

111TH CONGRESS
1ST SESSION

H. R. 2876

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2009

Mr. DAVIS of Tennessee (for himself, Mr. DAVIS of Kentucky, Mr. FRANK of Massachusetts, Mr. HODES, Mr. BOREN, Mr. RODRIGUEZ, Mr. MASSA, Mr. DAVIS of Alabama, Mr. WILSON of Ohio, Mr. DAVIS of Illinois, Mr. HINOJOSA, Mr. FILNER, Mr. TONKO, Mr. BOSWELL, Ms. CORRINE BROWN of Florida, Mr. SHULER, Mr. BOUCHER, and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish a program to preserve 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 “Rural Housing Preser-
5 vation Act of 2009”.

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

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

1 (1) the average age of a multifamily housing
2 project with a loan under section 515 of the Housing
3 Act of 1949 is 30 years, and therefore much of the
4 portfolio of such projects is aging and in need of
5 preservation, while the need for affordable rural
6 housing is increasing;

7 (2) section 515 projects house some of the
8 poorest families in rural America, with almost 60
9 percent of the units occupied by senior citizens or
10 persons with disabilities and an average annual
11 household income among all occupants of approxi-
12 mately \$10,000;

13 (3) in many small towns and communities, rent-
14 al housing financed by direct loans under section
15 515 is the only decent, affordable rental housing
16 available; and

17 (4) consequently, any preservation or disposi-
18 tion of the multifamily housing portfolio with loans
19 under section 515, which houses approximately
20 465,000 low-income families and seniors and farm-
21 workers, should be handled with great care.

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

23 (1) to authorize the Secretary of Agriculture to
24 carry out a program that encourages the preserva-
25 tion of section 515 housing project developments for

1 long-term affordable use and the repair and revital-
 2 ization of such properties;

3 (2) to provide for voucher assistance for tenants
 4 who live in such projects that are preserved under
 5 this Act; and

6 (3) to provide voucher assistance for tenants
 7 who are displaced from such projects as a result of
 8 prepayment or foreclosure on a loan for the project.

9 **SEC. 3. PRESERVATION OF MULTIFAMILY HOUSING.**

10 (a) PRESERVATION PROGRAM.—Title V of the Hous-
 11 ing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by
 12 adding at the end the following new section:

13 **“SEC. 545. PRESERVATION OF MULTIFAMILY HOUSING AND**
 14 **PROTECTION OF TENANTS.**

15 “(a) PRESERVATION PROGRAM.—The Secretary
 16 shall, subject to the availability of amounts appropriated,
 17 carry out a preservation program in accordance with this
 18 section to provide financial incentives and other assistance
 19 to owners of eligible projects through long-term use agree-
 20 ments entered into between the project owners and the
 21 Secretary.

22 “(b) APPLICATIONS TO PARTICIPATE.—

23 “(1) IN GENERAL.—The Secretary shall accept
 24 applications from owners of eligible projects to par-

1 participate in the preservation program under this sec-
2 tion.

3 “(2) PRIORITY.—In selecting among applica-
4 tions of eligible projects to participate in the preser-
5 vation program, the Secretary may give priority to
6 applications for such projects that are located on
7 tribal trust lands or other Indian areas, in colonias
8 (as such term is defined in section 916(e) of the
9 Cranston-Gonzalez National Affordable Housing Act
10 (42 U.S.C. 5306 note)), or in other small, poor, low-
11 income communities.

12 “(c) LONG-TERM VIABILITY PLAN.—

13 “(1) REQUIREMENT.—The Secretary shall pre-
14 pare and approve a long-term viability plan under
15 this subsection with respect to each eligible project
16 for which the owner requests to participate.

17 “(2) CONTENTS.—Each long-term viability plan
18 for an eligible project shall include the following in-
19 formation:

20 “(A) PHYSICAL NEEDS ASSESSMENT.—A
21 physical needs assessment of the project that
22 identifies and projects, for the following 30
23 years—

24 “(i) all necessary repairs, improve-
25 ments, maintenance, and management

standards for the project, and when they will be made, in order to meet the requirements of this title; and

“(ii) the costs associated with the items referred to clause (i).

“(B) FINANCIAL PLAN.—A financial plan for the project that—

“(i) reviews the financial stability of the project;

“(ii) includes the loan restructuring elements, rent adjustments, management and operational efficiencies, and other financial adjustments to the project that are necessary to cover operating expenses for the project and maintain an adequate financial reserve for the future maintenance and capital needs of the project;

“(iii) provides the project owner with a long-term rate of return on equity of the project owner, as determined by the Secretary, commensurate to comparable rural multifamily housing projects for which a tax credit is provided under section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42), and provides that any return

1 in excess of such rate of return shall be
2 made available to the Secretary only for
3 use under section 515;

4 “(iv) meets the physical needs for the
5 project determined under the physical
6 needs assessment;

7 “(v) ensures that rents available
8 under the plan are affordable to eligible
9 households in accordance with subsection
10 (f); and

11 “(vi) addresses any costs associated
12 with any temporary tenant displacement
13 resulting from renovations or rehabilitation
14 undertaken as a result of participation of
15 the project in the preservation program.

16 “(3) DEVELOPMENT THROUGH PARTICIPATING
17 ADMINISTRATIVE ENTITIES.—The Secretary may de-
18 velop long-term viability plans through the use of
19 third-party participating administrative entities, who
20 may be a private contractor, a State housing finance
21 agency, or a nonprofit organization.

22 “(4) PRESERVATION DETERMINATION.—Based
23 on the long-term viability plan for an eligible project,
24 the Secretary shall determine whether to offer the
25 project owner a financial restructuring plan under

1 subsection (d) and the financial incentives to be in-
2 cluded in any such plan offered.

3 “(5) FINAL REVIEW AND COMMENT.—Before a
4 determination is made under subparagraph (D) with
5 respect to any long-term viability plan prepared by
6 the Secretary, the Secretary shall—

7 “(A) provide the project owner an oppor-
8 tunity to review the plan and discuss the plan
9 with the Secretary or its agent;

10 “(B) make available to the tenants of the
11 project a copy of such plan and provide a period
12 of not less than 30 days for tenants to submit
13 comments regarding the plan to the Secretary;
14 and

15 “(C) respond in writing to such comments.

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

19 “(7) PAYMENT OF FEES.—If a long-term viabil-
20 ity for a project is approved, the payment of such
21 fee may be incorporated into a project owner’s finan-
22 cial restructuring plan for the project provided by
23 the Secretary pursuant to subsection (d).

24 “(d) FINANCIAL RESTRUCTURING PLAN; PRESERVA-
25 TION INCENTIVES.—Based on the long-term viability plan

1 for an eligible project, the Secretary may offer a project
2 owner a financial restructuring plan for the project. Such
3 a plan may include one or more of the following preserva-
4 tion incentives:

5 “(1) Reduction or elimination of interest on the
6 loan or loans for the project made under section
7 515.

8 “(2) Partial or full deferral of payments due
9 under such loan or loans.

10 “(3) Forgiveness of such loan or loans.

11 “(4) Subordination of such loan or loans, sub-
12 ject to such terms and conditions as the Secretary
13 shall determine.

14 “(5) Reamortization of loan payments under
15 such loan or loans over extended terms.

16 “(6) A grant from the Secretary for the project.

17 “(7) Payment of project costs associated with
18 developing the long-term viability plan.

19 “(8) Opportunity for project owners to obtain
20 further investment equity from third parties.

21 “(9) A direct loan or guarantee of a loan for
22 the project, with a subsidized interest rate without
23 regard to the value of the project.

24 “(e) LONG-TERM USE AGREEMENT.—

1 “(1) IN GENERAL.—If the owner of an eligible
2 project agrees to the terms of a financial restruc-
3 turing plan for the project providing preservation
4 benefits under subsection (d), in exchange for such
5 benefits, the Secretary and the project owner shall
6 enter into a long-term use agreement under this sub-
7 section for the project.

8 “(2) AGREEMENT.—A long-term use agreement
9 for an eligible project shall include—

10 “(A) the terms of the financial restruc-
11 turing plan for the project, including any pres-
12 ervation incentives to be provided;

13 “(B) an agreement by the project owner—

14 “(i) to continue the property use re-
15 strictions with respect to the project in ac-
16 cordance with this title for a period of—

17 “(I) 30 years, or

18 “(II) the remaining term of any
19 loans under this title for the project,
20 whichever ends later;

21 “(ii) to comply with the long-term via-
22 bility plan for the project; and

23 “(iii) to comply with the rent terms
24 under subsection (f) for the project;

1 “(C) provisions terminating the agreement
2 if any material preservation incentives for the
3 project to be provided under the agreement are
4 no longer available and the Secretary deter-
5 mines that such unavailability is not the fault
6 of the owner;

7 “(D) any rent terms for the project pursu-
8 ant to subsection (f);

9 “(E) a covenant which runs with the land;

10 “(F) a representation and warranty by the
11 owner to provide safe, healthy, clean buildings
12 pursuant to the Secretary’s guidelines;

13 “(G) provisions providing for rural preser-
14 vation voucher assistance under section 542(c)
15 for low-income households residing in the
16 project who are eligible for such vouchers; and

17 “(H) such other terms as the Secretary de-
18 termines are necessary to implement the pur-
19 poses of this section.

20 “(f) RENTS UNDER LONG-TERM USE AGREE-
21 MENT.—Rents for any eligible households residing in
22 dwelling units in any preserved project shall comply with
23 the following requirements:

24 “(1) MAXIMUM HOUSEHOLD CONTRIBUTION TO
25 RENT AND UTILITIES.—The maximum household

1 contribution to monthly rent and utilities for any eli-
2 gible household may not exceed 30 percent of the
3 adjusted income of the eligible household.

4 “(2) RENT ADJUSTMENTS.—The rents for eligi-
5 ble projects may be increased or decreased only on
6 an annual basis and only in accordance with stand-
7 ards incorporated in such agreement.

8 “(3) LOWEST COST REQUIREMENT.—In deter-
9 mining the terms of a restructuring plan, and the
10 type and amount of preservation benefits under such
11 plan to approve under this section for an eligible
12 project, the Secretary shall, to the extent prac-
13 ticable, approve assistance that imposes the least
14 cost to the Secretary while meeting the requirements
15 of the long-term viability plan for the project.

16 “(g) EARNED INCOME DISREGARD FOR RESI-
17 DENTS.—

18 “(1) IN GENERAL.—Notwithstanding any other
19 provision of law, the amount of the contribution to-
20 ward rent for a dwelling unit payable, by any house-
21 hold described in paragraph (3), for occupancy in a
22 project funded with a loan under section 515 may
23 not be increased as a result of the increased income
24 due to employment during the 12-month period be-

1 ginning on the date on which the employment is
2 commenced.

3 “(2) PHASE-IN OF RENT INCREASES.—Upon
4 the expiration of the 12-month period referred to in
5 paragraph (1), the contribution toward rent payable
6 by a household described in paragraph (3) may be
7 increased due to the continued employment of the
8 household member described in subparagraph
9 (3)(B), except that during the 12-month period be-
10 ginning upon such expiration the amount of the in-
11 crease may not be greater than 50 percent of the
12 amount of the total increase in contribution toward
13 rent that would be applicable but for this paragraph.

14 “(3) ELIGIBLE HOUSEHOLD.—A household de-
15 scribed in this paragraph is a household that—

16 “(A)(i) is an eligible household who resides
17 in a eligible project; or

18 “(ii) is provided rural preservation voucher
19 assistance pursuant to section 542(c); and

20 “(B)(i) whose income increases as a result
21 of employment of a member of the household
22 who was previously unemployed for 1 or more
23 years;

24 “(ii) whose earned income increases during
25 the participation of a household member in any

1 family self-sufficiency or other job training pro-
2 gram; or

3 “(iii) who is or was, within 6 months, as-
4 sisted under any State program for temporary
5 assistance for needy families funded under part
6 A of title IV of the Social Security Act (42
7 U.S.C. 601 et seq.) and whose earned income
8 increases.

9 “(h) INELIGIBILITY.—

10 “(1) PROCEDURE FOR DETERMINATION.—The
11 Secretary may determine that a project owner is in-
12 eligible for participation in the preservation program
13 under this section in accordance with the standards
14 under paragraph (2).

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

17 “(A) the project owner has a history of
18 poor management or maintenance of multi-
19 family housing properties;

20 “(B) the project owner is in default on a
21 loan made available under the section 515 hous-
22 ing program;

23 “(C) the Secretary is unable to enter into
24 a long-term use agreement for the project that

1 is the subject of the application with the project
2 owner within a reasonable time;

3 “(D) the project owner is suspended or
4 debarred from participating in Federal con-
5 tracts or programs; or

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

9 “(3) INELIGIBILITY BECAUSE OF ACTION FOR
10 PREPAYMENT.—A project owner shall be ineligible
11 for participation in the preservation program under
12 this section if the owner—

13 “(A) is a party to an ongoing civil action
14 brought to authorize the prepayment of the sec-
15 tion 515 loan for the eligible project, or is a
16 party to a damages action brought to recover
17 damages caused by the passage of the Emer-
18 gency Low Income Housing Preservation Act of
19 1987 or amendments to such Act, for which a
20 final judgment, settlement agreement, or con-
21 sent decree has not yet been issued; or

22 “(B) was a party to a civil action brought
23 to authorize the prepayment of the section 515
24 loan for the eligible project, or was a party to
25 a damages action brought to recover damages

1 caused by the passage of the Emergency Low
2 Income Housing Preservation Act of 1987 or
3 amendments to such Act, under which damages
4 were awarded to the project owner, and the
5 owner has not agreed to contribute at least 50
6 percent of such damages, or \$100,000, which-
7 ever is less, to carrying out the financial re-
8 structuring plan and long-term use agreement
9 for the preserved project.

10 “(i) DEFINITIONS.—For purposes of this section, the
11 following definitions shall apply:

12 “(1) ELIGIBLE HOUSEHOLD.—The term ‘eligi-
13 ble household’ means a household that, under sec-
14 tion 515, is eligible to reside in a project funded
15 with a loan made by the Secretary under such sec-
16 tion.

17 “(2) ELIGIBLE PROJECT.—The term ‘eligible
18 project’ means a housing project funded with a loan
19 made at any time by the Secretary under section
20 515, the principal obligation of which has not been
21 fully repaid.

22 “(3) PROJECT OWNER; OWNER.—The terms
23 ‘project owner’ and ‘owner’ mean, with respect to an
24 eligible project, an individual or entity, or principals
25 thereof that own, or plan to purchase, the project.

1 “(4) PRESERVED PROJECT.—The term ‘pre-
 2 served project’ means an eligible project for which
 3 the Secretary and owner have entered into agree-
 4 ment on a financial restructuring plan for the
 5 project and into a long-term use agreement for the
 6 project, under this section.

7 “(j) ANNUAL REPORT.—The Secretary shall submit
 8 a report to the Congress annually regarding the compli-
 9 ance of owners of eligible projects participating in the
 10 preservation program under this section with the require-
 11 ments of such program, which shall identify and describe
 12 any significant failures to comply.

13 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
 14 are authorized to be appropriated for each of fiscal years
 15 2010 through 2014 such sums as may be necessary to
 16 carry out the preservation program under this section.”.

17 **SEC. 4. RURAL PRESERVATION AND RURAL TENANT PRO-**
 18 **TECTION VOUCHERS.**

19 Section 542 of the Housing Act of 1949 (42 U.S.C.
 20 1490r) is amended by adding at the end the following new
 21 subsections:

22 “(c) RURAL PRESERVATION VOUCHERS.—In the case
 23 of a housing project subject to a loan made under section
 24 515 that is a preserved project (as such term is defined
 25 in section 545(i)), the Secretary shall, to the extent that

1 amounts for assistance under this subsection are provided
2 in advance in appropriation Acts, make available voucher
3 assistance to each eligible household (as such term is de-
4 fined in section 545(i)) that is not assisted under the rent-
5 al assistance program under section 521 or the program
6 for rental assistance under section 8 of the United States
7 Housing Act of 1937 (42 U.S.C. 1437f), and is residing
8 in the project upon the date that a long-term use agree-
9 ment is entered into pursuant to section 545(e) between
10 the project owner and the Secretary, voucher assistance
11 upon such date, as follows:

12 “(1) The amount of assistance provided under
13 the voucher shall be sufficient to allow such house-
14 hold to remain in the project after it is preserved.

15 “(2) The percentage of adjusted income paid by
16 the eligible household for rent and utilities for the
17 assisted dwelling, pursuant to the voucher, shall not
18 exceed 30 percent of adjusted income of the eligible
19 household.

20 “(3) The voucher assistance shall be available
21 to the eligible household only during the period in
22 which the eligible household resides in the preserved
23 project and the long-term use agreement remains in
24 effect.

1 “(4) Upon termination of the participation of
2 the eligible household in the voucher program, the
3 voucher shall remain attached to the preserved
4 project and shall be available for use by another eli-
5 gible household residing in the preserved project.

6 “(d) RURAL TENANT PROTECTION VOUCHERS.—

7 “(1) IN GENERAL.—In the case of a housing
8 project subject to a loan made under section 515
9 that is prepaid or foreclosed upon, the Secretary
10 shall, to the extent that amounts for assistance
11 under this subsection are provided in advance in ap-
12 propriation Acts, make available to each eligible
13 household (as such term is defined in section 545(i))
14 that is not assisted under the rental assistance pro-
15 gram under section 521 or the program for rental
16 assistance under section 8 of the United States
17 Housing Act of 1937 (42 U.S.C. 1437f), and is re-
18 siding in a dwelling unit in the project upon the date
19 that the Secretary approves the prepayment or sub-
20 mits notice of foreclosure to the project owner, as
21 applicable, voucher assistance upon such date, as fol-
22 lows:

23 “(A) RELOCATION VOUCHERS.—In the
24 case of any such eligible household who must
25 relocate from a project for which the loan is

1 being prepaid or foreclosed upon, voucher as-
2 sistance under this subsection shall be subject
3 to the terms of section 8(o) of the United
4 States Housing Act of 1937 (42 U.S.C.
5 1437(o)), except that—

6 “(i) the percentage of adjusted income
7 paid by the eligible household for rent and
8 utilities for the assisted dwelling unit shall
9 not at any time exceed 30 percent of the
10 adjusted income of the eligible household;
11 and

12 “(ii) a voucher provided pursuant to
13 this subparagraph shall be subject to the
14 terms of section 8(r) of such Act (relating
15 to portability), except that if an eligible
16 household uses the voucher to move to a
17 community other than the community in
18 which the project from which the family re-
19 located pursuant to such prepayment or
20 foreclosure is located, upon termination of
21 the participation of such eligible family in
22 the voucher program, the voucher shall be
23 returned for use in the community in
24 which such project is located.

1 “(B) ENHANCED VOUCHERS.—In the case
2 of any such eligible household who remains in
3 a project for which the loan is prepaid or fore-
4 closed upon, voucher assistance under this sub-
5 section shall be subject to the terms of section
6 8(t) of the United States Housing Act of 1937
7 (42 U.S.C. 1437f(t)), except that—

8 “(i) the percentage of adjusted income
9 paid by the eligible household for rent and
10 utilities for the assisted dwelling unit shall
11 not at any time exceed 30 percent of the
12 adjusted income of the eligible household;

13 “(ii) the owner of the project may not
14 refuse to lease, to an eligible household for
15 whom voucher assistance under this sub-
16 paragraph is made available, any available
17 appropriately sized rental dwelling unit in
18 the project;

19 “(iii) voucher assistance under this
20 subparagraph may be used only for dwell-
21 ing units in housing that is decent, safe,
22 and sanitary; and

23 “(iv) upon termination of participa-
24 tion of such eligible family in the enhanced
25 voucher program, the voucher shall convert

1 to a relocation voucher under subpara-
2 graph (A) of this paragraph, and shall be
3 available with respect to such project only
4 to provide assistance in accordance with
5 the provisions of such subparagraph.

6 “(e) ADMINISTRATION.—The Secretary may contract
7 with a public housing agency or a private or nonprofit or-
8 ganization to administer vouchers authorized under sub-
9 sections (c) and (d).

10 “(f) RENEWAL.—Vouchers under subsections (c) and
11 (d) shall be renewed annually, subject to the availability
12 of appropriations for such renewal.

13 “(g) USE OF SAVINGS.—Notwithstanding any other
14 provision of law, any amounts made available for voucher
15 assistance under subsections (c) and (d) that remain un-
16 used because of increases in the incomes of household as-
17 sisted under such vouchers shall be available to the Sec-
18 retary for eligible activities under this Act.

19 “(h) APPLICABILITY OF SECTION 8 PROGRAM.—Ex-
20 cept as specifically provided otherwise in this section, to
21 the maximum extent practicable, the Secretary shall ad-
22 minister voucher assistance subsections (c) and (d) in ac-
23 cordance with, but not subject to, regulations and admin-
24 istrative guidance for housing vouchers administered by

1 the Secretary of Housing and Urban Development under
2 section 8(o) of such Act.

3 “(i) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated for voucher assistance under
5 subsections (c) and (d) such sums as may be necessary
6 for each of fiscal years 2010 through 2014.”.

7 **SEC. 5. PRIORITY FOR FINANCING.**

8 Subsection (j) of section 515 of the Housing Act of
9 1949 (42 U.S.C. 1485(j)) is amended—

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

11 (2) by adding at the end the following new
12 paragraph:

13 “(2) The Secretary may give priority, in entering into
14 contracts under this section involving financing for new
15 construction of a project, for projects located in eligible
16 rural areas having a need for affordable low-income rental
17 housing due to prepayment of loans made or insured
18 under this section.”.

19 **SEC. 6. CONFORMING AMENDMENT.**

20 Section 537(b)(1) of the Housing Act of 1949 (42
21 U.S.C. 1490p–1(b)(1)) is amended by inserting before the
22 semicolon the following: “and to administer the preserva-
23 tion program under section 545”.

1 **SEC. 7. REGULATIONS.**

2 The Secretary of Agriculture shall issue proposed
3 regulations to carry out the amendments made by this Act
4 not later than the expiration of the 90-day period begin-
5 ning upon the date of the enactment of this Act, and shall
6 issue final regulations to carry out the amendments made
7 by this Act not later than the expiration of the 180-day
8 period beginning upon such date of enactment.

○