

114TH CONGRESS
2D SESSION

S. 2935

To limit the availability of public housing for over-income families.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2016

Mr. FLAKE (for himself and Mr. COATS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To limit the availability of public housing for over-income families.

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 “End Housing Subsidies
5 for the Rich Act of 2016”.

6 **SEC. 2. LIMITATION ON PUBLIC HOUSING TENANCY FOR**
7 **OVER-INCOME FAMILIES.**

8 Section 16(a) of the United States Housing Act of
9 1937 (42 U.S.C. 1437n(a)) is amended by adding at the
10 end the following:

1 “(5) LIMITATIONS ON TENANCY FOR OVER-IN-
2 COME FAMILIES.—

3 “(A) LIMITATIONS.—Except as provided in
4 subparagraph (B), in the case of any family re-
5 siding in a dwelling unit of public housing
6 whose income for the most recent 2 consecutive
7 years, as determined pursuant to income re-
8 views conducted under section 3(a)(1), has ex-
9 ceeded the applicable income limitation under
10 subparagraph (D), the public housing agency
11 shall terminate the tenancy of the family in
12 public housing not later than 6 months after
13 the income determination.

14 “(B) EXCEPTION.—A family described in
15 subparagraph (A) may continue to occupy the
16 dwelling unit of public housing on a month-to-
17 month basis if—

18 “(i) the public housing agency charges
19 the family as monthly rent for the dwelling
20 unit an amount equal the applicable fair
21 market rental established under section
22 8(c) for a dwelling unit in the same market
23 area of the same size; and

24 “(ii) there are no eligible families ap-
25 plying for housing assistance from the pub-

1 lic housing agency for that month and the
2 agency provides not less than 30-day pub-
3 lic notice of the availability of such assist-
4 ance.

5 “(C) NOTICE.—In the case of any family
6 residing in a dwelling unit of public housing
7 whose income for a year has exceeded the appli-
8 cable income limitation under subparagraph
9 (D), upon the conclusion of that year the public
10 housing agency shall provide written notice to
11 the family of the requirements under subpara-
12 graph (A).

13 “(D) INCOME LIMITATION.—The income
14 limitation under this subparagraph shall be 120
15 percent of the median income for the area, as
16 determined by the Secretary with adjustments
17 for smaller and larger families.

18 “(E) REPORTS ON OVER-INCOME FAMILIES
19 AND WAITING LISTS.—The Secretary shall re-
20 quire that each public housing agency shall—

21 “(i) submit a report annually, in a
22 format required by the Secretary, that
23 specifies—

24 “(I) the number of families resid-
25 ing, as of the end of the year for

1 which the report is submitted, in pub-
 2 lic housing administered by the agen-
 3 cy who had incomes exceeding the ap-
 4 plicable income limitation under sub-
 5 paragraph (D); and

6 “(II) the number of families, as
 7 of the end of the year for which the
 8 report is submitted year, on the wait-
 9 ing lists for admission to public hous-
 10 ing dwelling units of the agency; and
 11 “(ii) make the information reported
 12 pursuant to clause (i) publicly available.”.

13 **SEC. 3. LIMITATION ON ELIGIBILITY FOR ASSISTANCE**
 14 **BASED ON ASSETS.**

15 Section 16 of the United States Housing Act of 1937
 16 (42 U.S.C. 1437n) is amended by inserting after sub-
 17 section (d) the following:

18 “(e) **ELIGIBILITY FOR ASSISTANCE BASED ON AS-**
 19 **SETS.—**

20 “(1) **LIMITATION ON ASSETS.—**Subject to para-
 21 graph (3) and notwithstanding any other provision
 22 of this Act, a dwelling unit assisted under this Act
 23 may not be rented and assistance under this Act
 24 may not be provided, either initially or at each recer-
 25 tification of family income, to any family—

1 “(A) whose net family assets exceed
2 \$100,000, as such amount is adjusted annually
3 by applying an inflationary factor as the Sec-
4 retary considers appropriate; or

5 “(B) who has a present ownership interest
6 in, a legal right to reside in, and the effective
7 legal authority to sell, real property that is suit-
8 able for occupancy by the family as a residence,
9 except that the prohibition under this subpara-
10 graph shall not apply to—

11 “(i) any property for which the family
12 is receiving assistance under subsection (y)
13 or (o)(12) of section 8;

14 “(ii) any person that is a victim of do-
15 mestic violence; or

16 “(iii) any family that is offering such
17 property for sale.

18 “(2) NET FAMILY ASSETS.—

19 “(A) IN GENERAL.—For purposes of this
20 subsection, the term ‘net family assets’—

21 “(i) means, for all members of the
22 household, the net cash value of all assets
23 after deducting reasonable costs that would
24 be incurred in disposing of real property,

1 savings, stocks, bonds, and other forms of
2 capital investment; and

3 “(ii) does not include interests in In-
4 dian trust land, equity in property for
5 which the family is receiving assistance
6 under subsection (y) or (o)(12) of section
7 8, equity accounts in homeownership pro-
8 grams of the Department of Housing and
9 Urban Development, or Family Self Suffi-
10 ciency accounts.

11 “(B) EXCLUSIONS.—Such term does not
12 include—

13 “(i) the value of personal property, ex-
14 cept for items of personal property of sig-
15 nificant value, as the Secretary may estab-
16 lish or the public housing agency may de-
17 termine;

18 “(ii) the value of any retirement ac-
19 count;

20 “(iii) real property for which the fam-
21 ily does not have the effective legal author-
22 ity necessary to sell such property;

23 “(iv) any amounts recovered in any
24 civil action or settlement based on a claim
25 of malpractice, negligence, or other breach

1 of duty owed to a member of the family
2 and arising out of law, that resulted in a
3 member of the family being disabled;

4 “(v) the value of any Coverdell edu-
5 cation savings account under section 530
6 of the Internal Revenue Code of 1986 or
7 any qualified tuition program under sec-
8 tion 529 of such Code; and

9 “(vi) such other exclusions as the Sec-
10 retary may establish.

11 “(C) TRUST FUNDS.—In cases in which a
12 trust fund has been established and the trust is
13 not revocable by, or under the control of, any
14 member of the family or household, the value of
15 the trust fund shall not be considered an asset
16 of a family if the fund continues to be held in
17 trust. Any income distributed from the trust
18 fund shall be considered income for purposes of
19 section 3(b) and any calculations of annual
20 family income, except in the case of medical ex-
21 penses for a minor.

22 “(3) SELF-CERTIFICATION.—

23 “(A) NET FAMILY ASSETS.—A public
24 housing agency or owner may determine the net
25 assets of a family, for purposes of this section,

1 based on a certification by the family that the
2 net assets of such family do not exceed
3 \$50,000, as such amount is adjusted annually
4 by applying an inflationary factor as the Sec-
5 retary considers appropriate.

6 “(B) NO CURRENT REAL PROPERTY OWN-
7 ERSHIP.—A public housing agency or owner
8 may determine compliance with paragraph
9 (1)(B) based on a certification by the family
10 that such family does not have any current
11 ownership interest in any real property at the
12 time the agency or owner reviews the family’s
13 income.

14 “(C) STANDARDIZED FORMS.—The Sec-
15 retary may develop standardized forms for the
16 certifications referred to in subparagraphs (A)
17 and (B).

18 “(4) COMPLIANCE FOR PUBLIC HOUSING
19 DWELLING UNITS.—When recertifying family income
20 with respect to families residing in public housing
21 dwelling units, a public housing agency may, in the
22 discretion of the agency and only pursuant to a pol-
23 icy that is set forth in the public housing agency
24 plan under section 5A for the agency, choose not to
25 enforce the limitation under paragraph (1).

1 “(5) ENFORCEMENT.—When recertifying the
2 income of a family residing in a dwelling unit as-
3 sisted under this Act, a public housing agency or
4 owner may choose not to enforce the limitation
5 under paragraph (1) or may establish exceptions to
6 such limitation based on eligibility criteria, but only
7 pursuant to a policy that is set forth in the public
8 housing agency plan under section 5A for the agency
9 or under a policy adopted by the owner. Eligibility
10 criteria for establishing exceptions may provide for
11 separate treatment based on family type and may be
12 based on different factors, such as age, disability, in-
13 come, the ability of the family to find suitable alter-
14 native housing, and whether supportive services are
15 being provided.

16 “(6) AUTHORITY TO DELAY EVICTIONS.—In the
17 case of a family residing in a dwelling unit assisted
18 under this Act who does not comply with the limita-
19 tion under paragraph (1), the public housing agency
20 or project owner may delay eviction or termination
21 of the family based on such noncompliance for a pe-
22 riod of not more than 6 months.

23 “(7) VERIFYING INCOME.—

24 “(A) Beginning in fiscal year 2018, the
25 Secretary shall require public housing agencies

1 to require each applicant for, or recipient of,
2 benefits under this Act to provide authorization
3 by the applicant or recipient (or by any other
4 person whose income or resources are material
5 to the determination of the eligibility of the ap-
6 plicant or recipient for such benefits) for the
7 public housing agency to obtain (subject to the
8 cost reimbursement requirements of section
9 1115(a) of the Right to Financial Privacy Act
10 (12 U.S.C. 3415(a))) from any financial insti-
11 tution (within the meaning of section 1101(1)
12 of such Act (12 U.S.C. 3401(1))) any financial
13 record (within the meaning of section 1101(2)
14 of such Act (12 U.S.C. 3401(2))) held by the
15 institution with respect to the applicant or re-
16 cipient (or any such other person) whenever the
17 public housing agency determines the record is
18 needed in connection with a determination with
19 respect to such eligibility or the amount of such
20 benefits.

21 “(B) Notwithstanding section 1104(a)(1)
22 of the Right to Financial Privacy Act (12
23 U.S.C. 3404(a)(1)), an authorization provided
24 by an applicant or recipient (or any other per-
25 son whose income or resources are material to

1 the determination of the eligibility of the appli-
2 cant or recipient) pursuant to subparagraph (A)
3 of this paragraph shall remain effective until
4 the earliest of—

5 “(i) the rendering of a final adverse
6 decision on the applicant’s application for
7 eligibility for benefits under this Act;

8 “(ii) the cessation of the recipient’s
9 eligibility for benefits under this Act; or

10 “(iii) the express revocation by the ap-
11 plicant or recipient (or such other person
12 referred to in subparagraph (A)) of the au-
13 thorization, in a written notification to the
14 Secretary.

15 “(C)(i) An authorization obtained by the
16 public housing agency pursuant to this para-
17 graph shall be considered to meet the require-
18 ments of the Right to Financial Privacy Act for
19 purposes of section 1103(a) of such Act (12
20 U.S.C. 3403(a)), and need not be furnished to
21 the financial institution, notwithstanding sec-
22 tion 1104(a) of such Act (12 U.S.C. 3404(a)).

23 “(ii) The certification requirements of sec-
24 tion 1103(b) of the Right to Financial Privacy
25 Act (12 U.S.C. 3404(b)) shall not apply to re-

1 quests by the public housing agency pursuant
2 to an authorization provided under this clause.

3 “(iii) A request by the public housing
4 agency pursuant to an authorization provided
5 under this clause is deemed to meet the require-
6 ments of section 1104(a)(3) of the Right to Fi-
7 nancial Privacy Act (12 U.S.C. 3404(a)(3)) and
8 the flush language of section 1102 of such Act
9 (12 U.S.C. 3402).

10 “(iv) The public housing agency shall in-
11 form any person who provides authorization
12 pursuant to this paragraph of the duration and
13 scope of the authorization.

14 “(D) If an applicant for, or recipient of,
15 benefits under this Act (or any such other per-
16 son referred to in subparagraph (A)) refuses to
17 provide, or revokes, any authorization made by
18 the applicant or recipient for the public housing
19 agency to obtain from any financial institution
20 any financial record, the public housing agency
21 may, on that basis, determine that the appli-
22 cant or recipient is ineligible for benefits under
23 this title.”.

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