PROCEDURE.—The Secretary may deter-
5 mine that a project owner is ineligible for participa-
6 tion in the revitalization program under this section
7 in accordance with the standards under paragraph
8 (2).

9 “(2) STANDARDS.— The Secretary may deter-
10 mine that a project owner is ineligible if—

11 “(A) the project owner has a history of
12 poor management or maintenance of multi-
13 family housing properties;

14 “(B) the project owner is in default on a
15 loan made available under the section 514 or
16 515 housing program;

17 “(C) the Secretary is unable to enter into
18 a long-term use agreement for the project that
19 is the subject of the application with the project
20 owner within a reasonable time;

21 “(D) the project owner is suspended or
22 debarred from participating in Federal con-
23 tracts or programs; or

1 “(E) the Secretary has other good cause
2 for withholding from the project owner the ben-
3 efits made available under this section.

4 “(e) DEFINITIONS.—For purposes of this section, the
5 following definitions shall apply:

6 “(1) ELIGIBLE HOUSEHOLD.—The term ‘eligi-
7 ble household’ means a household that, under sec-
8 tion 515, is eligible to reside in a project funded
9 with a loan made by the Secretary under such sec-
10 tion.

11 “(2) ELIGIBLE PROJECT.—The term ‘eligible
12 project’ means a housing project funded with a loan
13 made at any time by the Secretary under section
14 515, the principal obligation of which has not been
15 fully repaid.

16 “(3) PROJECT OWNER; OWNER.—The terms
17 ‘project owner’ and ‘owner’ mean, with respect to an
18 eligible project, an individual or entity, or principals
19 thereof that own, or plan to purchase, the project.”.

20 (b) PRIORITY FOR SECTION 515 FINANCING.—Sub-
21 section (j) of section 515 of the Housing Act of 1949 (42
22 U.S.C. 1485(j)) is amended—

23 (1) by inserting “(1)” before “For”; and

24 (2) by adding at the end the following new
25 paragraph:

1 “(2) The Secretary may give priority, in enter-
 2 ing into contracts under this section involving fi-
 3 nancing for new construction of a project, for
 4 projects located in areas having a need for afford-
 5 able low-income rental housing due to prepayment of
 6 loans made or insured under this section.”.

7 (c) PARTIAL REPEAL OF PREPAYMENT RESTRIC-
 8 TIONS; ADMINISTRATION OF PREPAYMENT REQUESTS.—
 9 Section 502 of the Housing Act of 1949 (42 U.S.C. 1472)
 10 is amended—

11 (1) in subsection (c)—

12 (A) by striking “or 515” each place such
 13 term appears; and

14 (B) in paragraph (5)(G)(i)(I), by striking
 15 “, as the case may be,”; and

16 (2) by adding at the end the following new sub-
 17 section:

18 “(i) PREPAYMENT OF SECTION 515 MULTIFAMILY
 19 HOUSING LOANS.—

20 “(1) ADMINISTRATION.—

21 “(A) PLAN.—The Secretary shall develop a
 22 plan to administer requests to prepay (not
 23 made in connection with any revitalization
 24 under section 544) any loan made under section
 25 515. The plan shall provide for administration

1 of voucher assistance in accordance with para-
2 graph (3). The plan shall encourage and facili-
3 tate owners of projects to maintain the projects,
4 or to transfer projects to owners who will main-
5 tain projects, as housing affordable to low-in-
6 come residents.

7 “(B) IMPLEMENTATION.—The Secretary
8 shall implement this subsection not later than
9 the expiration of the 90-day period beginning
10 on the date of the enactment of the Saving
11 America’s Rural Housing Act of 2006. Notwith-
12 standing that full implementation of this sub-
13 section may not have been completed, the Sec-
14 retary may not delay the processing of any re-
15 quest to prepay a loan made under section 515.

16 “(2) NOTICE OF PREPAYMENT AND SALE.—As
17 a condition of prepayment of a loan made or insured
18 under section 515, the project owner shall, not less
19 than 90 days before taking any action to prepay the
20 loan or sell the project for which the loan was made,
21 provide the following notices:

22 “(A) NOTICE TO TENANTS.—To the ten-
23 ants of the project, notice of the prepayment, as
24 follows:

1 “(i) The notice shall include informa-
2 tion sufficient to inform tenants of the
3 availability of vouchers pursuant to para-
4 graph (3), actions tenants must take to re-
5 ceive voucher assistance, the date prepay-
6 ment is expected to take place, a telephone
7 number and electronic mail address at
8 which to contact the owner of the project,
9 and any limitations, use, and other terms
10 the Secretary considers appropriate.

11 “(ii) In the case of any prepayment
12 involving transfer of the ownership of a
13 project, the notice shall include the name
14 of the transferee, the date that the trans-
15 fer was agreed to, the date the transfer is
16 to take place, and telephone numbers and
17 electronic mail addresses at which to con-
18 tact the transferor and transferee.

19 “(B) NOTICE TO SECRETARY.—To the
20 Secretary, notice that the requirements under
21 subparagraph (A) have been met, which shall
22 identify the date that notice under such sub-
23 paragraph was made and the names or each
24 tenant to which such notice was provided.

1 “(3) RURAL TENANT PROTECTION VOUCH-
2 ERS.—

3 “(A) IN GENERAL.—If the owner of a
4 housing project subject to a loan made under
5 section 515 prepays the loan, the Secretary
6 shall, to the extent that amounts for assistance
7 under this paragraph are provided in advance
8 in appropriation Acts, make voucher assistance
9 available to each low-income family who on the
10 date of prepayment is residing in a dwelling
11 unit in the project.

12 “(B) USE.—A voucher under this para-
13 graph for a family may be used for rental of a
14 dwelling unit in the project that the family re-
15 sides in on the date of the prepayment referred
16 to in subparagraph (A) or for a dwelling unit
17 elsewhere.

18 “(C) RIGHT TO USE.—In the case of a
19 project for which a loan made under section
20 515 is prepaid, the owner of the project may
21 not refuse to lease, to a family for whom vouch-
22 er assistance under this paragraph is made
23 available, any available rental dwelling unit in
24 the project a proximate cause of which is the

1 status of such family as a recipient of such as-
2 sistance.

3 “(D) AMOUNT OF ASSISTANCE.—The
4 amount of rental assistance provided under a
5 voucher under this paragraph on behalf of a
6 tenant shall be the amount by which—

7 “(i) the lesser of (I) the rent for the
8 dwelling unit rented using such voucher, or
9 (II) the rent for a comparable unit in the
10 same market area as the housing project
11 for which the loan was prepaid; exceeds

12 “(ii) the lesser of (I) the amount of
13 rent paid by the tenant for the dwelling
14 unit occupied by the tenant at the time of
15 the prepayment referred to in paragraph
16 (1), or (II) the amount equal to 30 percent
17 of the tenant’s adjusted income (as such
18 term is defined in section 3(b) of the
19 United States Housing Act of 1937 (42
20 U.S.C. 1437a(b)).

21 “(E) RURAL AFFORDABLE VOUCHER.—For
22 communities with insufficient affordable hous-
23 ing alternatives, as determined by the Sec-
24 retary, voucher assistance under this paragraph
25 may be provided in accordance with section

1 8(t)(1) of the United States Housing Act of
2 1937 (42 U.S.C. 1437f(t)(1)).

3 “(F) ADMINISTRATION.—To the maximum
4 extent practicable, the Secretary shall admin-
5 ister voucher assistance under this paragraph in
6 accordance with regulations and administrative
7 guidance for housing vouchers administered by
8 the Secretary of Housing and Urban Develop-
9 ment under section 8 of such Act.

10 “(G) HOMEOWNERSHIP OPPORTUNITIES.—
11 A voucher under this paragraph may be used by
12 a tenant to make payments towards the pur-
13 chase of a single-family home anywhere in the
14 United States, subject to subsidy limits for
15 vouchers under this title and the same limita-
16 tions applicable under section 8(y) of the
17 United States Housing Act of 1937 (42 U.S.C.
18 1437f(y) to the use of tenant-based assistance
19 under such section 8 for homeownership.

20 “(4) PREPAYMENT STANDARDS FOR PRE-1989
21 LOANS.—In the case of a loan made or insured
22 under section 515 pursuant to a contract entered
23 into before December 15, 1989:

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), the Secretary shall approve any

1 offer to prepay such a loan that meets the fol-
2 lowing requirements:

3 “(i) The borrower under the loan has
4 not been provided any assistance to extend
5 low-income use pursuant to section
6 502(c)(4) of this Act, as such section was
7 in effect before the date of the enactment
8 of the Saving America’s Rural Housing
9 Act of 2006.

10 “(ii) The loan was not at any time re-
11 stricted by servicing actions, including
12 transfers.

13 “(iii) The 20-year period during which
14 the project is subject to use restrictions
15 under the loan has concluded.

16 “(B) PROHIBITION.—The Secretary may
17 not approve any offer to prepay such a loan
18 during the 20-year period during which the
19 project is subject to use restrictions under the
20 loan.

21 “(5) SALE RESTRICTIONS.—During the period
22 that begins upon the owner providing notice to the
23 Secretary under paragraph (2)(B) and having a du-
24 ration of 75 days, the owner may not sell the prop-
25 erty except to a purchaser who enters into such

1 binding agreements for purchase at market rates as
2 the Secretary considers necessary to continue the
3 property use restrictions with respect to the project
4 in accordance with this title for a period of 20 years.
5 This paragraph may not be construed to prohibit an
6 owner, during such period, from soliciting or receiv-
7 ing any offers of sale or purchase.

8 “(6) DATABASE OF POTENTIAL BUYERS.—The
9 Secretary shall establish and maintain a database of
10 potential buyers of projects with loans made under
11 section 515. Such database shall include only per-
12 sons who have expressed an interest to the Secretary
13 in purchasing such projects at fair market value and
14 maintaining the projects for use as affordable hous-
15 ing.”.

16 **SEC. 4. CONFORMING AMENDMENTS TO TITLE V OF THE**
17 **HOUSING ACT OF 1949.**

18 Title V of the Housing Act of 1949 is amended—

19 (1) in section 502(b)(2) (42 U.S.C.
20 1472(b)(2))—

21 (A) by striking “or 515”; and

22 (B) by inserting before the semicolon at
23 the end the following: “and any prepayment of
24 a loan made or insured under section 515 shall

1 be subject to the provisions of subsection (i)”;
2 and
3 (2) in section 537(b)(1) (42 U.S.C. 1490p-
4 1(b)(1)), by inserting before the semicolon the fol-
5 lowing: “ and to administer the revitalization pro-
6 gram under section 544”.

○