

118TH CONGRESS
2D SESSION

S. 5087

To amend the United States Housing Act of 1937 to promote the establishment of tenant organizations and provide additional amounts for tenant organizations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2024

Mr. FETTERMAN (for himself, Ms. WARREN, Mr. MURPHY, Mr. WYDEN, Mr. BLUMENTHAL, Mr. SANDERS, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the United States Housing Act of 1937 to promote the establishment of tenant organizations and provide additional amounts for tenant organizations, 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 “Tenants’ Right to Or-
5 ganize Act”.

1 **SEC. 2. HOUSING CHOICE VOUCHER TENANT ORGANIZA-**
 2 **TIONS.**

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

6 “(23) RIGHT TO ORGANIZE.—

7 “(A) DEFINITIONS.—In this paragraph:

8 “(i) ADVERSE ACTION.—The term
 9 ‘adverse action’ means an action, including
 10 the termination or non-renewal of a lease,
 11 termination of a subsidy, decreases or
 12 delays in services, unplanned increases of
 13 the rent or fees, bringing or threats to
 14 bring a lawsuit against a lessee for posses-
 15 sion, a violation of tenant privacy, or har-
 16 assment of a tenant and tenant organizers,
 17 that is motivated by the good-faith exercise
 18 of protected activities described in sub-
 19 paragraph (D).

20 “(ii) LEGITIMATE TENANT ORGANIZA-
 21 TION.—The term ‘legitimate tenant organi-
 22 zation’—

23 “(I) means an organization of 3
 24 or more families receiving tenant-
 25 based rental assistance that—

1 “(aa) meets regularly and
2 operates democratically;

3 “(bb) is representative of all
4 residents in the organization;

5 “(cc) is completely inde-
6 pendent of owners, landlords,
7 management, and their rep-
8 resentatives; and

9 “(dd) has been established
10 for the purpose described in sub-
11 paragraph (B); and

12 “(II) includes newly formed resi-
13 dent organizing committees, which do
14 not require specific structures, written
15 by-laws, elections, or resident peti-
16 tions.

17 “(iii) OWNER.—The term ‘owner’
18 means any private person or entity, includ-
19 ing a landlord, a cooperative, an investor
20 with an ownership share, an agency of the
21 Federal Government, a State housing cred-
22 it agency, or a public housing agency, who
23 owns and has the legal right to lease or
24 sublease the dwelling unit occupied by a
25 tenant that receives rental assistance.

1 “(iv) TENANT ORGANIZER.—The term
 2 ‘tenant organizer’ means a tenant or non-
 3 tenant who—

4 “(I) assists tenants in estab-
 5 lishing and operating a legitimate ten-
 6 ant organization; and

7 “(II) is not an employee or rep-
 8 resentative of current or prospective
 9 owners, managers, or their agents.

10 “(B) RIGHT TO ORGANIZE.—Families re-
 11 ceiving voucher rental assistance—

12 “(i) have the right to establish, oper-
 13 ate, and participate in a legitimate tenant
 14 organization for the purpose of addressing
 15 issues related to their living environment,
 16 including the terms and conditions of their
 17 tenancy and activities related to housing
 18 and community development; and

19 “(ii) may not be retaliated against for
 20 asserting the rights described in clause (i).

21 “(C) REQUIREMENTS FOR PUBLIC HOUS-
 22 ING AGENCIES AND OWNERS.—

23 “(i) PROHIBITION ON INTERFERENCE
 24 AND RETALIATION.—Each public housing
 25 agency and each owner may not interfere

1 with the right of tenants to establish and
2 operate a legitimate tenant organization or
3 retaliate against any tenant or tenant or-
4 ganizer because of their association with or
5 participation in activities related to a le-
6 gitimate tenant organization.

7 “(ii) PUBLIC HOUSING AGENCIES.—
8 Each public housing agency shall—

9 “(I) recognize legitimate tenant
10 organizations;

11 “(II) solicit comments from all
12 legitimate tenant organizations—

13 “(aa) if a public housing
14 agency is required to complete an
15 annual public housing agency
16 plan, in alignment with the sub-
17 mission of that plan; or

18 “(bb) if a public housing
19 agency is a qualified public hous-
20 ing agency, as described in sec-
21 tion 5A(b)(3)(A)(i), not less than
22 once a year;

23 “(III) after receiving a comment
24 from a legitimate tenant organiza-
25 tion—

1 “(aa) except as provided in
 2 item (bb), not later than 60 days
 3 after receiving the comment,
 4 meaningfully respond in writing
 5 to the comment; and

6 “(bb) regarding exigent poor
 7 housing conditions, not later than
 8 30 days after receiving the com-
 9 ment, respond in writing to the
 10 comment; and

11 “(IV) seek resident advisory
 12 board appointments from legitimate
 13 tenant organizations.

14 “(iii) OWNERS OF UNITS.—Each
 15 owner shall—

16 “(I) recognize legitimate tenant
 17 organizations; and

18 “(II) allow tenant organizers to
 19 assist tenants in establishing and op-
 20 erating legitimate tenant organiza-
 21 tions.

22 “(D) PROTECTIONS.—

23 “(i) PROTECTED ACTIVITIES.—Each
 24 public housing agency and each owner
 25 shall allow tenants and tenant organizers

1 to conduct the following activities related
2 to the establishment or operation of a le-
3 gitimate tenant organization:

4 “(I) Distributing leaflets in lobby
5 areas.

6 “(II) Placing leaflets at or under
7 tenants’ doors.

8 “(III) Distributing leaflets in
9 common areas.

10 “(IV) Initiating contact with ten-
11 ants.

12 “(V) Conducting door-to-door
13 surveys of tenants to ascertain inter-
14 est in establishing a legitimate tenant
15 organization and to offer information
16 about legitimate tenant organizations.

17 “(VI) Posting information on
18 bulletin boards.

19 “(VII) Assisting tenants to par-
20 ticipate in legitimate tenant organiza-
21 tion activities.

22 “(VIII) Convening regularly
23 scheduled meetings in a space on site
24 and accessible to tenants, in a manner
25 that is fully independent of manage-

1 ment representatives. In order to pre-
2 serve the independence of legitimate
3 tenant organizations, public housing
4 agency staff, owners, landlords, man-
5 agement and their representatives
6 may not attend such meetings unless
7 invited by the legitimate tenant orga-
8 nization to specific meetings to dis-
9 cuss a specific issue or issues.

10 “(IX) Assisting tenants in cre-
11 ating or appointing tenants to serve
12 on a resident advisory board or resi-
13 dent council.

14 “(X) Speaking to the public, in-
15 cluding the media, elected officials,
16 and government agencies.

17 “(XI) Other reasonable activities
18 related to the establishment or oper-
19 ation of a legitimate tenant organiza-
20 tion.

21 “(ii) PERMISSION.—A public housing
22 agency or owner may not require tenants
23 or tenant organizers to obtain prior per-
24 mission before engaging in the activities
25 permitted under this paragraph.

“(iii) PRESUMPTION.—If a public housing agency or owner takes an adverse action against a tenant or tenant organizer that is a member of a legitimate tenant organization during the 180-day period beginning on the date on which the tenant engages in a protected activity under this subparagraph, there shall be a rebuttable presumption that the adverse action is an act of retaliation relating to the participation of the tenant in the legitimate tenant organization.

“(E) NOTICE OF RIGHT TO ORGANIZE.—

“(i) OWNERS.—Each owner shall notify shall notify each tenant living at a qualified low-income housing project of the right to organize as described in this paragraph annually.

“(ii) TENANCY ADDENDUM.—The Secretary shall require each public housing agency to amend the lease addendum to include the right to organize provider for in this paragraph.

“(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appro-

1 priated to the Secretary such sums as are nec-
 2 essary to carry out this paragraph.”.

3 **SEC. 3. LIHTC TENANT ORGANIZATIONS.**

4 (a) IN GENERAL.—Section 42(g) of the Internal Rev-
 5 enue Code of 1986 is amended by adding at the end the
 6 following new paragraph:

7 “(10) LIHTC TENANT ORGANIZATIONS.—

8 “(A) RIGHTS OF TENANTS.—In the case of
 9 any qualified low-income housing project which
 10 is an applicable project, families occupying rent-
 11 restricted units in such project shall have the
 12 same right as families described in section
 13 8(o)(23)(B)(i) of the United States Housing
 14 Act of 1937.

15 “(B) RESPONSIBILITIES OF OWNERS AND
 16 STATE HOUSING CREDIT AGENCIES.—In the
 17 case of any applicable project, such project shall
 18 not be treated as a qualified low-income hous-
 19 ing project for purposes of this section unless—

20 “(i) each owner of such project meets
 21 requirements which are the same as the re-
 22 quirements of clauses (i) and (iii) of sub-
 23 paragraph (C) and subparagraph (D) of
 24 section 8(o)(23) of the United States
 25 Housing Act of 1937, and

1 “(ii) each State housing credit agency
2 meets requirements which are the same as
3 the requirements of clauses (i) and (ii) of
4 subparagraph (C) and subparagraph (D)
5 of such section.

6 “(C) APPLICABLE PROJECT.—For pur-
7 poses of this paragraph, the term ‘applicable
8 project’ means—

9 “(i) any project which is placed in
10 service after the date of enactment of the
11 Tenants’ Right to Organize Act, and

12 “(ii) any project—

13 “(I) which was placed in service
14 on or before the date of enactment of
15 such Act, and

16 “(II) for which the date of enact-
17 ment of such Act occurred before the
18 end of the compliance period for such
19 project.

20 “(D) NOTICE OF RIGHT TO ORGANIZE.—

21 “(i) IN GENERAL.—Each State hous-
22 ing credit agency shall notify each tenant
23 living at a qualified low-income housing
24 project of the right to organize as de-
25 scribed in paragraph 10 annually.

1 “(ii) TENANCY ADDENDUM.—The
2 Secretary shall require each State housing
3 credit agency—

4 “(I) that has implemented a
5 standard lease, lease addendum, or
6 other guidance to owners of a quali-
7 fied low-income housing project, to
8 amend that document to include lan-
9 guage affirming lessees’ right to orga-
10 nize provided for in this paragraph; or

11 “(II) that performs lease-based
12 evaluations of low income-housing tax
13 credit compliance to include in that
14 evaluation a requirement to include a
15 written affirmation of the tenant’s
16 right to organize as provided for in
17 this paragraph.

18 “(E) AUTHORIZATION OF APPROPRIA-
19 TIONS.—There are authorized to be appro-
20 priated to the Secretary such sums as are nec-
21 essary to carry out this paragraph.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxable years beginning after
24 the date of the enactment of this Act.

1 **SEC. 4. ENFORCEMENT.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 date of enactment of this Act, the Office of Public and
4 Indian Housing of the Department of Housing and Urban
5 Development shall, in coordination with the Department
6 of the Treasury, establish a protocol for the enforcement
7 of paragraph (23) of section 8(o) of the United States
8 Housing Act of 1937 (42 U.S.C. 1437f(o)), as added by
9 section 2 of this Act, and paragraph (10) of section 42(g)
10 of the Internal Revenue Code of 1986, as added by section
11 3 of this Act, that—

12 (1) reflects or integrates into existing enforce-
13 ment protocol for tenants protected under section
14 202 of the Housing and Community Development
15 Amendments Act of 1978 (12 U.S.C. 1715z–1b),
16 where possible;

17 (2) prohibits withholding the tenant-based as-
18 sistance under such section 8(o) or the denial of the
19 right to occupy an assisted unit or a rent-restricted
20 unit, or any other right or privilege required to be
21 provided as a condition of the tenant-based assist-
22 ance or the project being treated as a qualified low-
23 income housing project until such complaint is
24 closed;

25 (3) creates a mechanism for administrative
26 complaints to be filed, cataloged, and investigated

1 regarding public housing agencies, State housing
2 credit agencies, owners, landlords, management, and
3 their representatives' alleged violation of their obli-
4 gation not to interfere with the right of tenants to
5 establish and operate a legitimate tenant organiza-
6 tion, which shall—

7 (A) provide families remedy when the
8 agency determines a violation of the obligation
9 not to interfere with the right of tenants to es-
10 tablish and operate a legitimate tenant organi-
11 zation;

12 (B) include an independent investigation of
13 tenant and advocate allegations of abuse and
14 retaliation;

15 (C) keep tenants informed about the pro-
16 gression of any complaint; and

17 (D) provide confidentiality if necessary, in-
18 cluding in cases where alleged abuse is extreme
19 and targeted; and

20 (4) if relevant, appropriately refers complaints
21 related to potential violation of fair housing laws to
22 the Office of Fair Housing and Equal Opportunity
23 at the Department of Housing and Urban Develop-
24 ment.

1 (b) REPORT.—The Secretary shall submit to the
 2 Committee on Banking, Housing, and Urban Affairs of
 3 the Senate and the Committee on Financial Services of
 4 the House of Representatives a quarterly report on the
 5 enforcement of this section that—

6 (1) provides all data at both the property-level
 7 and jurisdiction-level; and

8 (2) includes—

9 (A) the volume of outstanding complaints;

10 (B) the average response time to an initial
 11 complaint;

12 (C) the average time it takes to close a
 13 complaint; and

14 (D) information about the type of issues
 15 reported by tenants that necessitate enforce-
 16 ment action.

17 **SEC. 5. FUNDING FOR TENANT AND OTHER PARTICIPATION**
 18 **AND CAPACITY BUILDING.**

19 (a) PURPOSE.—The purpose of the amendment in
 20 subsection (b) is to expand and demonstrate a firm com-
 21 mitment to tenant organizing in Federal housing pro-
 22 grams.

23 (b) AMENDMENT.—Section 514(f)(3)(A) of the Mul-
 24 tifamily Assisted Housing Reform and Affordability Act
 25 of 1997 (42 U.S.C. 1437f note) is amended—

1 (1) by striking “not more than” and inserting
2 “not less than”;

3 (2) by striking “of low-income” and all that fol-
4 lows through “services” and inserting “and improve-
5 ment of low-income housing for which project-based
6 rental assistance, public housing subsidies, low-in-
7 come housing tax credits, Federal or State sub-
8 sidized loans, enhanced voucher assistance under
9 section 8(t) of the United States Housing Act of
10 1937 (42 U.S.C. 1437f(t)), tenant-based voucher as-
11 sistance, or project-based assistance is provided
12 under section 8 of that Act are provided or pro-
13 posed”; and

14 (3) by inserting after the period at the end the
15 following: “For outreach and training of tenants and
16 technical assistance, the Secretary shall implement a
17 grant program utilizing performance-based outcome
18 measures for eligible costs incurred. Recipients pro-
19 viding capacity building or technical assistance serv-
20 ices to tenant groups shall be qualified nonprofit
21 State-wide, countywide, area-wide, or city-wide orga-
22 nizations with demonstrated experience including at
23 least a 2-year recent track record of organizing and
24 providing assistance to tenants, and independence
25 from the owner, a prospective purchaser, or their

1 managing agents. The Secretary may provide assist-
2 ance and training to grantees in administrative and
3 fiscal management to ensure compliance with appli-
4 cable Federal requirements. The Secretary shall ex-
5 pedite the provision of funding for the fiscal year in
6 which the Tenants' Right to Organize Act is enacted
7 and by entering into an interagency agreement for
8 not less than \$1,000,000 with the Corporation for
9 National and Community Service to conduct a ten-
10 ant outreach and training program to eligible hous-
11 ing under this subsection. The Secretary shall also
12 make available flexible grants to qualified nonprofit
13 organizations that do not own eligible multifamily
14 properties, for tenant outreach in underserved areas,
15 and to experienced national or regional nonprofit or-
16 ganizations to provide specialized training or support
17 to grantees assisted under this section. Notwith-
18 standing any other provision of law, funds author-
19 ized under this paragraph for any fiscal year shall
20 be available for obligation in subsequent fiscal years.
21 The Secretary shall require each recipient of
22 amounts made available pursuant to this subpara-
23 graph to submit to the Secretary quarterly reports
24 detailing the use of such funds and including such
25 information as the Secretary shall require.”.

1 **SEC. 6. INCREASED TENANT PARTICIPATION FUNDS FOR**
2 **RESIDENT COUNCILS.**

3 In order to expand and demonstrate a firm commit-
4 ment to tenant organizing in Federal housing programs,
5 not later than 1 year after the date of enactment of this
6 Act, the Secretary of Housing and Urban Development
7 shall provide each resident council, as defined in section
8 964.100 of title 24, Code of Federal Regulations, \$40 per
9 unit per year, to be increased annually to keep pace with
10 inflation.

○