

118TH CONGRESS
2D SESSION

S. 3561

To protect consumers from price gouging of residential rental and sale prices,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2024

Ms. ROSEN introduced the following bill; which was read twice and referred
to the Committee on Banking, Housing, and Urban Affairs

A BILL

To protect consumers from price gouging of residential rental
and sale prices, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Housing Oversight and
5 Mitigating Exploitation Act of 2024” or the “HOME Act
6 of 2024”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) AFFORDABLE HOUSING CRISIS PERIOD.—

10 The term “affordable housing crisis period” means

1 the period during which the prohibition under sec-
 2 tion 3(a)(1) applies in the United States.

3 (2) SECRETARY.—The term “Secretary” means
 4 the Secretary of Housing and Urban Development.

5 (3) SINGLE-FAMILY HOUSING.—The term “sin-
 6 gle-family housing” means a residence consisting of
 7 1 to 4 dwelling units, but does not include a dwelling
 8 unit in a condominium or cooperative housing
 9 project.

10 (4) UNITED STATES.—The term “United
 11 States” includes each of the 50 States, the District
 12 of Columbia, and any territory or possession of the
 13 United States.

14 **SEC. 3. UNCONSCIONABLE PRICING OF RESIDENTIAL**
 15 **RENTAL AND SALE PRICES DURING AFFORD-**
 16 **ABLE HOUSING CRISES.**

17 (a) UNCONSCIONABLE PRICING.—

18 (1) PROHIBITION.—If the Secretary publishes
 19 in the Federal Register a determination that the
 20 United States is experiencing an affordable housing
 21 crisis, it shall be unlawful, during the affordable
 22 housing crisis period, for any person to rent a dwell-
 23 ing unit or sell any single-family housing in the
 24 United States at a price that—

25 (A) is unconscionably excessive; and

1 (B) indicates the lessor or seller is exploit-
2 ing the circumstances related to an affordable
3 housing crisis to increase prices unreasonably.

4 (2) CONSIDERATIONS FOR AFFORDABLE HOUS-
5 ING CRISIS DETERMINATION.—For purposes of de-
6 termining whether the United States is experiencing
7 an affordable housing crisis, the Secretary shall con-
8 sider—

9 (A) the interest rates applicable to mort-
10 gage loans;

11 (B) the effective Federal funds rate;

12 (C) the refinance rates applicable to mort-
13 gage loans, including for fixed-fixed loans,
14 fixed-variable loans, and variable-fixed loans;

15 (D) the median rental home price in the
16 United States;

17 (E) the median home sale price in the
18 United States;

19 (F) the median household income in the
20 United States; and

21 (G) the declaration of a major disaster or
22 emergency under the section 401 or 501, re-
23 spectively, of the Robert T. Stafford Disaster
24 Relief and Emergency Assistance Act (42
25 U.S.C. 5170, 5191).

1 (3) DURATION.—The prohibition described in
2 paragraph (1)—

3 (A) may not apply for a period of more
4 than 30 consecutive days, but may be renewed
5 for such consecutive periods, each not to exceed
6 30 days, as the Secretary determines appro-
7 priate; and

8 (B) may apply for a period of time not to
9 exceed 1 week before a reasonably foreseeable
10 affordable housing crisis period.

11 (4) FACTORS CONSIDERED.—

12 (A) IN GENERAL.—In determining whether
13 a person has violated paragraph (1), there shall
14 be taken into account, among other factors, the
15 aggravating factors described in subparagraph
16 (B) and the mitigating factor described in sub-
17 paragraph (C).

18 (B) AGGRAVATING FACTORS.—The aggra-
19 vating factors described in this subparagraph
20 are the following:

21 (i) Whether the amount charged by
22 such person grossly exceeds the average
23 price at which the housing unit was offered
24 for rental or sale by such person during—

1 (I) the 30-day period before the
2 date on which the determination that
3 the area is experiencing an affordable
4 housing crisis was made under para-
5 graph (1); or

6 (II) another appropriate bench-
7 mark period, as determined by the
8 Secretary.

9 (ii) Whether the amount charged by
10 such person grossly exceeds the price at
11 which the same or a similar housing unit
12 was readily obtainable for rental or pur-
13 chase in the same area from other sellers
14 during the affordable housing crisis period.

15 (C) MITIGATING FACTOR.—The mitigating
16 factor described in this subparagraph is wheth-
17 er the quantity of any housing dwelling units
18 such person made available for rental or sale in
19 an area covered by the affordable housing crisis
20 period during the 30-day period following the
21 date on which the affordable housing crisis pe-
22 riod was determined increased over the quantity
23 such person made available for rental or sale
24 during the 30-day period before the date on
25 which the affordable housing crisis period was

1 determined, taking into account any usual sea-
2 sonal demand variation.

3 (5) ADVANCE NOTICE.—The Secretary shall
4 provide advance notice prior to the publication of the
5 determination under paragraph (1) for persons to
6 comply with the prohibition described in paragraph
7 (1).

8 (b) AFFIRMATIVE DEFENSE.—It shall be an affirma-
9 tive defense in any civil action or administrative action to
10 enforce subsection (a), with respect to the renting out or
11 sale of housing by a person, that the increase in the rental
12 or sale price of such housing reasonably reflects additional
13 costs that were paid, incurred, or reasonably anticipated
14 by such person, or reasonably reflects additional risks
15 taken by such person, to rent or sell such housing unit
16 under the circumstances.

17 (c) RULE OF CONSTRUCTION.—This section may not
18 be construed to cover a transaction on a futures market.

19 (d) ENFORCEMENT.—

20 (1) HUD.—The Secretary shall enforce viola-
21 tions of subsection (a) of this section—

22 (A) in the same manner, by the same
23 means, and with the same jurisdiction, powers,
24 and duties as the Federal Trade Commission
25 has under the Federal Trade Commission Act

1 (15 U.S.C. 41 et seq.) with respect to violations
2 of a rule defining an unfair or deceptive act or
3 practice prescribed under section 18(a)(1)(B) of
4 such Act (15 U.S.C. 57a(a)(1)(B)); and

5 (B) as though all applicable terms and pro-
6 visions of the Federal Trade Commission Act
7 (15 U.S.C. 41 et seq.) were incorporated into
8 and made a part of this section, except that any
9 reference in such terms and provisions to the
10 Commission shall be treated as referring to the
11 Secretary.

12 (2) ENFORCEMENT AT RETAIL LEVEL BY
13 STATE ATTORNEYS GENERAL.—

14 (A) IN GENERAL.—If the chief law en-
15 forcement officer of a State, or an official or
16 agency designated by a State, has reason to be-
17 lieve that any person has violated or is violating
18 subsection (a), the chief law enforcement offi-
19 cer, official, or agency of the State, in addition
20 to any authority it may have to bring an action
21 in State court under its laws, may bring a civil
22 action in any appropriate United States district
23 court or in any other court of competent juris-
24 diction to—

1 (i) enjoin further such violation by
2 such person;

3 (ii) enforce compliance with such sub-
4 section;

5 (iii) obtain civil penalties; and

6 (iv) obtain damages, restitution, or
7 other compensation on behalf of residents
8 of the State.

9 (B) NOTICE.—The State shall serve writ-
10 ten notice to the Secretary of any civil action
11 under subparagraph (A) before initiating such
12 civil action. The notice shall include a copy of
13 the complaint to be filed to initiate such civil
14 action, except that if it is not feasible for the
15 State to provide such prior notice, the State
16 shall provide such notice immediately upon in-
17 stituting such civil action.

18 (C) AUTHORITY TO INTERVENE.—Upon
19 receipt of the notice required by subparagraph
20 (B), the Secretary may intervene in such civil
21 action and upon intervening—

22 (i) be heard on all matters arising in
23 such civil action; and

24 (ii) file petitions for appeal of a deci-
25 sion in such civil action.

1 (D) CONSTRUCTION.—For purposes of
2 bringing any civil action under subparagraph
3 (A), nothing in this paragraph shall prevent the
4 chief law enforcement officer of a State from
5 exercising the powers conferred on the chief law
6 enforcement officer by the laws of such State to
7 conduct investigations or to administer oaths or
8 affirmations or to compel the attendance of wit-
9 nesses or the production of documentary and
10 other evidence.

11 (E) LIMITATION ON STATE ACTION WHILE
12 FEDERAL ACTION IS PENDING.—If the Sec-
13 retary has instituted a civil action or an admin-
14 istrative action for violation of subsection (a), a
15 chief law enforcement officer, official, or agency
16 of a State may not bring an action under this
17 paragraph during the pendency of that action
18 against any defendant named in the complaint
19 of the Secretary or another agency for any vio-
20 lation of this Act alleged in the complaint.

21 (F) RULE OF CONSTRUCTION.—This para-
22 graph may not be construed to prohibit an au-
23 thorized State official from proceeding in State
24 court to enforce a civil or criminal statute of
25 such State.

1 (e) LOW-INCOME HOUSING ASSISTANCE.—

2 (1) DEPOSIT OF FUNDS.—Amounts collected in
3 any penalty under subsection (d)(1) shall be depos-
4 ited in the Housing Trust Fund established under
5 section 1338 of the Federal Housing Enterprises Fi-
6 nancial Safety and Soundness Act of 1992 (12
7 U.S.C. 4568).

8 (2) USE OF FUNDS.—To the extent provided
9 for in advance in appropriations Acts, the amounts
10 deposited in the Fund shall be used to increase and
11 preserve the supply of rental housing affordable to
12 extremely low- and very low-income families, includ-
13 ing homeless families, in accordance with section
14 1338 of the Federal Housing Enterprises Financial
15 Safety and Soundness Act of 1992 (12 U.S.C.
16 4568).

17 (f) EFFECT ON OTHER LAWS.—

18 (1) OTHER AUTHORITY OF FEDERAL HOUSING
19 ADMINISTRATION.—Nothing in this section may be
20 construed to limit the authority of the Secretary
21 under any other provision of law.

22 (2) STATE LAW.—Nothing in this section pre-
23 empts any State law.

1 **SEC. 4. HUD INVESTIGATION AND REPORT ON HOUSING**
2 **PRICES.**

3 (a) INVESTIGATION.—

4 (1) IN GENERAL.—The Secretary shall conduct
5 an investigation to determine if the prices for rental
6 housing units or sale of single-family housing are
7 being manipulated by reducing housing capacity or
8 by any other form of market manipulation or artifi-
9 cially increased by price gouging practices.

10 (2) CONSIDERATION.—In conducting the inves-
11 tigation under paragraph (1), the Secretary may
12 consider the impact of mergers and acquisitions in
13 the real estate industry, including mergers and ac-
14 quisitions involving developers, managers, owners,
15 and investors.

16 (b) REPORT.—

17 (1) IN GENERAL.—Not later than 270 days
18 after the date of enactment of this Act, the Sec-
19 retary shall submit to the Congress a report on the
20 investigation conducted under subsection (a).

21 (2) CONTENTS.—The report shall include—

22 (A) a long-term strategy for the Depart-
23 ment of Housing and Urban Development and
24 the Congress to address manipulation of rental
25 housing markets and markets for sale of single-
26 family housing, and in preparing the strategy

1 the Secretary shall utilize data on race, gender,
2 and socioeconomic status; and

3 (B) a description and analysis of how non-
4 occupant investors in single-family housing im-
5 pact underserved communities.

6 (c) EXEMPTION FROM PAPERWORK REDUCTION
7 ACT.—Chapter 35 of title 44, United States Code, shall
8 not apply to the collection of information under subsection
9 (a).

10 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated to the Secretary to carry
12 out this section \$1,000,000 for fiscal year 2024.

13 **SEC. 5. HOUSING COST MONITORING AND ENFORCEMENT**
14 **WITHIN HUD.**

15 (a) ESTABLISHMENT OF THE HOUSING MONITORING
16 AND ENFORCEMENT UNIT.—

17 (1) IN GENERAL.—The Secretary shall establish
18 within the Department of Housing and Urban De-
19 velopment the Housing Monitoring and Enforcement
20 Unit (in this section referred to as the “Unit”).

21 (2) DUTIES OF THE UNIT.—

22 (A) PRIMARY RESPONSIBILITY.—The pri-
23 mary responsibility of the Unit shall be to assist
24 the Secretary in protecting the public interest
25 by continuously and comprehensively collecting,

1 monitoring, and analyzing rental housing mar-
2 ket data, data for markets for sale of single-
3 family housing, and data on investor-owned,
4 non-owner occupied housing units, in order to—

5 (i) support transparent and competi-
6 tive market practices;

7 (ii) identify any market manipulation,
8 including by collecting and analyzing data
9 on race, gender, and socioeconomic status,
10 any reporting of false information, any use
11 of market power to disadvantage con-
12 sumers, or any other unfair method of
13 competition; and

14 (iii) facilitate enforcement of penalties
15 against persons in violation of relevant
16 statutory prohibitions.

17 (B) SPECIFIC DUTIES.—In order to carry
18 out the responsibility under subparagraph (A),
19 the Unit shall assist the Secretary in carrying
20 out the following duties:

21 (i) Receiving, compiling, and ana-
22 lyzing relevant buying and selling activity
23 in order to identify and investigate anoma-
24 lous market trends and suspicious behav-
25 ior.

1 (ii) Determining whether excessive
2 concentration or exclusive control of hous-
3 ing-related infrastructure may allow or re-
4 sult in anti-competitive behaviors.

5 (iii) Obtaining a data-sharing agree-
6 ment with State and local jurisdictions,
7 housing agencies, and relevant public and
8 private data sources to receive and archive
9 information on housing purchases by insti-
10 tutional investors within a given area.

11 **SEC. 6. INVESTIGATIONS OF EXCESSIVE HOUSING PUR-**
12 **CHASES.**

13 The Secretary shall monitor purchases of single-fam-
14 ily housing in each housing market area in the United
15 States, as determined by the Secretary, to determine
16 whether any single purchaser of such housing, including
17 any purchaser that is an institutional investor, is pur-
18 chasing an excessive amount of such housing made avail-
19 able for sale in any such market area. If the Secretary
20 determines that any single purchaser has purchased more
21 than 5 percent of the single-family housing made available
22 for sale in any market area over a 3-year period, or if,
23 in aggregate, large institutional investors have purchased
24 more than 25 percent of the single-family housing made
25 available for sale in any market area over a 1-year period,

1 the Secretary shall conduct an investigation to determine
2 the purposes of and circumstances involved in such pur-
3 chases, including price gouging, market manipulation, and
4 unfair investment practices that drive homeowners out of
5 the market.

6 **SEC. 7. IDENTIFICATION OF UNFAIR SCREENING PRAC-**
7 **TICES.**

8 The Secretary, the Federal Trade Commission, and
9 the Bureau of Consumer Financial Protection shall joint-
10 ly—

11 (1) carry out a program to collect information
12 to identify practices that unfairly prevent applicants
13 and tenants of rental housing from accessing or
14 staying in housing, including the establishment and
15 use of tenant or applicant background checks, the
16 use of algorithms in tenant screenings, the provision
17 of adverse action notices by landlords and property
18 management companies, and the use of information
19 regarding tenant income sources; and

20 (2) submit a report to the Congress annually
21 describing the information collected under the pro-
22 gram carried out pursuant to paragraph (1).

1 **SEC. 8. LIMITATION ON FANNIE MAE AND FREDDIE MAC IN-**
2 **VESTMENTS.**

3 Subpart A of part 2 of subtitle A of the Federal
4 Housing Enterprises Financial Safety and Soundness Act
5 of 1992 (12 U.S.C. 4541 et seq.) is amended by adding
6 at the end the following new section:

7 **“SEC. 1329. LIMITATION ON ENTERPRISE INVESTMENTS.**

8 “The Director shall, by regulations issued after notice
9 and opportunity for interested parties to comment at a
10 public hearing, establish standards and criteria for the
11 purchase by the enterprises of mortgages on multifamily
12 rental housing as the Director considers necessary to en-
13 sure basic renter protections and prevent egregious rent
14 increases for tenants in such housing.”.

15 **SEC. 9. REVIEW OF ANTI-COMPETITIVE BEHAVIORS.**

16 The Attorney General and the Federal Trade Com-
17 mission shall jointly conduct a review to identify any anti-
18 competitive behaviors in the single-family housing and res-
19 idential rental markets, including anti-competitive infor-
20 mation sharing, and not later than 1 year after the date
21 of enactment of this Act shall submit a report to the Con-
22 gress setting forth the findings of such review.

○