

110TH CONGRESS  
1ST SESSION

# H. R. 2930

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IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2007

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

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## AN ACT

To amend section 202 of the Housing Act of 1959 to improve  
the program under such section for supportive housing  
for the elderly, 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,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Section 202 Supportive Housing for the Elderly Act of  
 4 2007”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for  
 6 this Act is as follows:

Sec. 1. Short title and table of contents.

**TITLE I—NEW CONSTRUCTION REFORMS**

Sec. 101. Project rental assistance.  
 Sec. 102. Selection criteria.  
 Sec. 103. Development cost limitations.  
 Sec. 104. Owner deposits.  
 Sec. 105. Definition of private nonprofit organization.  
 Sec. 106. Preferences for homeless elderly.  
 Sec. 107. Nonmetropolitan allocation.

**TITLE II—REFINANCING**

Sec. 201. Approval of prepayment of debt.  
 Sec. 202. Sources of refinancing.  
 Sec. 203. Use of unexpended amounts.  
 Sec. 204. Use of project residual receipts.  
 Sec. 205. Additional provisions.  
 Sec. 206. Study of mortgage sale demonstration.

**TITLE III—ASSISTED LIVING FACILITIES**

Sec. 301. Definition of assisted living facility.  
 Sec. 302. Monthly assistance payment under rental assistance.

**TITLE IV—FACILITATING AFFORDABLE HOUSING PRESERVATION  
 TRANSACTIONS**

Sec. 401. Use of sale or refinancing proceeds.

7 **TITLE I—NEW CONSTRUCTION**  
 8 **REFORMS**

9 **SEC. 101. PROJECT RENTAL ASSISTANCE.**

10 Paragraph (2) of section 202(e) of the Housing Act  
 11 of 1959 (12 U.S.C. 1701q(c)(2)) is amended—

1           (1) by inserting after “ASSISTANCE.—” the fol-  
2           lowing: “(A) INITIAL PROJECT RENTAL ASSISTANCE  
3           CONTRACT.—”;

4           (2) in the last sentence, by striking “may” and  
5           inserting “shall”; and

6           (3) by adding at the end the following new sub-  
7           paragraph:

8           “(B) RENEWAL OF AND INCREASES IN CON-  
9           TRACT AMOUNTS.—

10           “(i) EXPIRATION OF CONTRACT TERM.—

11           Upon the expiration of each contract term, the  
12           Secretary shall adjust the annual contract  
13           amount to provide for reasonable project costs,  
14           and any increases, including adequate reserves,  
15           supportive services, and service coordinators,  
16           except that any contract amounts not used by  
17           a project during a contract term shall not be  
18           available for such adjustments upon renewal.

19           “(ii) EMERGENCY SITUATIONS.—In the  
20           event of emergency situations that are outside  
21           the control of the owner, the Secretary shall in-  
22           crease the annual contract amount, subject to  
23           reasonable review and limitations as the Sec-  
24           retary shall provide.”.

1 **SEC. 102. SELECTION CRITERIA.**

2 Subsection (f) of section 202 of the Housing Act of  
3 1959 (12 U.S.C. 1701q(f)) is amended—

4 (1) by striking “SELECTION CRITERIA.—” and  
5 inserting “INITIAL SELECTION CRITERIA AND PROC-  
6 ESSING.—(1) SELECTION CRITERIA.—”;

7 (2) by redesignating paragraphs (1), (2), (3),  
8 (4), (5), (6), and (7) as subparagraphs (A), (B),  
9 (C), (D), (E), (G), and (H), respectively;

10 (3) by inserting after subparagraph (E) (as so  
11 redesignated by paragraph (2) of this subsection)  
12 the following new subparagraph:

13 “(F) the extent to which the applicant has en-  
14 sured that a service coordinator will be employed or  
15 otherwise retained for the housing, who has the  
16 managerial capacity and responsibility for carrying  
17 out the actions described in subparagraphs (A) and  
18 (B) of subsection (g)(2);” and

19 (4) by adding at the end the following new  
20 paragraph:

21 “(2) DELEGATED PROCESSING.—

22 “(A) In issuing a capital advance under this  
23 subsection for any project for which financing for  
24 the purposes described in the last two sentences of  
25 subsection (b) is provided by a combination of a cap-  
26 ital advance under subsection (c)(1) and sources

1 other than this section, within 30 days of award of  
2 the capital advance, the Secretary shall delegate re-  
3 view and processing of such projects to a State or  
4 local housing agency that—

5 “(i) is in geographic proximity to the prop-  
6 erty;

7 “(ii) has demonstrated experience in and  
8 capacity for underwriting multifamily housing  
9 loans that provide housing and supportive serv-  
10 ices;

11 “(iii) may or may not be providing low-in-  
12 come housing tax credits in combination with  
13 the capital advance under this section, and

14 “(iv) agrees to issue a firm commitment  
15 within 12 months of delegation.

16 “(B) The Secretary shall retain the authority to  
17 process capital advances in cases in which no State  
18 or local housing agency has applied to provide dele-  
19 gated processing pursuant to this paragraph or no  
20 such agency has entered into an agreement with the  
21 Secretary to serve as a delegated processing agency.

22 “(C) An agency to which review and processing  
23 is delegated pursuant to subparagraph (A) may as-  
24 sess a reasonable fee which shall be included in the  
25 capital advance amounts and may recommend

1 project rental assistance amounts in excess of those  
2 initially awarded by the Secretary. The Secretary  
3 shall develop a schedule for reasonable fees under  
4 this subparagraph to be paid to delegated processing  
5 agencies, which shall take into consideration any  
6 other fees to be paid to the agency for other funding  
7 provided to the project by the agency, including  
8 bonds, tax credits, and other gap funding.

9 “(D) Under such delegated system, the Sec-  
10 retary shall retain the authority to approve rents  
11 and development costs and to execute a capital ad-  
12 vance within 60 days of receipt of the commitment  
13 from the State or local agency. The Secretary shall  
14 provide to such agency and the project sponsor, in  
15 writing, the reasons for any reduction in capital ad-  
16 vance amounts or project rental assistance and such  
17 reductions shall be subject to appeal.”

18 **SEC. 103. DEVELOPMENT COST LIMITATIONS.**

19 Section 202(h)(1) of the Housing Act of 1959 (12  
20 U.S.C. 1701q(h)(1)) is amended, in the matter preceding  
21 subparagraph (A), by inserting “reasonable” before “de-  
22 velopment cost limitations”.

23 **SEC. 104. OWNER DEPOSITS.**

24 Section 202(j)(3)(A) of the Housing Act of 1959 (12  
25 U.S.C. 1701q(j)(3)(A)) is amended by inserting after the

1 period at the end the following: “Such amount shall be  
2 used only to cover operating deficits during the first three  
3 years of operations and shall not be used to cover con-  
4 struction shortfalls or inadequate initial project rental as-  
5 sistance amounts.”.

6 **SEC. 105. DEFINITION OF PRIVATE NONPROFIT ORGANIZA-**  
7 **TION.**

8 Subparagraph (B) of section 202(k)(4) of the Hous-  
9 ing Act of 1959 (12 U.S.C. 1701q(k)(4)(B)) is amended  
10 by inserting before the semicolon the following: “; except  
11 that, in the case of any national organization that is the  
12 owner of multiple housing projects assisted under this sec-  
13 tion, the organization may comply with clause (i) of this  
14 subparagraph by having a local advisory board to the gov-  
15 erning board of the organization the membership which  
16 is selected in the manner required under clause (i)”.

17 **SEC. 106. PREFERENCES FOR HOMELESS ELDERLY.**

18 Subsection (j) of section 202 (12 U.S.C. 1701q(j))  
19 is amended by adding at the end the following new para-  
20 graph:

21 “(9) PREFERENCES FOR HOMELESS ELDER-  
22 LY.—The Secretary shall permit an owner of hous-  
23 ing assisted under this section to establish for, and  
24 apply to, the housing a preference in tenant selection  
25 for the homeless elderly, either within the applica-

1       tion or after selection pursuant to subsection (f), but  
2       only if—

3               “(A) such preference is consistent with  
4               paragraph (2) of this subsection; and

5               “(B) the owner demonstrates that the sup-  
6               portive services identified pursuant to sub-  
7               section (e)(4), or additional supportive services  
8               to be made available upon implementation of  
9               the preference, will meet the needs of the home-  
10              less elderly, maintain safety and security for all  
11              tenants, and be provided on a consistent, long-  
12              term, and economical basis.”.

13 **SEC. 107. NONMETROPOLITAN ALLOCATION.**

14       Paragraph (3) of section 202(l) of the Housing Act  
15 of 1959 (12 U.S.C. 1701q(l)(3)) is amended by inserting  
16 after the period at the end the following: “In complying  
17 with this paragraph, the Secretary shall either operate a  
18 national competition for the nonmetropolitan funds or  
19 make allocations to regional offices of the Department of  
20 Housing and Urban Development.”.

21                   **TITLE II—REFINANCING**

22 **SEC. 201. APPROVAL OF PREPAYMENT OF DEBT.**

23       Subsection (a) of section 811 of the American Home-  
24 ownership and Economic Opportunity Act of 2000 (12  
25 U.S.C. 1701q note) is amended—



1 (1) in the matter preceding paragraph (1), by  
2 inserting “, for which the Secretary’s consent to pre-  
3 payment is required” after “Act”);

4 (2) in paragraph (1)—

5 (A) by inserting “project-based” before  
6 “rental assistance payments contract”;

7 (B) by inserting “project-based” before  
8 “rental housing assistance programs”; and

9 (C) by inserting “, or any successor  
10 project-based rental assistance program,” after  
11 “1701s))”; and

12 (3) in paragraph (2)—

13 (A) by inserting “(A)” before “a lower”;  
14 and

15 (B) by inserting before the period at the  
16 end the following: “, or (B) a transaction in  
17 which the project owner will address the phys-  
18 ical needs of the project, but only if, as a result  
19 of the refinancing (i) the rent charges for unas-  
20 sisted families residing in the project do not in-  
21 crease or such families are provided rental as-  
22 sistance under a senior preservation rental as-  
23 sistance contract for the project pursuant to  
24 subsection (e), and (ii) the overall cost for pro-

1           viding rental assistance under section 8 for the  
2           project (if any) does not increase”.

3 **SEC. 202. SOURCES OF REFINANCING.**

4           The last sentence of section 811(b) of the American  
5 Homeownership and Economic Opportunity Act of 2000  
6 (12 U.S.C. 1701q note) is amended—

7           (1) by inserting after “National Housing Act,”  
8           the following: “or approving the standards used by  
9           authorized lenders to underwrite a loan refinanced  
10          with risk sharing as provided by section 542 of the  
11          Housing and Community Development Act of 1992  
12          (12 U.S.C. 1701 note),”; and

13          (2) by striking “may” and inserting “shall”.

14 **SEC. 203. USE OF UNEXPENDED AMOUNTS.**

15          Subsection (c) of section 811 of the American Home-  
16 ownership and Economic Opportunity Act of 2000 (12  
17 U.S.C. 1701q note) is amended—

18          (1) in the matter preceding paragraph (1), by  
19          inserting after “tenants,” the following: “or is used  
20          in the provision of affordable rental housing and re-  
21          lated social services for elderly persons by the pri-  
22          vate nonprofit organization project owner, private  
23          nonprofit organization project sponsor, or private  
24          nonprofit organization project developer,”;

1           (2) in paragraph (1), by striking “not more  
2 than 15 percent of”;

3           (3) in paragraph (2), by inserting before the  
4 semicolon the following; “, including reducing the  
5 number of units and reconfiguring units that are  
6 functionally obsolete, unmarketable, or not economi-  
7 cally viable”;

8           (4) in paragraph (3), by striking “or” at the  
9 end;

10          (5) in paragraph (4) by striking the period at  
11 the end and inserting a semicolon; and

12          (6) by adding at the end the following new  
13 paragraphs:

14           “(5) the payment to the project owner, sponsor,  
15 or third party developer of a developer’s fee in an  
16 amount not to exceed—

17           “(A) in the case of a project refinanced  
18 through a State low income housing tax credit  
19 program, the fee permitted by the low income  
20 housing tax credit program as calculated by the  
21 State program as a percentage of acceptable de-  
22 velopment cost as defined by that State pro-  
23 gram; or

1           “(B) in the case of a project refinanced  
2 through any other source of refinancing, 15  
3 percent of the acceptable development cost; or  
4 “(6) the payment of equity, if any, to—

5           “(A) in the case of a sale, to the seller or  
6 the sponsor of the seller, in an amount equal to  
7 the lesser of the purchase price or the appraised  
8 value of the property, as each is reduced by the  
9 cost of prepaying any outstanding indebtedness  
10 on the property and transaction costs of the  
11 sale; or

12           “(B) in the case of a refinancing without  
13 the transfer of the property, to the project  
14 owner or the project sponsor, in an amount  
15 equal to the difference between the appraised  
16 value of the property less the outstanding in-  
17 debtedness and total acceptable development  
18 cost.

19 For purposes of paragraphs (5)(B) and (6)(B), the term  
20 “acceptable development cost” shall include, as applicable,  
21 the cost of acquisition, rehabilitation, loan prepayment,  
22 initial reserve deposits, and transaction costs.”.

1 **SEC. 204. USE OF PROJECT RESIDUAL RECEIPTS.**

2 Paragraph (1) of section 811(d) of the American  
3 Homeownership and Economic Opportunity Act of 2000  
4 (12 U.S.C. 1701q note) is amended—

5 (1) by striking “not more than 15 percent of”;

6 and

7 (2) by inserting before the period at the end the  
8 following: “or other purposes approved by the Sec-  
9 retary”.

10 **SEC. 205. ADDITIONAL PROVISIONS.**

11 Section 811 of the American Homeownership and  
12 Economic Opportunity Act of 2000 (12 U.S.C. 1701q  
13 note) is amended by adding at the end the following new  
14 subsections:

15 “(e) SENIOR PRESERVATION RENTAL ASSISTANCE  
16 CONTRACTS.—Notwithstanding any other provision of  
17 law, in connection with a prepayment plan for a project  
18 approved under subsection (a) by the Secretary or as oth-  
19 erwise approved by the Secretary, to prevent displacement  
20 of elderly residents of the project in the case of refinancing  
21 or recapitalization and to further preservation and afford-  
22 ability of such project, at the election of the private non-  
23 profit organization owner of the project, the Secretary  
24 shall provide project-based rental assistance for the  
25 project under a senior preservation rental assistance con-  
26 tract, as follows:

1           “(1) Assistance under the contract shall be  
2           made available to the private nonprofit organization  
3           owner—

4                   “(A) for a term of at least 20 years, sub-  
5           ject to annual appropriations, and

6                   “(B) under the same rules governing  
7           project-based rental assistance made available  
8           under section 8 of the Housing Act of 1937.

9           “(2) Any projects for which a senior preserva-  
10          tion rental assistance contract is provided shall be  
11          subject to a use agreement to ensure continued  
12          project affordability having a term of the longer of  
13          (A) the term of the senior preservation rental assist-  
14          ance contract, or (B) such term as is required by the  
15          new financing.

16          “(f) FLEXIBLE SUBSIDY DEBT.—The Secretary shall  
17          waive the requirement that debt for a project pursuant  
18          to the flexible subsidy program under section 201 of the  
19          Housing and Community Development Amendments of  
20          1978 (12 U.S.C. 1715z–1a) be prepaid in connection with  
21          a prepayment, refinancing, or transfer under this section  
22          of a project if such waiver is necessary for the financial  
23          feasibility of the transaction and is consistent with the  
24          long-term preservation of the project as affordable hous-  
25          ing.

1       “(g) PREPAYMENT WHEN SECRETARY’S CONSENT  
2 NOT REQUIRED.—In connection with the prepayment  
3 under this section of a loan for which the Secretary’s con-  
4 sent to prepayment is not required, at the project owner’s  
5 election—

6               “(1) all tenants of the project shall be eligible  
7 for enhanced vouchers in accordance with section  
8 8(t) of the United States Housing Act of 1937 (42  
9 U.S.C. 1437f(t)); or

10              “(2) if the project will continue to be owned by  
11 a private nonprofit organization owner, such private  
12 nonprofit organization owner may enter into a senior  
13 preservation rental assistance contract with the Sec-  
14 retary in accordance with subsection (e).

15       “(h) DEFINITION OF PRIVATE NONPROFIT ORGANI-  
16 ZATION.—For purposes of this section, the term ‘private  
17 nonprofit organization’ has the meaning given such term  
18 in section 202(k) of the Housing Act of 1959 (12 U.S.C.  
19 1701q(k)).”.

20 **SEC. 206. STUDY OF MORTGAGE SALE DEMONSTRATION.**

21       (a) STUDY.—The Secretary of Housing and Urban  
22 Development shall conduct a study to evaluate the esti-  
23 mated costs and potential benefits of carrying out a pro-  
24 gram under which the Secretary may sell mortgages asso-  
25 ciated with loans made under section 202 of the Housing

1 Act of 1959 (as in effect before the enactment of the Cran-  
2 ston-Gonzalez National Affordable Housing Act) in ac-  
3 cordance with the terms for sales of subsidized loans on  
4 multifamily housing projects under section 203 of the  
5 Housing and Community Development Amendments of  
6 1978 (12 U.S.C. 1701z–11), and of carrying out a dem-  
7 onstration program for sales of portfolios of such mort-  
8 gages to housing finance agencies in three States. In con-  
9 ducting such study, the Secretary shall place particular  
10 emphasis on determining whether the asset management  
11 functions and activities related to such loans and prop-  
12 erties could be accomplished pursuant to such sales in a  
13 timely, effective, and efficient manner, including an anal-  
14 ysis of the potential impacts on approvals of refinancings  
15 and preservation transactions, rent increase requests, and  
16 withdrawals from reserves or residual receipts (in cases  
17 in which there is no contract administrator).

18 (b) REPORT.—Not later than the expiration of the  
19 12-month period beginning upon the date of the enact-  
20 ment of this Act, the Secretary shall submit a report to  
21 the Committee on Financial Services of the House of Rep-  
22 resentatives and the Committee on Banking, Housing, and  
23 Urban Affairs of the Senate on the findings of the study  
24 and any recommendations for implementing such a pro-  
25 gram and such a demonstration.



1           **TITLE III—ASSISTED LIVING**  
2                                   **FACILITIES**

3   **SEC. 301. DEFINITION OF ASSISTED LIVING FACILITY.**

4           Section 202b(g) of the Housing Act of 1959 (12  
5 U.S.C. 1701q–2(g)) is amended by striking paragraph (1)  
6 and inserting the following new paragraph:

7                   “(1) the term ‘assisted living facility’ means a  
8 facility that—

9                                   “(A) is owned by a private nonprofit orga-  
10 nization; and

11                                   “(B)(i) is licensed and regulated by the  
12 State (or if there is no State law providing for  
13 such licensing and regulation by the State, by  
14 the municipality or other political subdivision in  
15 which the facility is located); or

16                                   “(ii)(I) makes available, directly or  
17 through recognized and experienced third party  
18 service providers, to residents at the resident’s  
19 request or choice supportive services to assist  
20 the residents in carrying out the activities of  
21 daily living, such as bathing, dressing, eating,  
22 getting in and out of bed or chairs, walking,  
23 going outdoors, toileting, laundry, home man-  
24 agement, preparing meals, shopping for per-  
25 sonal items, obtaining and taking medication,

1 managing money, using the telephone, or per-  
2 forming light of heavy housework, and which  
3 may make available to residents home health  
4 care service, such as nursing and therapy, and  
5 certain health related services; and

6 “(II) provides separate dwelling units for  
7 residents, each of which may contain a full  
8 kitchen and bathroom and which includes com-  
9 mon rooms and other facilities appropriate for  
10 the provision of supportive services to the resi-  
11 dents of the facility; and”.

12 **SEC. 302. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL**  
13 **ASSISTANCE.**

14 Clause (iii) of section 8(o)(18)(B) of the United  
15 States Housing Act of 1937 (42 U.S.C.  
16 1437f(o)(18)(B)(iii)) is amended by inserting before the  
17 period at the end the following: “, except that a family  
18 may be required at the time the family initially receives  
19 such assistance to pay rent in an amount exceeding 40  
20 percent of the monthly adjusted income of the family by  
21 such an amount or percentage as the Secretary deems ap-  
22 propriate”.

1 **TITLE IV—FACILITATING AF-**  
2 **FORDABLE HOUSING PRESER-**  
3 **VATION TRANSACTIONS**

4 **SEC. 401. USE OF SALE OR REFINANCING PROCEEDS.**

5 Notwithstanding any other provision of law, in con-  
6 nection with the sale or refinancing of a multifamily hous-  
7 ing project, or the transfer of an assistance contract on  
8 such a property, that requires the approval of the Sec-  
9 retary of Housing and Urban Development, the Secretary  
10 shall not impose any condition that restricts the amount  
11 or use of sale or refinancing proceeds, or requires the fil-  
12 ing of a financial report, unless such condition is expressly  
13 authorized by an existing contract entered into between  
14 the Secretary (or the Secretary's designee) and the project  
15 owner before the imposition of a condition prohibited by  
16 this section or is a general condition for new financing  
17 with a mortgage insured by the Secretary. Any such condi-  
18 tion previously imposed by the Secretary after January 1,  
19 2005, shall, at the option of the project owner, be consid-  
20 ered void and not enforceable, and any agreement con-

1 taining such a condition shall be rescinded and may be  
2 reissued without the void condition.

Passed the House of Representatives December 5,  
2007.

Attest:                      LORRAINE C. MILLER,  
*Clerk.*