

## Union Calendar No. 287

110TH CONGRESS  
1ST SESSION

# H. R. 2930

[Report No. 110-463]

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.

---

### IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2007

Mr. MAHONEY of Florida introduced the following bill; which was referred to the Committee on Financial Services

DECEMBER 4, 2007

Additional sponsors: Ms. GINNY BROWN-WAITE of Florida, Ms. CLARKE, Mr. EMANUEL, Mr. FRANK of Massachusetts, Mrs. CHRISTENSEN, Mr. GRIJALVA, Mr. WELCH of Vermont, Ms. SCHAKOWSKY, Mr. SIRES, Ms. WATERS, Mr. LYNCH, Mrs. BIGGERT, Mr. MCNERNEY, Mr. BACA, and Mr. WEXLER

DECEMBER 4, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on June 28, 2007]

---

## A BILL

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           (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 CONTRACT*  
9 *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, ex-*  
16 *cept that any contract amounts not used by a*  
17 *project during a contract term shall not be avail-*  
18 *able for such adjustments upon renewal.*

19           “(ii) *EMERGENCY SITUATIONS.—In the*  
20 *event of emergency situations that are outside the*  
21 *control of the owner, the Secretary shall increase*  
22 *the annual contract amount, subject to reason-*  
23 *able review and limitations as the Secretary*  
24 *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), (C),*  
9 *(D), (E), (G), and (H), respectively;*

10 *(3) by inserting after subparagraph (E) (as so*  
11 *redesignated by paragraph (2) of this subsection) the*  
12 *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 mana-*  
16 *gerial capacity and responsibility for carrying out*  
17 *the actions described in subparagraphs (A) and (B)*  
18 *of subsection (g)(2);”;* and

19 *(4) by adding at the end the following new para-*  
20 *graph:*

21 *“(2) DELEGATED PROCESSING.—*

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

1 *than this section, within 30 days of award of the cap-*  
2 *ital advance, the Secretary shall delegate review and*  
3 *processing of such projects to a State or local housing*  
4 *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 assess*  
24 *a reasonable fee which shall be included in the capital*  
25 *advance amounts and may recommend project rental*

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

9                *“(D) Under such delegated system, the Secretary*  
10        *shall retain the authority to approve rents and devel-*  
11        *opment costs and to execute a capital advance within*  
12        *60 days of receipt of the commitment from the State*  
13        *or local agency. The Secretary shall provide to such*  
14        *agency and the project sponsor, in writing, the rea-*  
15        *sons for any reduction in capital advance amounts or*  
16        *project rental assistance and such reductions shall be*  
17        *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 “devel-*  
22        *opment 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 used*  
2 *only to cover operating deficits during the first three years*  
3 *of operations and shall not be used to cover construction*  
4 *shortfalls or inadequate initial project rental assistance*  
5 *amounts.”.*

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

8 *Subparagraph (B) of section 202(k)(4) of the Housing*  
9 *Act of 1959 (12 U.S.C. 1701q(k)(4)(B)) is amended by in-*  
10 *serting before the semicolon the following: “; except that,*  
11 *in the case of any national organization that is the owner*  
12 *of multiple housing projects assisted under this section, the*  
13 *organization may comply with clause (i) of this subpara-*  
14 *graph by having a local advisory board to the governing*  
15 *board of the organization the membership which is selected*  
16 *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)) is*  
19 *amended by adding at the end the following new paragraph:*

20 *“(9) PREFERENCES FOR HOMELESS ELDERLY.—*

21 *The Secretary shall permit an owner of housing as-*  
22 *sisted under this section to establish for, and apply to,*  
23 *the housing a preference in tenant selection for the*  
24 *homeless elderly, either within the application or after*  
25 *selection pursuant to subsection (f), but only if—*

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

3           “(B) the owner demonstrates that the sup-  
4           portive services identified pursuant to subsection  
5           (e)(4), or additional supportive services to be  
6           made available upon implementation of the pref-  
7           erence, will meet the needs of the homeless elder-  
8           ly, maintain safety and security for all tenants,  
9           and be provided on a consistent, long-term, and  
10          economical basis.”.

## 11           **TITLE II—REFINANCING**

### 12          **SEC. 201. APPROVAL OF PREPAYMENT OF DEBT.**

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

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

19           (2) in paragraph (1)—

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

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



1           (C) by inserting “, or any successor project-  
2           based rental assistance program,” after  
3           “1701s)); and

4           (3) in paragraph (2)—

5           (A) by inserting “(A)” before “a lower”;  
6           and

7           (B) by inserting before the period at the end  
8           the following: “, or (B) a transaction in which  
9           the project owner will address the physical needs  
10          of the project, but only if, as a result of the refi-  
11          nancing (i) the rent charges for unassisted fami-  
12          lies residing in the project do not increase or  
13          such families are provided rental assistance  
14          under a senior preservation rental assistance  
15          contract for the project pursuant to subsection  
16          (e), and (ii) the overall cost for providing rental  
17          assistance under section 8 for the project (if any)  
18          does not increase”.

19 **SEC. 202. SOURCES OF REFINANCING.**

20           The last sentence of section 811(b) of the American  
21           Homeownership and Economic Opportunity Act of 2000  
22           (12 U.S.C. 1701q note) is amended—

23           (1) by inserting after “National Housing Act,”  
24           the following: “or approving the standards used by  
25           authorized lenders to underwrite a loan refinanced

1 *with risk sharing as provided by section 542 of the*  
2 *Housing and Community Development Act of 1992*  
3 *(12 U.S.C. 1701 note),”;* and

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

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

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

9 *(1) in the matter preceding paragraph (1), by*  
10 *inserting after “tenants,” the following: “or is used in*  
11 *the provision of affordable rental housing and related*  
12 *social services for elderly persons by the private non-*  
13 *profit organization project owner, private nonprofit*  
14 *organization project sponsor, or private nonprofit or-*  
15 *ganization project developer,”;*

16 *(2) in paragraph (1), by striking “not more than*  
17 *15 percent of”;*

18 *(3) in paragraph (2), by inserting before the*  
19 *semicolon the following; “, including reducing the*  
20 *number of units and reconfiguring units that are*  
21 *functionally obsolete, unmarketable, or not economi-*  
22 *cally viable”;*

23 *(4) in paragraph (3), by striking “or” at the*  
24 *end;*

1           (5) *in paragraph (4) by striking the period at*  
2 *the end and inserting a semicolon; and*

3           (6) *by adding at the end the following new para-*  
4 *graphs:*

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

8           “(A) *in the case of a project refinanced*  
9 *through a State low income housing tax credit*  
10 *program, the fee permitted by the low income*  
11 *housing tax credit program as calculated by the*  
12 *State program as a percentage of acceptable de-*  
13 *velopment cost as defined by that State program;*  
14 *or*

15           “(B) *in the case of a project refinanced*  
16 *through any other source of refinancing, 15 per-*  
17 *cent of the acceptable development cost; or*

18           “(6) *the payment of equity, if any, to—*

19           “(A) *in the case of a sale, to the seller or*  
20 *the sponsor of the seller, in an amount equal to*  
21 *the lesser of the purchase price or the appraised*  
22 *value of the property, as each is reduced by the*  
23 *cost of prepaying any outstanding indebtedness*  
24 *on the property and transaction costs of the sale;*  
25 *or*

1           “(B) in the case of a refinancing without  
2           the transfer of the property, to the project owner  
3           or the project sponsor, in an amount equal to the  
4           difference between the appraised value of the  
5           property less the outstanding indebtedness and  
6           total acceptable development cost.

7 For purposes of paragraphs (5)(B) and (6)(B), the term  
8 ‘acceptable development cost’ shall include, as applicable,  
9 the cost of acquisition, rehabilitation, loan prepayment, ini-  
10 tial reserve deposits, and transaction costs.”.

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

12       Paragraph (1) of section 811(d) of the American  
13 Homeownership and Economic Opportunity Act of 2000  
14 (12 U.S.C. 1701q note) is amended—

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

16       and

17           (2) by inserting before the period at the end the  
18 following: “or other purposes approved by the Sec-  
19 retary”.

20 **SEC. 205. ADDITIONAL PROVISIONS.**

21       Section 811 of the American Homeownership and Eco-  
22 nomic Opportunity Act of 2000 (12 U.S.C. 1701q note) is  
23 amended by adding at the end the following new sub-  
24 sections:

1       “(e) *SENIOR PRESERVATION RENTAL ASSISTANCE*  
2 *CONTRACTS.*—*Notwithstanding any other provision of law,*  
3 *in connection with a prepayment plan for a project ap-*  
4 *proved under subsection (a) by the Secretary or as otherwise*  
5 *approved by the Secretary, to prevent displacement of elder-*  
6 *ly residents of the project in the case of refinancing or re-*  
7 *capitalization and to further preservation and affordability*  
8 *of such project, at the election of the private nonprofit orga-*  
9 *nization owner of the project, the Secretary shall provide*  
10 *project-based rental assistance for the project under a senior*  
11 *preservation rental assistance contract, as follows:*

12               “(1) *Assistance under the contract shall be made*  
13 *available to the private nonprofit organization*  
14 *owner—*

15                       “(A) *for a term of at least 20 years, subject*  
16 *to annual appropriations, and*

17                       “(B) *under the same rules governing*  
18 *project-based rental assistance made available*  
19 *under section 8 of the Housing Act of 1937.*

20               “(2) *Any projects for which a senior preservation*  
21 *rental assistance contract is provided shall be subject*  
22 *to a use agreement to ensure continued project afford-*  
23 *ability having a term of the longer of (A) the term*  
24 *of the senior preservation rental assistance contract,*  
25 *or (B) such term as is required by the new financing.*

1       “(f) *MORTGAGE SALE DEMONSTRATION.*—

2               “(1) *IN GENERAL.*—*The Secretary may sell*  
3       *mortgages associated with loans made under section*  
4       *202 of the Housing Act of 1959 (as in effect before the*  
5       *enactment of the Cranston-Gonzalez National Afford-*  
6       *able Housing Act) in accordance with the relevant*  
7       *terms for sales of subsidized loans on multifamily*  
8       *housing projects under section 203 of the Housing*  
9       *and Community Development Amendments of 1978*  
10       *(12 U.S.C. 1701z–11). For the purpose of dem-*  
11       *onstrating the efficiency, effectiveness, quality, and*  
12       *timeliness of asset management and regulatory over-*  
13       *sight of certain portfolios of such mortgages by State*  
14       *housing finance agencies, the Secretary shall carry*  
15       *out a demonstration program, in not more than three*  
16       *States, to sell portfolios of such mortgages to State*  
17       *housing finance agencies for a price not to exceed the*  
18       *unpaid principal balances of such mortgages and oth-*  
19       *erwise in accordance with the requirements of such*  
20       *section 203.*

21               “(2) *LIMITATIONS.*—*In carrying out the dem-*  
22       *onstration program, the Secretary shall—*

23                       “(A) *prohibit State housing finance agen-*  
24                       *cies from giving preference to, or conditioning*  
25                       *the approval of, awards of subordinate debt*

1       *funds, allocations of tax credits, or tax exempt*  
2       *bonds based on the use of financing for the first*  
3       *mortgage that is provided by such State housing*  
4       *finance agency; and*

5               *“(B) require such agencies to allow refi-*  
6       *nancing or prepayment of loans made under sec-*  
7       *tion 202 of the Housing Act of 1959 with a loan*  
8       *selected by the owners, except that any use re-*  
9       *strictions on the property for which the loan was*  
10       *made shall remain in effect for the duration pro-*  
11       *vided under the original terms of such loan.*

12       *“(g) SUBORDINATION OR ASSUMPTION OF EXISTING*  
13       *DEBT.—In lieu of prepayment under this section of the in-*  
14       *debtedness with respect to a project, the Secretary may ap-*  
15       *prove—*

16               *“(1) in connection with new financing for the*  
17       *project, the subordination of the loan for the project*  
18       *under section 202 of the Housing Act of 1959 (as in*  
19       *effect before the enactment of the Cranston-Gonzalez*  
20       *National Affordable Housing Act) and the continued*  
21       *subordination of any other existing subordinate debt*  
22       *previously approved by the Secretary to facilitate*  
23       *preservation of the project as affordable housing, or*

24               *“(2) the assumption (which may include the sub-*  
25       *ordination described in paragraph (1)) of the loan for*

1       *the project under such section 202 in connection with*  
2       *the transfer of the project with such a loan to a pri-*  
3       *vate nonprofit organization.*

4       “(h) *FLEXIBLE SUBSIDY DEBT.*—*The Secretary shall*  
5       *waive the requirement that debt for a project pursuant to*  
6       *the flexible subsidy program under section 201 of the Hous-*  
7       *ing and Community Development Amendments of 1978 (12*  
8       *U.S.C. 1715z–1a) be prepaid in connection with a prepay-*  
9       *ment, refinancing, or transfer under this section of a project*  
10       *if such waiver is necessary for the financial feasibility of*  
11       *the transaction and is consistent with the long-term preser-*  
12       *vation of the project as affordable housing.*

13       “(i) *PREPAYMENT WHEN SECRETARY’S CONSENT NOT*  
14       *REQUIRED.*—*In connection with the prepayment under this*  
15       *section of a loan for which the Secretary’s consent to pre-*  
16       *payment is not required, at the project owner’s election—*

17               “(1) *all tenants of the project shall be eligible for*  
18       *enhanced vouchers in accordance with section 8(t) of*  
19       *the United States Housing Act of 1937 (42 U.S.C.*  
20       *1437f(t)); or*

21               “(2) *if the project will continue to be owned by*  
22       *a private nonprofit organization owner, such private*  
23       *nonprofit organization owner may enter into a senior*  
24       *preservation rental assistance contract with the Sec-*  
25       *retary in accordance with subsection (e).*



1       “(j) *DEFINITION OF PRIVATE NONPROFIT ORGANIZA-*  
 2 *TION.—For purposes of this section, the term ‘private non-*  
 3 *profit organization’ has the meaning given such term in*  
 4 *section 202(k) of the Housing Act of 1959 (12 U.S.C.*  
 5 *1701q(k)).”.*

6           **TITLE III—ASSISTED LIVING**  
 7                           **FACILITIES**

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

9       *Section 202b(g) of the Housing Act of 1959 (12 U.S.C.*  
 10 *1701q–2(g)) is amended by striking paragraph (1) and in-*  
 11 *serting the following new paragraph:*

12           “(1) *the term ‘assisted living facility’ means a*  
 13 *facility that—*

14                   “(A) *is owned by a private nonprofit orga-*  
 15 *nization; and*

16                   “(B)(i) *is licensed and regulated by the*  
 17 *State (or if there is no State law providing for*  
 18 *such licensing and regulation by the State, by*  
 19 *the municipality or other political subdivision in*  
 20 *which the facility is located); or*

21                   “(ii)(I) *makes available, directly or through*  
 22 *recognized and experienced third party service*  
 23 *providers, to residents at the resident’s request or*  
 24 *choice supportive services to assist the residents*  
 25 *in carrying out the activities of daily living,*

1           *such as bathing, dressing, eating, getting in and*  
2           *our of bed or chairs, walking, going outdoors,*  
3           *toileting, laundry, home management, preparing*  
4           *meals, shopping for personal items, obtaining*  
5           *and taking medication, managing money, using*  
6           *the telephone, or performing light of heavy house-*  
7           *work, and which may make available to resi-*  
8           *dents home health care service, such as nursing*  
9           *and therapy, and certain health related services;*  
10          *and*

11           *“(II) provides separate dwelling units for*  
12           *residents, each of which may contain a full*  
13           *kitchen and bathroom and which includes com-*  
14           *mon rooms and other facilities appropriate for*  
15           *the provision of supportive services to the resi-*  
16           *dents of the facility; and”.*

17   **SEC. 302. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL**  
18           **ASSISTANCE.**

19           *Clause (iii) of section 8(o)(18)(B) of the United States*  
20           *Housing Act of 1937 (42 U.S.C. 1437f(o)(18)(B)(iii)) is*  
21           *amended by inserting before the period at the end the fol-*  
22           *lowing: “, except that a family may be required at the time*  
23           *the family initially receives such assistance to pay rent in*  
24           *an amount exceeding 40 percent of the monthly adjusted*

1 *income of the family by such an amount or percentage as*  
2 *the Secretary deems appropriate”.*

3 **TITLE IV—FACILITATING AF-**  
4 **FORDABLE HOUSING PRESER-**  
5 **VATION TRANSACTIONS**

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

7 *Notwithstanding any other provision of law, in con-*  
8 *nection with the sale or refinancing of a multifamily hous-*  
9 *ing project, or the transfer of an assistance contract on such*  
10 *a property, that requires the approval of the Secretary of*  
11 *Housing and Urban Development, the Secretary shall not*  
12 *impose any condition that restricts the amount or use of*  
13 *sale or refinancing proceeds, or requires the filing of a fi-*  
14 *nancial report, unless such condition is expressly authorized*  
15 *by an existing contract entered into between the Secretary*  
16 *(or the Secretary’s designee) and the project owner before*  
17 *the imposition of a condition prohibited by this section or*  
18 *is a general condition for new financing with a mortgage*  
19 *insured by the Secretary. Any such condition previously*  
20 *imposed by the Secretary after January 1, 2005, shall, at*  
21 *the option of the project owner, be considered void and not*  
22 *enforceable, and any agreement containing such a condition*  
23 *shall be rescinded and may be reissued without the void*  
24 *condition.*

Union Calendar No. 287

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2930**

[Report No. 110-463]

---

---

**A BILL**

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.

---

---

DECEMBER 4, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed