

112TH CONGRESS
1ST SESSION

S. 317

To allow for use of existing Section 8 housing funds, so as to preserve and revitalize affordable housing options for low-income individuals.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2011

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

A BILL

To allow for use of existing Section 8 housing funds, so as to preserve and revitalize affordable housing options for low-income individuals.

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 “Affordable Housing
5 Preservation and Revitalization Act of 2011”.

1 **SEC. 2. AFFORDABLE HOUSING PRESERVATION AND REVI-**
2 **TALIZATION PROGRAM.**

3 Section 8 of the United States Housing Act of 1937
4 (42 U.S.C. 1437f) is amended by adding at the end the
5 following:

6 “(ff) AFFORDABLE HOUSING PRESERVATION AND
7 REVITALIZATION PROGRAM.—

8 “(1) IN GENERAL.—The Secretary shall ensure
9 that funds in the residual receipts account of an eli-
10 gible multifamily housing property are transferred,
11 at the time of a qualified sale or exchange, to a pres-
12 ervation entity.

13 “(2) PURPOSE.—The purpose of this subsection
14 is to facilitate the transfer of multifamily housing
15 projects with expiring housing assistance payments
16 contracts to preservation entities that are committed
17 to maintaining the affordability and preservation of
18 such projects by allowing expanded access to existing
19 residual receipts to assist with the acquisition and
20 rehabilitation of the project.

21 “(3) USE OF FUNDS.—A preservation entity
22 that acquires an eligible multifamily housing prop-
23 erty through a qualified sale shall, subject to the ap-
24 proval of the housing agency, use the funds in the
25 residual receipts account transferred to it, or for its
26 benefit—

1 “(A) to pay for rehabilitation costs ap-
2 proved by the housing agency;

3 “(B) to deposit funds into the replacement
4 reserve account of the property;

5 “(C) to pay for social and other services
6 that directly benefit the tenants of such prop-
7 erty, but in any 1 year such payments may not
8 exceed 10 percent of the balance of the residual
9 receipts account of the property at the end of
10 the prior fiscal year;

11 “(D) to pay for costs associated with the
12 acquisition of the property, but such payments
13 may not exceed 50 percent of the amount in the
14 residual receipts account of the property at the
15 time of acquisition; and

16 “(E) to pay for any other costs that have
17 been approved by the housing agency and will
18 directly benefit the tenants of the property.

19 “(4) DEFINITIONS.—In this subsection, the fol-
20 lowing definitions shall apply:

21 “(A) AFFORDABILITY AND USE RESTRIC-
22 TIONS.—The term ‘affordability and use restric-
23 tions’ means the affordability and use restric-
24 tions in connection with project-based housing
25 assistance payments made under this section.

1 “(B) EXTENDED USE PERIOD.—The term
2 ‘extended use period’ means the later of—

3 “(i) 30 years after the close of the
4 sale of an eligible multifamily housing
5 property to a preservation entity, or

6 “(ii) upon the expiration of the re-
7 maining useful life of the eligible multi-
8 family property taking into account any re-
9 habilitation undertaken in connection with
10 the acquisition of said property by the
11 preservation entity, as such remaining use-
12 ful life is determined by the housing agen-
13 cy,

14 provided that, such extended use period shall
15 terminate in the event that the Secretary is un-
16 able to provide Section 8 assistance on terms at
17 least as advantageous to the preservation entity
18 as exist at the time of the acquisition of such
19 eligible multifamily housing property.

20 “(C) ELIGIBLE MULTIFAMILY HOUSING
21 PROPERTY.—The term ‘eligible multifamily
22 housing property’ means a project that—

23 “(i) is receiving project-based housing
24 assistance payments under this section;
25 and

1 “(ii) was financed pursuant to part
2 883 of title 24, Code of Federal Regula-
3 tions, on or after February 29, 1980.

4 “(D) HOUSING AGENCY.—The term ‘hous-
5 ing agency’ means, with respect to any eligible
6 multifamily housing property, the housing agen-
7 cy which administers housing assistance with
8 respect to such property.

9 “(E) PRESERVATION ENTITY.—The term
10 ‘preservation entity’ means an entity—

11 “(i) that is—

12 “(I) a nonprofit corporation
13 under State law that is exempt from
14 Federal income taxation pursuant to
15 paragraph (3) or (4) of section 501(c)
16 of the Internal Revenue Code of 1986;
17 or

18 “(II) a limited partnership or
19 limited liability company where the
20 sole general partner or sole managing
21 member of such ownership entity is a
22 nonprofit corporation under State law
23 which is exempt from Federal income
24 taxation pursuant to paragraphs (3)

1 or (4) of section 501(c) of the Inter-
2 nal Revenue Code of 1986; and

3 “(ii) approved by the housing agency
4 that has the capacity to acquire and pre-
5 serve an eligible multifamily housing prop-
6 erty.

7 “(F) QUALIFIED SALE.—

8 “(i) IN GENERAL.—The term ‘quali-
9 fied sale’ means the sale of an eligible mul-
10 tifamily housing property to a preservation
11 entity which agrees to maintain afford-
12 ability and use restrictions regarding the
13 property that are—

14 “(I) for a term of not less than
15 the extended use period; and

16 “(II) legally enforceable.

17 “(ii) FUTURE APPLICABILITY OF RE-
18 STRICTIONS.—The restrictions under sub-
19 paragraph (A) shall be—

20 “(I) binding on all successors
21 and assigns of the preservation entity;
22 and

23 “(II) recorded as a restrictive
24 covenant on the property pursuant to
25 State law.

1 “(G) RESIDUAL RECEIPTS.—The term ‘re-
2 sidual receipts’ means—

3 “(i) funds generated by a property in
4 excess of the amount needed for operating
5 expenses, operating reserve requirements,
6 and allowable distributions to project own-
7 ers; and

8 “(ii) includes any other funds that the
9 Secretary, in his or her discretion, des-
10 ignates as residual receipts.

11 “(5) RESIDUAL RECEIPTS NOT TREATED AS
12 FEDERAL FUNDS.—For the purposes of section 42
13 of the Internal Revenue Code of 1986, residual re-
14 ceipts used or transferred under this section shall
15 not be considered Federal funds.”.

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