

[DISCUSSION DRAFT]

111TH CONGRESS
1ST SESSION

H. R. _____

To prevent the loss of affordable housing dwelling units in the United States.

IN THE HOUSE OF REPRESENTATIVES

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on _____

A BILL

To prevent the loss of affordable housing dwelling units in the United States.

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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Housing Preservation and Tenant Protection Act of
6 2010”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Implementation.

TITLE I—PRESERVATION OF FEDERALLY FINANCED AND STATE-FINANCED AFFORDABLE HOUSING AT RISK OF CONVERSION TO MARKET-RATE HOUSING

- Sec. 101. Conversion of rent supplement and RAP contracts to project-based rental assistance under section 8.
- Sec. 102. Preservation of properties with expiring use restrictions.
- Sec. 103. Enhanced voucher assistance and preservation project-based section 8 assistance for State-financed affordable housing.
- Sec. 104. Project-based preservation assistance.
- Sec. 105. Preservation of State-financed affordable housing.
- Sec. 106. Preservation exchange program.
- Sec. 107. Federal first right of refusal.
- Sec. 108. Amendment to Low-Income Housing Preservation and Resident Homeownership Act of 1990.
- Sec. 109. Preservation of HUD-held and HUD-owned buildings.
- Sec. 110. Authority for HUD to assign flexible subsidy loans.
- Sec. 111. Use of existing section 8 funds to preserve and revitalize affordable housing.
- Sec. 112. Authority for Ginnie Mae to securitize FHA risk-sharing mortgages.

TITLE II—RESTORATION OF HOUSING AT RISK OF LOSS DUE TO DETERIORATION

- Sec. 201. Authority to transfer rental assistance to other properties.
- Sec. 202. Building transfers: requirements for purchasers of FHA insured projects and section 8 projects.
- Sec. 203. Use of interest reduction payments for rehabilitation grants.
- Sec. 204. Clarification of budget-based rent increases for rehabilitated projects.
- Sec. 205. Interest reduction payments for section 236 projects experiencing a reduction of units.

TITLE III—PROTECTION OF RESIDENTS

- Sec. 301. Tenant protection voucher to replace lost subsidized units on 1-for-1 basis.
- Sec. 302. Maintenance of housing.
- Sec. 303. Resident enforcement of public housing agency or project owner agreements with HUD.
- Sec. 304. Resident access to building information.

TITLE IV—PRESERVATION OF TROUBLED PROJECTS FACING FORECLOSURE

- Sec. 401. Maintaining affordability through escrowing of rental assistance.
- Sec. 402. Multifamily housing mortgage foreclosure.
- Sec. 403. Building acquisition: valuation of physically distressed properties sold by HUD.
- Sec. 404. Investment through up-front grants from General Insurance Fund.
- Sec. 405. Maintaining project-based assistance for projects disposed of by HUD.
- Sec. 406. Correcting harm caused by late subsidy payments.

TITLE V—INCENTIVES UNDER MAHRA FOR OWNERS TO MAINTAIN HOUSING AFFORDABILITY

- Sec. 501. Extension of mark-to-market program.
- Sec. 502. Maintaining affordability in preservation project transactions.
- Sec. 503. Encouraging continued participation in assisted housing programs.
- Sec. 504. Prepayment of FHA mortgages on multifamily housing.
- Sec. 505. Period of eligibility for nonprofit debt relief.
- Sec. 506. Acquisition of restructured projects by nonprofit organizations.
- Sec. 507. Rent adjustments upon subsequent renewals of section 8 contracts.
- Sec. 508. Budget-based rent adjustments.
- Sec. 509. Independent appraisal requirement in cases of divergent rent studies.
- Sec. 510. Extension of housing assistance payment contract.
- Sec. 511. Otherwise eligible projects.
- Sec. 512. Exception rents.
- Sec. 513. Disaster-damaged eligible projects.
- Sec. 514. Funding for tenant and other participation and capacity building.

TITLE W—PRESERVATION DATABASE

- Sec. 601. Preservation database.

TITLE X—SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY

- Sec. 701. Short title and table of contents.

Subtitle A—New Construction Reforms

- Sec. 711. Project rental assistance.
- Sec. 712. Selection criteria.
- Sec. 713. Development cost limitations.
- Sec. 714. Owner deposits.
- Sec. 715. Definition of private nonprofit organization.
- Sec. 716. Preferences for homeless elderly.
- Sec. 717. Nonmetropolitan allocation.

Subtitle B—Refinancing

- Sec. 721. Approval of prepayment of debt.
- Sec. 722. Sources of refinancing.
- Sec. 723. Use of unexpended amounts.
- Sec. 724. Use of project residual receipts.
- Sec. 725. Additional provisions.

Subtitle C—Assisted Living Facilities

- Sec. 731. Definition of assisted living facility.
- Sec. 732. Monthly assistance payment under rental assistance.

Subtitle D—National Senior Housing Clearinghouse

- Sec. 741. National senior housing clearinghouse.

TITLE Y—RURAL HOUSING PRESERVATION

- Sec. 801. Short title.
- Sec. 802. Preservation of multifamily housing.
- Sec. 803. Rural preservation and rural tenant protection vouchers.
- Sec. 804. Tenant participation.
- Sec. 805. Priority for financing.

Sec. 806. Conforming amendment.

Sec. 807. Regulations.

1 **SEC. 2. IMPLEMENTATION.**

2 The Secretary of Housing and Urban Development
3 and the Secretary of Agriculture, as applicable, shall by
4 notice establish any additional requirements that may be
5 necessary to immediately, except as specifically provided
6 otherwise, carry out the provisions of this Act. Such notice
7 shall take effect upon issuance.

8 **TITLE I—PRESERVATION OF**
9 **FEDERALLY FINANCED AND**
10 **STATE-FINANCED AFFORD-**
11 **ABLE HOUSING AT RISK OF**
12 **CONVERSION TO MARKET-**
13 **RATE HOUSING**

14 **SEC. 101. CONVERSION OF RENT SUPPLEMENT AND RAP**
15 **CONTRACTS TO PROJECT-BASED RENTAL AS-**
16 **SISTANCE UNDER SECTION 8.**

17 (a) **CONVERSION.**—Notwithstanding any other provi-
18 sion of law and subject to the availability of appropria-
19 tions, the Secretary of Housing and Urban Development
20 shall, at the request of a project owner with a contract
21 under section 101 of the Housing and Urban Development
22 Act of 1965 (12 U.S.C. 1701s) or a contract under section
23 236(f)(2) of the National Housing Act (12 U.S.C. 1715z–
24 1(f)(2)), submitted during the 12-month period beginning

1 on the date of the enactment of this Act, convert such
2 contract to project-based assistance under section 8 of the
3 United States Housing Act of 1937 (42 U.S.C. 1437f) (in
4 this section referred to as “section 8”).

5 (b) **TERMS.**—A contract for project-based rental as-
6 sistance under section 8 pursuant to a conversion under
7 subsection (a) of this section shall—

8 (1) be subject to the availability of amounts
9 provided in appropriations Act; and

10 (2) have a term that is not shorter in duration
11 than the remaining term of the contract that is con-
12 verted, pursuant to subsection (a) of this section, to
13 project-based assistance under such section 8, plus
14 an additional term of not less than 5 years, and up
15 to 30 years at the request of the owner.

16 (c) **LOAN MANAGEMENT ASSISTANCE CONTRACTS.**—
17 After the initial year of a project-based rental assistance
18 contract under section 8 for loan management assistance,
19 the contract may, at the option of the project owner and
20 subject to the conditions specified in section 524(a)(4)(D)
21 of the Multifamily Assisted Housing Reform and Afford-
22 ability Act of 1997 (42 U.S.C. 1437f note), be converted
23 to a renewal contract under such section 524, subject to
24 the availability of appropriations, if the project owner

1 agrees to a contract term that extends 10 years beyond
2 the remaining term of the assistance contract.

3 (d) USE RESTRICTIONS.—Notwithstanding any other
4 provision of law, conversion of a contract pursuant to sub-
5 section (a) shall not diminish the affordability restrictions
6 or number of assisted units applicable to the property that
7 is subject to the contract converted.

8 (e) USE OF RECAPTURED AMOUNTS.—Any budget
9 authority recaptured as a result of conversion of any con-
10 tract pursuant to subsection (a)—

11 (1) shall be used by the Secretary of Housing
12 and Urban Development for making assistance pay-
13 ments with respect to the initial 12-month period of
14 the contract for project-based rental assistance
15 under section 8 resulting from such conversion; and

16 (2) to the extent such budget authority exceeds
17 the amount necessary for such assistance payments,
18 shall be retained and used for assistance under sec-
19 tion 102 of this Act.

20 **SEC. 102. PRESERVATION OF PROPERTIES WITH EXPIRING**
21 **USE RESTRICTIONS.**

22 (a) FEDERAL ASSISTANCE AND EXTENSION OF AF-
23 FORDABILITY REQUIREMENTS.—

24 (1) PROVISION OF ASSISTANCE.—

1 (A) AUTHORITY.—The Secretary of Hous-
2 ing and Urban Development may use amounts
3 made available under paragraph (5) to provide
4 assistance under this section with respect to
5 covered multifamily housing properties.

6 (B) APPLICATIONS AND SELECTION CRI-
7 TERIA.—The Secretary shall provide for owners
8 of covered multifamily housing properties to
9 submit applications for assistance under this
10 section and shall establish criteria for selection
11 of properties to receive assistance that shall
12 take into consideration the need of a property
13 for such assistance.

14 (2) REHABILITATION ASSISTANCE.—The Sec-
15 retary may provide a grant or loan under this para-
16 graph to the owner or purchaser of the property,
17 subject to the following requirements:

18 (A) PURPOSE.—The assistance shall be
19 provided for the purpose of rehabilitating the
20 property for continued use as housing afford-
21 able to low- and moderate-income families.

22 (B) ELIGIBLE USE.—Amounts from the
23 grant or loan may be used only for payment of
24 nonrecurring maintenance and capital improve-
25 ments for the property, and associated trans-

1 action costs, under such terms and conditions
2 as are determined by the Secretary.

3 (C) PER UNIT AMOUNT LIMITATIONS.—

4 The amount from a grant or loan used with re-
5 spect to a dwelling unit in the property may not
6 exceed the per unit dollar amount limitation as
7 the Secretary shall establish for purposes of
8 this paragraph for dwelling units of the applica-
9 ble size.

10 (D) REQUIRED EXTENSION OF AFFORD-

11 ABILITY RESTRICTIONS.—The Secretary may
12 provide assistance under this paragraph for a
13 property only if the owner of the property en-
14 ters into such binding commitments as the Sec-
15 retary may require, which shall be applicable to
16 any subsequent owner, to ensure that the prop-
17 erty will be operated, for a period of not less
18 than 30 years that begins on the termination
19 date for the property, in accordance with all af-
20 fordability restrictions that are applicable to the
21 property under the multifamily housing subsidy
22 program under which the property is assisted
23 before the termination date, with flexibility to
24 recognize more significant restrictions accom-
25 panying other subsidies for the property.

1 (3) ASSISTANCE FOR PURCHASE.— The Sec-
2 retary may provide a grant or loan under this para-
3 graph to an eligible organization under subpara-
4 graph (B) for acquisition of a covered multifamily
5 housing property, subject to the following require-
6 ments:

7 (A) PURPOSE.—The assistance shall be
8 provided for the purpose of facilitating acquisi-
9 tion of properties by eligible organizations
10 whose missions are to provide affordable hous-
11 ing to low- and moderate-income families.

12 (B) ELIGIBLE ORGANIZATIONS.—A grant
13 or loan under this paragraph may be made only
14 to a nonprofit organization, a for-profit organi-
15 zation, or a public housing agency (as such
16 term is defined in section 3(b) of the United
17 States Housing Act of 1937 (42 U.S.C.
18 1437a(b)) that provides such assurances as the
19 Secretary may require that the organization—

20 (i) will acquire the property; and

21 (ii) is capable of managing the prop-
22 erty and related facilities (either directly or
23 through a contract) for the remaining use-
24 ful life of the property and related facili-
25 ties.

1 (C) ELIGIBLE USE.—Amounts from the
2 grant or loan may be used only to cover any di-
3 rect costs (other than the purchase price), in-
4 cluding transaction costs, incurred by the eligi-
5 ble organization in purchasing and assuming re-
6 sponsibility for the property and related facili-
7 ties involved.

8 (D) PER UNIT AMOUNT LIMITATIONS.—
9 The amount from a grant or loan used with re-
10 spect to a dwelling unit in the property may not
11 exceed the per unit dollar amount limitation as
12 the Secretary shall establish for purposes of
13 this paragraph for dwelling units of the applica-
14 ble size.

15 (E) REQUIRED EXTENSION OF AFFORD-
16 ABILITY RESTRICTIONS.—The Secretary may
17 provide assistance under this paragraph for a
18 property only if the eligible organization that
19 purchases the property enters into such binding
20 commitments as the Secretary may require,
21 which shall be applicable to any subsequent
22 owner, to ensure that the property will be oper-
23 ated, for the remaining useful life of the prop-
24 erty, in accordance with all affordability restric-
25 tions that are applicable to the property under

1 the multifamily housing subsidy program under
2 which the property is assisted before the termi-
3 nation date.

4 (4) LOW- AND MODERATE-INCOME AFFORD-
5 ABILITY ASSISTANCE.—The Secretary may provide
6 new project-based assistance under section 8 of the
7 United States Housing Act of 1937 (42 U.S.C.
8 1437f) for currently unassisted units in covered mul-
9 tifamily housing properties occupied by tenants oth-
10 erwise eligible for such assistance, subject to the fol-
11 lowing requirements:

12 (A) PURPOSE.—The assistance shall be
13 provided for the purpose of maintaining the af-
14 fordability of dwelling units in covered multi-
15 family housing properties not currently provided
16 project-based rental assistance.

17 (B) ELIGIBILITY.—Assistance may be
18 made available for a property only if the prop-
19 erty—

20 (i) is located in an area having a dem-
21 onstrated demand for affordable rental
22 housing; or

23 (ii) may be subject to rent level in-
24 creases as the result of mortgage maturity
25 or termination or as the result of a recap-

1 talization activity approved by the Sec-
2 retary or the Secretary of Agriculture.

3 (C) FORM AND TERM.—The assistance
4 shall be in the form of a housing assistance
5 payment contract under such section 8 and
6 shall be provided for such term as may be
7 agreed to by the Secretary and the owner of the
8 property. The form of assistance may include
9 an amendment of an existing assistance con-
10 tract to cover additional units in the subject
11 property.

12 (D) PREVENTION OF DUPLICATIVE SUB-
13 SIDIES.—Assistance may not be provided for
14 any dwelling unit in a property if such assist-
15 ance would duplicate other project- or tenant-
16 based rental assistance of any kind for the
17 dwelling unit from any source.

18 (E) AMOUNT AND RENT LEVELS.—The
19 Secretary shall determine the amount of annual
20 assistance provided for a property based on rent
21 levels, for the dwelling units in the property
22 that are subject to affordability restrictions pur-
23 suant to subparagraph (F), that are equal to
24 the lesser of—

1 (i) comparable market rents for the
2 market area in which the property is lo-
3 cated for dwelling units of the applicable
4 size; and

5 (ii) 150 percent of the fair market
6 rentals established under section 8(c) of
7 the United States Housing Act of 1937 for
8 the market area in which the property is
9 located for dwelling units of the applicable
10 size.

11 (F) REQUIRED EXTENSION OF AFFORD-
12 ABILITY RESTRICTIONS.—The Secretary may
13 provide assistance under this paragraph for a
14 property only if the owner of the property en-
15 ters into such binding commitments as the Sec-
16 retary may require, which shall be applicable to
17 any subsequent owner, to ensure that the prop-
18 erty will be operated, for a period not shorter
19 than the term of the assistance agreed to pur-
20 suant to subparagraph (C) or 10 years, which-
21 ever is longer, that begins on the termination
22 date for the property, in accordance with all af-
23 fordability restrictions that are applicable to the
24 property under the multifamily housing subsidy

1 program under which the property is assisted
2 before the termination date.

3 (5) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated for assist-
5 ance under this subsection such sums as may be
6 necessary.

7 (b) ENHANCED VOUCHERS.—

8 (1) QUALIFICATION; ELECTION TO REMAIN IN
9 UNIT.—Section 8(t)(1) of the United States Housing
10 Act of 1937 (42 U.S.C. 1437f(t)(1)(B)) is amend-
11 ed—

12 (A) in the matter preceding subparagraph
13 (A), by inserting “and shall not require that the
14 family requalify under the selection standards
15 for a public housing agency in order to be eligi-
16 ble for such assistance” before the comma; and

17 (B) by striking subparagraph (B) and in-
18 serting the following new subparagraph:

19 “(B)(i) the assisted family may elect to re-
20 main in the same project in which the family
21 was residing on the date of the eligibility event
22 for the project regardless of unit and family
23 size standards normally used by the admin-
24 istering public housing agency (except that ten-
25 ants may be required to move to units of appro-

1 priate size if available on the premises), and the
2 owner of the unit shall accept the enhanced
3 voucher and terminate the tenancy only for se-
4 rious or repeated violation of the terms and
5 conditions of the lease or for violation of appli-
6 cable law; and

7 “(ii) if, during any period the family
8 makes such an election and continues to so re-
9 side, the rent for the dwelling unit of the family
10 in such project exceeds the applicable payment
11 standard established pursuant to subsection (o)
12 for the unit, the amount of rental assistance
13 provided on behalf of the family shall be deter-
14 mined using a payment standard that is equal
15 to the rent for the dwelling unit (as such rent
16 may be increased from time-to-time), subject to
17 paragraph (10)(A) of subsection (o) and any
18 other reasonable limit prescribed by the Sec-
19 retary, except that a limit shall not be consid-
20 ered reasonable for purposes of this subpara-
21 graph if it adversely affects such assisted fami-
22 lies;”.

23 (2) PROVISION TO RESIDENTS OF ASSISTED
24 MULTIFAMILY PROJECTS UPON TERMINATION
25 DATE.—

1 (A) REQUIREMENT.—Upon the termi-
2 nation date for each assisted multifamily hous-
3 ing property, to the extent that amounts for as-
4 sistance under this paragraph are provided in
5 advance in appropriation Acts, the Secretary of
6 Housing and Urban Development shall make
7 enhanced voucher assistance under section 8(t)
8 of the United States Housing Act of 1937 (42
9 U.S.C. 1437f(t)) available on behalf of each
10 family described in subparagraph (B). The Sec-
11 retary shall make such assistance available no
12 later than 60 days before the termination date
13 on behalf of each family described in subpara-
14 graph (B) that elects to move from the prop-
15 erty.

16 (B) ELIGIBILITY.—A family described in
17 this subparagraph is a family who—

18 (i)(I) is a low-income family (as such
19 term is defined in section 3(b) of the
20 United States Housing Act of 1937 (42
21 U.S.C. 1437a(b))); or

22 (II) is a moderate-income family that
23 is—

24 (aa) an elderly family (as such
25 term is used in section 3(b) of the

1 United States Housing Act of 1937
2 (42 U.S.C. 1437a(b));

3 (bb) a disabled family (as such
4 term is used in section 3(b) of the
5 United States Housing Act of 1937
6 (42 U.S.C. 1437a(b))); or

7 (cc) residing in a low-vacancy
8 area (as determined by the Secretary);
9 and

10 (ii) is residing in—

11 (I) a property that immediately
12 before such termination date was an
13 assisted multifamily housing property;
14 and

15 (II) a dwelling unit that is not
16 assisted after such termination date
17 under section 8 of the United States
18 Housing Act of 1937.

19 (C) ELIGIBILITY EVENT.—Section 8(t)(2)
20 of the United States Housing Act of 1937 (42
21 U.S.C. 1437f(t)(2)) is amended by adding after
22 the period at the end the following new sen-
23 tence: “Such term includes, with respect to an
24 assisted multifamily housing property (as such
25 term is defined in section 102(f) of the Housing

1 Preservation and Tenant Protection Act of
2 2010), the occurrence of the termination date
3 (as such term is defined in such section 102(f))
4 for the property.”.

5 (3) REGULATIONS.—The Secretary of Housing
6 and Urban Development shall issue regulations to
7 implement the amendments made by this subsection
8 not later than the expiration of the 6-month period
9 beginning on the date of enactment of this Act, and
10 such regulations shall require that the provisions of
11 such amendments relating to termination of tenancy
12 shall be contained in the lease.

13 (c) NOTIFICATION REQUIREMENT.—

14 (1) TIMING.—An owner of an assisted multi-
15 family housing property, including any owner of a
16 property with rent limitations that expire concur-
17 rently with the expiration of the term of the mort-
18 gage for the property, who intends to terminate or
19 alter the affordability restrictions for the property
20 on or after the termination date for the property
21 shall, not less than 12 months before such termi-
22 nation date, provide written notice of such termi-
23 nation date to the Secretary of Housing and Urban
24 Development, the chief executive officer of the State
25 and the unit of general local government (as such

1 term is defined in section 104 of the Cranston-Gon-
2 zalez National Affordable Housing Act (42 U.S.C.
3 12704)) in which the property is located, and each
4 tenant of the property.

5 (2) CONTENTS.—The notice shall include—

6 (A) a statement specifying any changes in
7 the terms or applicability of the affordability re-
8 strictions for the property that the owner in-
9 tends to make on or after the termination date
10 for the property;

11 (B) a statement that, if the owner pro-
12 ceeds with such intended changes and the Con-
13 gress makes funds available, the Department of
14 Housing and Urban Development will provide
15 tenant-based rental assistance to all eligible
16 residents, enabling them to choose the place
17 they wish to rent, which may include the right
18 to remain in the dwelling unit in which they
19 currently reside; and

20 (C) a statement that, if the Congress
21 makes funds available, the owner and the Sec-
22 retary may yet agree to renewal of assistance
23 and affordability restrictions for the property,
24 thereby obviating the need for such tenant-
25 based rental assistance.

1 (3) FAILURE TO PROVIDE NOTICE.—If the
2 owner does not provide the notice required under
3 this subsection, notwithstanding any inapplicability
4 of the affordability restrictions for the property, the
5 owner may not evict the tenants or increase the ten-
6 ants' rent payments until such time as the owner
7 has provided the notice and the 12-month period be-
8 ginning upon the provision of such notice has
9 elapsed.

10 (4) OTHER TERMS.—The Secretary may, to
11 preserve affordable housing or protect tenants in
12 such properties, establish additional notice require-
13 ments.

14 (5) SAVINGS PROVISION.—This subsection may
15 not be construed to annul, alter, affect, or preempt
16 any provision of the law of a State or political sub-
17 division thereof requiring notice regarding termi-
18 nation of assistance or affordability restrictions with
19 respect to a multifamily housing project or to ex-
20 empt any person from complying with such a law.

21 (d) PROJECTS WITH COMMON USE AGREEMENTS.—
22 Notwithstanding any provision of the Emergency Low In-
23 come Housing Preservation Act of 1987 (12 U.S.C. 1715l
24 note), if two covered multifamily housing properties are
25 encumbered by use agreements that were recorded in land

1 records on the same date pursuant to such Act and both
2 such properties are subject to a single mortgage, both such
3 use agreements shall be deemed to expire on the earlier
4 of the expiration dates stated in such use agreements, but
5 only if the owner of the properties agrees to maintain any
6 project-based rental assistance for both such properties for
7 the 30-year period beginning upon such common expira-
8 tion date. At the request of the owner, the Secretary shall
9 establish contract rents for such project-based assistance
10 at levels for comparable properties in the same market
11 area.

12 (e) ANNUAL AND SEMIANNUAL REVIEWS.—

13 (1) ANNUAL REVIEW.—To ensure compliance
14 with this section, the Secretary shall conduct an an-
15 nual review on actions taken under this section and
16 the status of covered multifamily housing properties
17 and submit a report to the Congress regarding each
18 such annual review.

19 (2) SEMIANNUAL REVIEW.—Not less than semi-
20 annually during the 2-year period beginning on the
21 date of the enactment of this Act and not less than
22 annually thereafter, the Secretary shall submit re-
23 ports to the Committee on Financial Services of the
24 House of Representatives and the Committee on
25 Banking, Housing, and Urban Affairs of the Senate

1 stating, for such periods, the total number of as-
2 sisted multifamily housing properties for which noti-
3 fication has been provided under subsection (c) dur-
4 ing such period, the total number of covered multi-
5 family housing properties for which assistance has
6 been provided under subsection (a), and the type or
7 types of such assistance provided.

8 (f) DEFINITIONS.—For purposes of this section:

9 (1) AFFORDABILITY RESTRICTIONS.—The term
10 “affordability restrictions” means, with respect to a
11 covered multifamily housing property, limits imposed
12 by regulation, regulatory agreement, or contract on
13 tenant rents, rent contributions, or income eligibility.

14 (2) ASSISTED MULTIFAMILY HOUSING PROP-
15 ERTY.—The term “assisted multifamily housing
16 property” means a multifamily housing project for
17 which assistance is provided under a multifamily
18 housing subsidy program.

19 (3) COMPARABLE PROPERTIES.—The term
20 “comparable properties” means, with respect to a
21 covered multifamily housing property, properties in
22 the same market area, where practicable, that—

23 (A) are similar to the covered multifamily
24 housing property as to neighborhood (including
25 risk of crime), type of location, access, street

1 appeal, age, property size, apartment mix, phys-
2 ical configuration, property and unit amenities,
3 utilities, and other relevant characteristics;

4 (B) are not receiving rental assistance of
5 any kind from any source; and

6 (C) are not subject to affordability restric-
7 tions of any kind.

8 (4) COVERED MULTIFAMILY HOUSING PROP-
9 erty.—The term “covered multifamily housing
10 property” means an assisted multifamily housing
11 property for which the termination date will occur
12 within the 10-year period beginning on the date of
13 the enactment of this Act.

14 (5) LOW-INCOME FAMILY.—The term “low-in-
15 come family” has the meaning given such term in
16 section 3(b) of the United States Housing Act of
17 1937 (42 U.S.C. 1437a(b)).

18 (6) MODERATE-INCOME FAMILY.—The term
19 “moderate-income family” has the meaning given
20 such term in section 229 of the Low-Income Hous-
21 ing Preservation and Resident Homeownership Act
22 of 1992 (12 U.S.C. 4119).

23 (7) MULTIFAMILY HOUSING SUBSIDY PRO-
24 gram.—The term “multifamily housing subsidy pro-
25 gram” means—

1 (A) the rent supplement program under
2 section 101 of the Housing and Urban Develop-
3 ment Act of 1965 (12 U.S.C. 1701s);

4 (B) the below-market interest rate mort-
5 gage insurance program under section
6 221(d)(3) of the National Housing Act (12
7 U.S.C. 1715l(d)(3));

8 (C) the program for interest reduction pay-
9 ments under section 236 of the National Hous-
10 ing Act (12 U.S.C. 1715z-1), and any com-
11 parable State program providing for interest re-
12 duction payments or rental assistance pay-
13 ments, or both;

14 (D) the program for supportive housing for
15 the elderly under section 202 of the Housing
16 Act of 1959 (12 U.S.C. 1701q), including as-
17 sistance under such section as in effect before
18 the enactment of the Cranston-Gonzalez Na-
19 tional Affordable Housing Act;

20 (E) the program for rural rental housing
21 under section 515 of the Housing Act of 1949
22 (42 U.S.C. 1485); and

23 (F) any other mortgage insurance program
24 provided under the National Housing Act for

1 which the insured property is subject to budget-
2 based rent restrictions.

3 (8) NONPROFIT ORGANIZATION.—The term
4 “nonprofit organization” has the meaning, with re-
5 spect to housing assisted under this section, given
6 such term in section 202(k) of the Housing Act of
7 1959 (12 U.S.C. 1701q(k)).

8 (9) SECRETARY.—The term “Secretary” means
9 the Secretary of Housing and Urban Development.

10 (10) TERMINATION DATE.—The term “termi-
11 nation date” means, with respect to an assisted or
12 a covered multifamily housing property, the date
13 that—

14 (A) the mortgage, loan, or capital advance
15 for the property matures or expires and the af-
16 fordability restrictions applicable to the prop-
17 erty because of assistance for the property pur-
18 suant to a multifamily housing subsidy program
19 terminate with respect to the property;

20 (B) an assistance contract for the property
21 that is not renewed, terminates, or expires;

22 (C) in the case of a property that is not el-
23 igible low-income housing, as such term is de-
24 fined in section 229 of the Low-Income Hous-
25 ing Preservation and Resident Homeownership

1 Act of 1990 (12 U.S.C. 4119), the mortgage or
2 loan that covers the property is prepaid or an
3 insurance contract that covers the property ter-
4 minates; or

5 (D) use restrictions imposed with respect
6 to the property pursuant to the Emergency Low
7 Income Housing Preservation Act of 1987 ex-
8 pire.

9 (g) REGULATIONS.—The Secretary may issue any
10 regulations necessary to carry out this section.

11 **SEC. 103. ENHANCED VOUCHER ASSISTANCE AND PRESER-**
12 **VATION PROJECT-BASED SECTION 8 ASSIST-**
13 **ANCE FOR STATE-FINANCED AFFORDABLE**
14 **HOUSING.**

15 (a) ENHANCED VOUCHER ASSISTANCE.—

16 (1) REQUIREMENT.—Upon the prepayment or
17 maturity of a mortgage for which interest reduction
18 payments have been made through a State housing
19 program or financed by a State housing finance
20 agency, to the extent that amounts for assistance
21 under this subsection are provided in advance in ap-
22 propriation Acts, the Secretary of Housing and
23 Urban Development shall make enhanced voucher
24 assistance under section 8(t) of the United States

1 Housing Act of 1937(42 U.S.C. 1437(t)) available
2 on behalf of families described in paragraph (2).

3 (2) ELIGIBLE FAMILIES.—A family described in
4 this paragraph is a family that—

5 (A)(i) is a low-income family, as such term
6 is defined in section 3(b) of the United States
7 Housing Act of 1937 (42 U.S.C. 1437a(b)); or

8 (ii) is a moderate-income family that has
9 an income that is not less than 80 percent, and
10 not greater than 95 percent, of the median in-
11 come for the area, as determined by the Sec-
12 retary, that—

13 (I) is an elderly family (as such term
14 is used in section 3(b) of the United States
15 Housing Act of 1937 (42 U.S.C.
16 1437a(b));

17 (II) is a disabled family (as such term
18 is used in such section 3(b); or

19 (III) resides in a low-vacancy area, as
20 determined by the Secretary; and

21 (B) on such prepayment or maturity date
22 is residing in dwelling unit of the project that—

23 (i) immediately before such prepay-
24 ment or maturity was subject to the mort-
25 gage for which interest reduction payments

1 were made and subject to affordability re-
2 strictions; and

3 (ii) is not assisted after such prepay-
4 ment or maturity date under section 8 of
5 the United States Housing Act of 1937,
6 other than as provided under section
7 8(t)(4) of the United States Housing Act
8 of 1937 (42 U.S.C. 1437f(t)(4)).

9 (3) ELIGIBILITY EVENT.—Paragraph (2) of sec-
10 tion 8(t) of the United States Housing Act of 1937
11 (42 U.S.C. 1437f(t)(2)), as amended by the pre-
12 ceding provisions of this Act, is further amended by
13 adding after the period at the end the following new
14 sentence: “Such term also includes, with respect to
15 a multifamily family housing project with a mort-
16 gage for which interest reduction payments have
17 been made through a State housing program or fi-
18 nanced by a State housing finance agency, the pre-
19 payment or maturity of such mortgage which results
20 in eligible residents of such housing project being eli-
21 gible for enhanced voucher assistance under this
22 subsection, pursuant to section 103(a) of the Hous-
23 ing Preservation and Tenant Protection Act of
24 2010.”.

1 (b) PRESERVATION PROJECT-BASED SECTION 8 AS-
2 SISTANCE.—

3 (1) IN GENERAL.—Notwithstanding any other
4 provision of law, in connection with the prepayment
5 or maturity of a multifamily housing project mort-
6 gage subsidized by interest reduction payments
7 made through a State housing program or financed
8 by a State housing finance agency, to prevent dis-
9 placement of residents and to further preservation
10 and affordability of such multifamily housing
11 project, at the election of the project owner and in
12 lieu of enhanced voucher assistance under subsection
13 (a) of this section or project-based voucher assist-
14 ance under subsections (t)(4) and (o)(13)(N) of sec-
15 tion 8 of the United States Housing Act of 1937 (42
16 U.S.C. 1437f), the Secretary of Housing and Urban
17 Development shall, pursuant to the authority under
18 subsections (a) and (b) of such section 8, enter an
19 annual contributions contract with the State housing
20 finance agency to permit the State housing finance
21 agency enter project-based assistance contract under
22 this subsection covering all units in the project for
23 which such enhanced or project-based voucher assist-
24 ance would otherwise be provided.

1 (2) CONTRACT TERMS.—Any project-based as-
2 sistance contract pursuant to this subsection shall—

3 (A) be considered for all purposes a con-
4 tract entered into under section 8 of the United
5 States Housing Act of 1937 (42 U.S.C. 1437f);

6 (B) have a term of at least 20 years;

7 (C) provide such assistance at rent levels
8 established as provided under section 524 of the
9 Multifamily Assisted Housing Reform and Af-
10 fordability Act of 1997 (42 U.S.C. 1437f note);

11 (D) be subsequently renewable at the re-
12 quest of the owner under such section 524;

13 (E) be subject to the availability of
14 amounts provided in appropriations Acts; and

15 (F) be subject to such other terms as the
16 Secretary considers appropriate.

17 (3) INCOME TARGETING.—To the extent that
18 dwelling units subject to an assistance contract
19 under this paragraph are occupied by families eligi-
20 ble for enhanced voucher assistance under section
21 8(t) of the United States Housing Act of 1937 (42
22 U.S.C. 1437f(t)), the units shall be considered to be
23 in compliance with all income targeting requirements
24 under the United States Housing Act of 1937.

1 (4) TENANT ELIGIBILITY.—Notwithstanding
2 any other provision of law, in the multifamily hous-
3 ing project for which project-based assistance is pro-
4 vided pursuant to this subsection, each eligible fam-
5 ily described in subsection (a)(2) of this section that
6 resides in a dwelling unit in such project on the date
7 such assistance contract first becomes effective shall
8 be considered to meet any applicable requirements
9 for income eligibility and occupancy.

10 (5) CONTRACT ADMINISTRATION.—Notwith-
11 standing any other provision of law, any contract for
12 project-based assistance entered into pursuant to
13 this subsection shall be administered by the project-
14 based contract administrator of the State in which
15 the multifamily housing project is located.

16 **SEC. 104. PROJECT-BASED PRESERVATION ASSISTANCE.**

17 (a) ENHANCED VOUCHERS.—Section 8(t) of the
18 United States Housing Act of 1937 (42 U.S.C. 1437f(t))
19 is amended—

20 (1) by redesignating paragraph (4) as para-
21 graph (5); and

22 (2) by inserting after paragraph (3) the fol-
23 lowing new paragraph:

24 “(4) PROJECT-BASED PRESERVATION ASSIST-
25 ANCE.—

1 “(A) AUTHORITY.—Notwithstanding any
2 other provision of law, in the case of a multi-
3 family housing project eligible under subpara-
4 graph (C), the Secretary shall, subject to the
5 availability of amounts provided in advance in
6 appropriation Acts and at the request of the
7 owner of the project, provide project-based pres-
8 ervation assistance in accordance with this
9 paragraph, in such form authorized in subpara-
10 graph (B) as is requested by the owner, in lieu
11 of enhanced voucher assistance under this sub-
12 section. Such owner of the project shall agree to
13 accept such project-based preservation assist-
14 ance for a period of not less than 20 years: *Pro-*
15 *vided*, That any renewal contract during such
16 period is offered on terms and conditions com-
17 parable to the original contract.

18 “(B) FORMS.—Project-based preservation
19 assistance provided in accordance with this
20 paragraph shall be in one of the following
21 forms:

22 “(i) PROJECT-BASED PRESERVATION
23 VOUCHERS.—Project-based voucher assist-
24 ance, which shall be provided in accordance
25 with subsection (o)(13)(N).

1 “(ii) PROJECT-BASED ASSISTANCE.—
2 Project-based assistance under the terms
3 and conditions in section 524 of the Multi-
4 family Assisted Housing Reform and Af-
5 fordability Act of 1997 (42 U.S.C. 1437f
6 note). In determining the initial rent levels
7 for a contract for project-based assistance
8 under this subparagraph, the Secretary
9 shall establish initial contract rents at the
10 comparable market rents for the area (as
11 such term is defined in section 524(a)(5)
12 of the Multifamily Assisted Housing Re-
13 form and Affordability Act of 1997 (42
14 U.S.C. 1437f note)).

15 “(C) ELIGIBLE PROJECTS.—A multifamily
16 housing project is eligible under this subpara-
17 graph if—

18 “(i)(I) an eligibility event for the
19 project occurs; and

20 “(II) the project is not a project for
21 which the owner has opted not to renew a
22 contract for project-based rental assistance
23 under this section; or

24 “(ii) enhanced voucher assistance has
25 already been provided for the project pur-

1 suant to the conditions specified in sub-
2 paragraph (F)(ii).

3 “(D) ELIGIBLE UNITS.—

4 “(i) INCOME ELIGIBILITY.—Assistance
5 pursuant to this paragraph may be pro-
6 vided for all dwelling units in a multifamily
7 housing project for which tenants residing
8 in the project at the time assistance is ini-
9 tially provided meet income eligibility re-
10 quirements for enhanced voucher assist-
11 ance under this subsection.

12 “(ii) ADDITIONAL UNITS.— At the re-
13 quest of the owner of a multifamily hous-
14 ing project for which assistance pursuant
15 to this paragraph is provided, the Sec-
16 retary may approve assistance for addi-
17 tional dwelling units, which may include
18 units that are vacant at the time of the eli-
19 gibility event, subject to a determination
20 by the Secretary that such additional as-
21 sistance is necessary or desirable to further
22 the purposes reflected in subparagraph
23 (E).

24 “(iii) RENT PAYMENTS.—Eligible
25 families residing in a project at the time

1 assistance pursuant to this paragraph is
2 provided shall be subject to the provisions
3 of subparagraphs (A) and (D) of para-
4 graph (1) of this subsection. Notwith-
5 standing the preceding sentence, an eligible
6 family that is a low-income family shall not
7 be required to pay as rent for a dwelling
8 unit assisted pursuant to this paragraph
9 an amount that exceeds 30 percent of the
10 family's adjusted monthly income.

11 “(iv) INCOME ELIGIBILITY.—For pur-
12 poses of income targeting requirements
13 under section 16 of the United States
14 Housing Act of 1937 (42 U.S.C. 1437n),
15 tenants initially assisted under this para-
16 graph shall not be considered new tenants.

17 “(E) REQUIRED DETERMINATIONS.—As a
18 condition of entering into a contract pursuant
19 to this paragraph, the Secretary shall have de-
20 termined, pursuant to standards established by
21 the Secretary and before entering into such
22 contract, that—

23 “(i) the housing to be assisted under
24 the contract is economically viable; and

1 “(ii)(I) there is a significant demand
2 for the housing;

3 “(II) the housing will contribute to a
4 community revitalization plan or to
5 deconcentrating poverty and expanding
6 housing and economic opportunities; or

7 “(III) the continued affordability of
8 the housing otherwise is an important
9 asset to the community.

10 The Secretary may delegate the authority to
11 make the determination under this subpara-
12 graph to the public housing agency or project-
13 based contract administrator that would admin-
14 ister project-based assistance for such project.
15 Such public housing agency or project-based
16 contract administrator shall apply such stand-
17 ards as the Secretary shall establish in making
18 such determination.

19 “(F) TIMING OF REQUEST.—

20 “(i) PROJECTS FOR WHICH REQUEST
21 IS MADE BEFORE ELIGIBILITY EVENT.—In
22 the case of a project eligible for assistance
23 under subparagraph (C)(i) that is re-
24 quested prior to the occurrence of the eligi-
25 bility event, a contract for assistance pur-

1 suant to this paragraph shall be provided
2 upon the occurrence of the eligibility event.

3 “(ii) REQUEST MADE AFTER
4 ISSUANCE OF ENHANCED VOUCHERS.—In
5 the case of a project eligible for assistance
6 under subparagraph (C)(ii) that is re-
7 quested after the issuance of enhanced
8 voucher assistance for the project, a con-
9 tract for assistance pursuant to this para-
10 graph shall be provided only—

11 “(I) if the eligibility event for the
12 project occurred before the date of the
13 enactment of the Housing Preserva-
14 tion and Tenant Protection Act of
15 2010 and a request for such assist-
16 ance is made within 12 months after
17 such date of enactment (or such
18 longer period as the Secretary may
19 permit to facilitate preservation of the
20 project as affordable housing);

21 “(II) if the project is sold or oth-
22 erwise transferred and the new owner
23 requests such assistance within 12
24 months (or such longer period as the
25 Secretary may permit to facilitate

1 preservation of the project as afford-
2 able housing) of such purchase; or

3 “(III) in such other cir-
4 cumstances as the Secretary may de-
5 termine are necessary or appropriate
6 to facilitate preservation of the project
7 as affordable.

8 Assistance for projects eligible pursuant to
9 subparagraph (C)(ii) may only be provided
10 as project-based preservation voucher as-
11 sistance under subparagraph (B)(i). Such
12 contract shall cover all dwelling units in
13 the project that are occupied by tenants re-
14 ceiving enhanced voucher assistance at the
15 time the contract is effective, plus any ad-
16 ditional units as may be approved for the
17 project pursuant to subparagraph
18 (D)(ii).”.

19 (b) PHA PROJECT-BASED VOUCHER ASSISTANCE.—
20 Paragraph (13) of section 8(o) of the United States Hous-
21 ing Act of 1937 (42 U.S.C. 1437f(o)(13)) is amended by
22 adding at the end the following new subparagraph:

23 “(N) PRESERVATION ASSISTANCE.—

24 “(i) AUTHORITY.—Project-based
25 voucher assistance in accordance with this

1 subparagraph shall be provided for projects
2 eligible for such assistance pursuant to
3 subsection (t)(4).

4 “(ii) AUTHORITY FOR HIGHER
5 RENTS.—At the request of the owner of a
6 multifamily housing project for a contract
7 for assistance in accordance with this sub-
8 paragraph to establish rents at levels above
9 those permitted by subparagraph (H) of
10 this paragraph, a public housing agency
11 may request, and the Secretary may ap-
12 prove, higher unit rents if necessary to
13 preserve housing opportunities that further
14 the purposes of subsection (t)(4)(E).

15 “(iii) PROJECTS IN MULTIPLE PHA
16 JURISDICTIONS.—If the Secretary has not
17 entered into a contract with a public hous-
18 ing agency to provide enhanced voucher as-
19 sistance under subsection (t) for the
20 project at the time the owner of a multi-
21 family housing project requests assistance
22 in accordance with this subparagraph, and
23 the project is located within the jurisdic-
24 tion for the program under this subsection
25 of more than one public housing agency, in

1 determining which agency will administer
2 such assistance, the Secretary shall—

3 “(I) consider the ratio of the
4 number of vouchers to be awarded
5 under this subparagraph and of other
6 project-based vouchers administered
7 under this paragraph to the total
8 number of vouchers administered by
9 an agency; and

10 “(II) among other factors, pro-
11 vide preference to an agency for which
12 the total number of project-based
13 vouchers administered under this
14 paragraph, including vouchers to be
15 awarded pursuant to this subpara-
16 graph, would not exceed 50 percent of
17 the total number of all vouchers to be
18 administered by the agency after such
19 award.

20 The Secretary shall establish guidelines for
21 determining which agency will administer
22 assistance if a unit is not located within
23 the jurisdiction of any public housing agen-
24 cy that administers vouchers.

1 “(iv) INAPPLICABILITY OF GOALS.—
2 Subparagraph (C) shall not apply to a
3 housing assistance payment contract pur-
4 suant to this subparagraph.

5 “(v) DISREGARD OF ASSISTANCE
6 UNDER PERCENTAGE LIMITATION.—
7 Amounts provided pursuant to this sub-
8 paragraph shall not be considered for pur-
9 poses of calculating the limitation under
10 subparagraph (B).

11 “(vi) INAPPLICABILITY OF INCOME-
12 MIXING REQUIREMENT.—Subparagraph
13 (D) shall not apply with respect to a hous-
14 ing assistance payments contract pursuant
15 to this subparagraph.”.

16 **SEC. 105. PRESERVATION OF STATE-FINANCED AFFORD-**
17 **ABLE HOUSING.**

18 (a) MAXIMUM CONTRACT TERM.—In the case of a
19 State housing finance agency that has entered into a hous-
20 ing assistance payments contract with the owner of a
21 housing project for project-based rental assistance under
22 section 8 of the United States Housing Act of 1937 (42
23 U.S.C. 1437f), using the November 1975 version of form
24 HUD 52645A of the Department of Housing and Urban
25 Development, under the Section 8 Housing Assistance

1 Payment Program for State Housing Finance and Devel-
2 opment Agencies, if such contract provides that the max-
3 imum total term of the contract for any dwelling unit shall
4 not exceed a period terminating on the date of the last
5 payment of principal due on the permanent financing, the
6 Secretary of Housing and Urban Development shall treat
7 such provision as providing for a maximum term extending
8 to the originally scheduled maturity date of the permanent
9 financing, without regard to any prepayment of such per-
10 manent financing.

11 (b) AMENDMENT TO MARK-TO-MARKET PROVI-
12 SIONS.—Section 524 of the Multifamily Assisted Housing
13 Reform and Affordability Act of 1997 is amended—

14 (1) by redesignating subsection (g) as sub-
15 section (i); and

16 (2) by inserting after subsection (f) the fol-
17 lowing new subsection:

18 “(g) STATE HOUSING AGENCY CONTRACTS.—

19 “(1) RENT ADJUSTMENTS FOR EXTENDED CON-
20 TRACTS.—In the case of a contract for project-based
21 assistance under section 8 of the United States
22 Housing Act of 1937 pursuant to the State Housing
23 Agencies program governed by part 883 of the Sec-
24 retary’s regulations (24 C.F.R. 883), the provisions
25 of this section authorizing the increase of rent levels

1 to comparable market rents shall apply upon the ex-
2 piration of any contract term, notwithstanding the
3 renewal provisions of the contract. If, at any time
4 during the five-year period ending upon the final ex-
5 piration date of any such contract, the owner of the
6 housing project assisted under the contract enters
7 into a binding commitment to renew the contract at
8 the rent levels authorized under subsection (a)(4)(A)
9 for an additional five-year term beginning upon the
10 final expiration of the contract, the annual rent ad-
11 justment during such five-year period ending upon
12 such final expiration date may be to such rent levels.

13 “(2) PROJECTS WITH DEBT FINANCING .—In
14 the case of a contract for project-based assistance
15 under section 8 for a project with debt financing
16 provided by a State housing agency or local housing
17 authority, with the approval of the State housing
18 agency or local authority, the owner may terminate
19 the contract and enter into a new contract for
20 project-based assistance under this section for a
21 term of 20 years, subject to the availability of
22 amounts provided by appropriation Acts, but only if
23 the owner enters into an enforceable commitment to
24 preserve the affordability of the project for not fewer
25 than 55 years from the date of such contract, sub-

1 ject to the continued provision of rental assistance
2 under section 8 or a comparable program.”.

3 **SEC. 106. PRESERVATION EXCHANGE PROGRAM.**

4 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
5 of Housing and Urban Development shall carry out a pres-
6 ervation exchange program under this section to provide
7 for the transfer of preservation projects to purchasers who
8 agree to maintain the projects for use for affordable hous-
9 ing.

10 (b) PARTICIPATION.—

11 (1) ELECTION.—The Secretary shall provide for
12 owners of preservation projects to elect, in accord-
13 ance with such procedures as the Secretary shall es-
14 tablish, to participate in the preservation exchange
15 program under this section.

16 (2) TRANSFER OF PRESERVATION PROJECTS.—
17 A selling owner of a preservation project may, in ac-
18 cordance with this section, enter into a contract for
19 transfer of the project to a preservation purchaser
20 during the 12-month period beginning upon such
21 election.

22 (3) OFFER PERIOD.—A selling owner of a pres-
23 ervation project shall agree not to sell, transfer, or
24 further encumber the preservation project during the
25 period of the owner’s participation in the program,

1 with respect to such project, except as otherwise pro-
2 vided in this section.

3 (4) COMPLIANCE WITH PROGRAM REQUIRE-
4 MENTS.—Except as otherwise provided by the Sec-
5 retary, a preservation project may be sold under the
6 program only if all of the parties to the transaction
7 comply with the requirements of this section.

8 (c) NOTICE OF PARTICIPATION AND CERTIFI-
9 CATION.—

10 (1) RECIPIENTS; TIMING.—Each selling owner
11 shall of a preservation project shall—

12 (A) not later than the date that is 12
13 months before the date of maturity or expira-
14 tion of the mortgage on the preservation
15 project, provide written notice of election to
16 participate in the program with respect to the
17 project to—

18 (i) the Secretary;

19 (ii) each tenant of the project

20 (iii) any public housing agency or
21 other organization representing tenants of
22 the preservation project; and

23 (iv) qualified State and local authori-
24 ties; and

1 (B) post such notice conspicuously in the
2 common area of the preservation project for the
3 duration of the 12-month period beginning on
4 the date that notice is required to be provided
5 pursuant to subparagraph (A).

6 (2) CONTENTS.—Notice required under sub-
7 paragraph (A) shall—

8 (A) include a statement that the selling
9 owner has elected to participate in the preserva-
10 tion exchange program and to seek a contract
11 for sale of the preservation project to a preser-
12 vation purchaser within the 12-month period
13 following the date of the notice, or within such
14 other time period as permitted by this section;

15 (B) clearly identify the preservation
16 project;

17 (C) identify, and provide contact informa-
18 tion for, the selling owner; and

19 (D) include such other information regard-
20 ing the preservation project and its potential
21 sale under the program as the Secretary may
22 require, which shall include information con-
23 cerning any applicable subsidies or restrictions
24 applicable to the preservation project.

1 (3) CERTIFICATION.—Not later than 7 days
2 after completion of all notice requirements of para-
3 graph (1) with respect to a preservation project, the
4 selling owner shall certify in writing to the Secretary
5 that notice to all recipients has been provided as re-
6 quired under this section.

7 (4) NOTIFICATION TO CONGRESS AND PUB-
8 LIC.—Not later than 14 days after certification pur-
9 suant to paragraph (3) is provided to the Secretary
10 regarding a preservation project, the Secretary
11 shall—

12 (A) provide to the Member of the House of
13 Representatives representing the district in
14 which the project is located, and to the Mem-
15 bers of the Senate for the State in which the
16 project is located, a copy of such notice and cer-
17 tification; and

18 (B) make such notice and certification
19 publicly available at an easily identifiable World
20 Wide Web location of the Department of Hous-
21 ing and Urban Development.

22 (d) OPPORTUNITY TO PURCHASE.—

23 (1) NOTIFICATION; OFFER.—During the offer
24 period referred to in subsection (b)(3) with respect
25 to a preservation project—

1 (A) the Secretary shall post on an easily
2 identifiable World Wide Web location of the De-
3 partment of Housing and Urban Development
4 information that identifies the preservation
5 project as eligible for purchase or transfer pur-
6 suant to the preservation exchange program,
7 additional information about the property, as
8 determined by the Secretary, and the identity of
9 a contact person on behalf of the selling owner
10 who may be contacted by a potential preserva-
11 tion purchaser; and

12 (B) a potential preservation purchaser may
13 make an offer to purchase the preservation
14 project, in accordance with the requirements of
15 this section, by providing the offer, in writing,
16 to the selling owner and a copy of the offer to
17 the Secretary.

18 (2) DETERMINATION OF BONA FIDE OFFER.—
19 During the 21-day period beginning upon receipt of
20 a copy of an offer to purchase a preservation project
21 made by a potential preservation purchaser pursuant
22 to paragraph (1)(B) (in this subsection referred to
23 as the “review period”), the Secretary shall—

24 (A) review the terms of the offer to pur-
25 chase and determine whether it is a bona fide

1 preservation purchase offer meeting the require-
2 ments of subsection (e); and

3 (B) provide notice of such determination to
4 the parties.

5 If the parties do not receive such notice of such de-
6 termination from the Secretary during the review pe-
7 riod, notwithstanding subsection (i)(1), the offer
8 shall be considered for purposes of this section to be
9 a bona fide preservation purchase offer.

10 (3) TOLLING OF OTHER PERIODS.—During the
11 review period for an offer to purchase a preservation
12 project or until earlier receipt of a determination
13 from the Secretary under paragraph (2), all other
14 time periods set forth in this section shall be tolled
15 with respect to such preservation project.

16 (4) ACTION ON OFFER.—With respect to a bona
17 fide offer to purchase a preservation project made by
18 a potential preservation purchase, during the 30-day
19 period that begins upon the earlier of the receipt of
20 a determination from the Secretary under paragraph
21 (2) regarding the offer or the expiration of the re-
22 view period, the selling owner shall accept or reject
23 the offer, subject to the conditions and requirements
24 set forth in this section.

1 (5) ACCEPTED OFFER; CONTRACT.—If a selling
2 owner accepts a bona fide preservation purchase
3 offer made by a potential preservation purchaser,
4 such parties shall promptly enter into a binding con-
5 tract that reflects the terms of the accepted offer.

6 (6) DECLINED OFFER.—If a selling owner de-
7 clines to accept any bona fide preservation purchase
8 offer made to the owner, such owner shall—

9 (A) provide to the Secretary a written ex-
10 planation of the basis for its decision; and

11 (B) repay to the Secretary all funds it re-
12 ceived as a participant in the program, plus in-
13 terest at rate determined by the Secretary at
14 the time the funds were made available.

15 (e) BONA FIDE PRESERVATION PURCHASE
16 OFFER.—An offer to purchase a preservation project shall
17 constitute a bona fide preservation purchase offer meeting
18 the requirements of this subsection only if the offer—

19 (1) includes an agreement by the preservation
20 purchaser to enter into such agreements, which shall
21 be contained in the deed or other recorded instru-
22 ments for the preservation project, as specified by
23 the Secretary, that ensure that the preservation
24 project will remain affordable for very-low income
25 families for a period of not less than 40 years from

1 the date of transfer pursuant to sale under such
2 offer, utilizing all available assistance, including re-
3 newal of existing Federal assistance contracts and
4 leasing to holders of tenant-based assistance;

5 (2) includes an agreement by the preservation
6 purchaser to accept any contract for project-based
7 rental assistance applicable to the preservation
8 project, notwithstanding the transfer of the preser-
9 vation housing to the preservation purchaser, includ-
10 ing the renewal of such contract upon expiration, for
11 a period of not less than 40 years from the date of
12 transfer;

13 (3) requires that the preservation purchaser
14 execute such agreements, which shall be contained in
15 the deed or other recorded instruments for the pres-
16 ervation housing, as specified by the Secretary, that
17 ensure that the preservation project and related fa-
18 cilities will remain affordable for very-low income
19 households for a period of not less that 40 years
20 from the date of transfer, using all available assist-
21 ance, including renewal of existing Federal assist-
22 ance contracts and leasing to holders of tenant-
23 based assistance; and

24 (4) includes such other terms and conditions as
25 may be required by the Secretary.

1 (f) INCENTIVES.—Notwithstanding any other provi-
2 sion of law or regulation, the Secretary may, with respect
3 to a preservation project—

4 (1) suspend physical inspections and manage-
5 ment reviews of the project, during the period that
6 begins upon the provision to the Secretary by the
7 selling owner notice of its election to participate in
8 the program and ending upon the completion of the
9 transfer of the preservation project to a preservation
10 purchaser or termination of participation of the sell-
11 ing owner in the program;

12 (2) streamline approval of requests for prepay-
13 ment, assignment of Housing Assistance Payments
14 contracts, transfer of physical assets, and other ac-
15 tivities and functions, to facilitate the sale or trans-
16 fer under the program to a preservation purchaser;

17 (3) release project resources, in the form of re-
18 serve for replacement funds or project residual re-
19 cepts, to the selling owner for purposes related to
20 preparation of the preservation project for sale
21 under the program, applicable pre-development
22 costs, or transaction costs related to sale or transfer
23 of the preservation project under the program;

24 (4) provide advances in the form of a forgivable
25 loan for the selling owner to be used for direct

1 predevelopment and administrative costs for prepa-
2 ration of the preservation project for sale under the
3 program, and the transfer of the preservation
4 project to the preservation purchaser, but not in-
5 cluding compensation for property value beyond the
6 purchase price;

7 (5) provide grants or loans to a preservation
8 purchaser who has entered into a bona fide preserva-
9 tion purchase contact under the program with the
10 selling owner, which grant or loan funds shall be
11 used for to purchase or rehabilitate the preservation
12 project; and

13 (6) provide grants or loans pursuant to section
14 102(a) of this Act to a preservation purchaser who
15 has entered into a bona fide preservation purchase
16 contract under the program with the selling owner.

17 (g) RELEASE OF SELLING OWNER.—Upon closing of
18 the sale or transfer of the preservation project pursuant
19 to this section—

20 (1) the selling owner shall be released from obli-
21 gations with respect to the preservation project
22 under—

23 (A) the new construction, substantial reha-
24 bilitation, moderate rehabilitation, property dis-
25 position, and loan management set-aside pro-

1 grams, and any other program providing
2 project-based assistance, under section 8 of the
3 United States Housing Act of 1937 (42 U.S.C.
4 1437f);

5 (B) the below-market interest rate pro-
6 gram under paragraphs (3) and (5) of section
7 221(d)(3) of the National Housing Act (12
8 U.S.C. 1715(d));

9 (C) section 236 of the National Housing
10 Act (12 U.S.C. 1715z-1);

11 (D) section 202 of the Housing Act of
12 1959 (12 U.S.C. 1701q);

13 (E) the rent supplement program under
14 section 101 of the Housing and Urban Develop-
15 ment Act of 1965 (12 U.S.C. 1701s); or

16 (F) other Federal affordable housing pro-
17 grams, as identified by the Secretary; and

18 (2) the preservation purchaser agrees—

19 (A) to operate the preservation project in
20 accordance with the provisions of this section
21 and any agreements entered into pursuant to
22 this section; and

23 (B) to maintain any existing limits or re-
24 strictions on the amount of tenant rents, rent
25 contributions, or income eligibility of tenants, or

1 on the use of the preservation project, as re-
2 quired by the Secretary, for a period of not less
3 than 40 years from the transfer date, except
4 that rents may be increased to the extent that
5 additional project-based assistance is provided
6 by the Secretary.

7 (h) RENEWAL OF PARTICIPATION IN PROGRAM.—

8 (1) IN GENERAL.—A selling owner who has
9 participated in the program in good faith for 12
10 months and does not receive or does not reject a
11 bona fide preservation purchase offer during that
12 12-month period of participation may seek approval
13 of the Secretary to renew its participation for an ad-
14 ditional 12-month period. A request for renewal
15 under this paragraph shall be subject to the same
16 provisions of subsection (c) applicable to a notice of
17 election to participate in the program.

18 (2) TIMING.—A request for renewal may be
19 made, but shall not be required to be made, imme-
20 diately upon the expiration of the selling owner's ini-
21 tial 12-month period of participation in the program.

22 (3) APPROVAL.—The Secretary may, at the dis-
23 cretion of the Secretary, approve or reject a renewal
24 request under this subsection.. A renewal request
25 that is not accepted or rejected by the Secretary

1 during the 30-day period beginning upon receipt of
2 the request by the Secretary shall be considered for
3 purposes of this section to have been accepted.

4 (4) TERMS.—A selling owner who renews par-
5 ticipation in the program shall be subject to the re-
6 quirements and procedures for participation under
7 this section for the initial term of participation.

8 (i) DEFINITIONS.—For purposes of this section, the
9 following definitions shall apply:

10 (1) BONA FIDE PRESERVATION PURCHASE
11 OFFER.—The term “bona fide preservation purchase
12 offer” means an offer to purchase a preservation
13 project that has been determined by the Secretary,
14 pursuant to subsection (d)(2) to meet the require-
15 ments under subsection (e).

16 (2) ELIGIBLE JURISDICTION.—The term “eligi-
17 ble jurisdiction” means an area so designated by the
18 Secretary for purposes of this section.

19 (3) PRESERVATION CONTRACT.—The term
20 “preservation contract” means any contract for sale
21 or transfer of a preservation project pursuant to the
22 provisions of this section.

23 (4) PRESERVATION EXCHANGE PROGRAM.—The
24 terms “preservation exchange program” and “pro-
25 gram” mean the preservation exchange program au-

1 thorized by, and established pursuant to, this sec-
2 tion.

3 (5) PRESERVATION PROJECT.—The term “pres-
4 ervation project” means any multifamily housing
5 project that—

6 (A) has been specifically identified to the
7 Secretary by a selling owner as available for
8 purchase or transfer under the preservation ex-
9 change program;

10 (B) is located in an eligible jurisdiction;

11 (C) is financed by a loan or mortgage that
12 will mature or expire within 5 years of the elec-
13 tion by the selling owner to participate in the
14 preservation exchange program; and

15 (D) is insured or assisted under—

16 (i) the new construction, substantial
17 rehabilitation, moderate rehabilitation,
18 property disposition, and loan management
19 set-aside programs, or any other program
20 providing project-based assistance, under
21 section 8 of the United States Housing Act
22 of 1937 (42 U.S.C. 1437f);

23 (ii) the below-market interest rate
24 program under paragraphs (3) and (5) of

1 section 221(d)(3) of the National Housing
2 Act (12 U.S.C. 1715(d));

3 (iii) section 236 of the National Hous-
4 ing Act (12 U.S.C. 1715z-1);

5 (iv) section 202 of the Housing Act of
6 1959 (12 U.S.C. 1701q);

7 (v) the rent supplement program
8 under section 101 of the Housing and
9 Urban Development Act of 1965 (12
10 U.S.C. 1701s); or

11 (vi) any other Federal affordable
12 housing program, as identified by the Sec-
13 retary.

14 (6) PRESERVATION PURCHASER.—The term
15 “preservation purchaser” means any person or enti-
16 ty that acquires a preservation project pursuant to
17 an agreement to participate in the preservation ex-
18 change program.

19 (7) SECRETARY.—The term “Secretary” means
20 the Secretary of Housing and Urban Development.

21 (8) SELLING OWNER.—The term “selling
22 owner” means, with respect to a preservation
23 project, the person or entity that owns the project
24 and that has elected to participate in the preserva-
25 tion exchange program with respect to such project.

1 (j) EFFECT OF PARTICIPATION.—During the time
2 that the owner is participating in the preservation ex-
3 change program with respect to a preservation project,
4 such owner and such project shall not be subject to the
5 requirements under section 107 of this Act.

6 (k) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Secretary such
8 sums as may be necessary to carry out this section, includ-
9 ing amounts for the provision of additional educational
10 services and training and technical assistance and to pro-
11 vide information to the public and to potential participants
12 in the preservation exchange program to facilitate partici-
13 pation in the program, and for other activities to promote
14 the preservation of affordable housing.

15 (l) REGULATIONS.—The Secretary shall issue any
16 regulations necessary to carry out this section.

17 **SEC. 107. FEDERAL FIRST RIGHT OF REFUSAL.**

18 (a) NOTICE OF TERMINATION OF AFFORDABILITY
19 RESTRICTIONS.—

20 (1) NOTICE OF TERMINATION.—

21 (A) REQUIREMENT.—Except as provided
22 in subparagraph (D), an owner of covered hous-
23 ing shall provide written notice under subpara-
24 graph (B) of any termination of the afford-
25 ability restrictions affecting the covered hous-

1 ing, not later than one year, but no earlier than
2 three years, before such termination to—

3 (i) all tenants and the resident coun-
4 cil, if any, of the covered housing;

5 (ii) the State housing agency or com-
6 parable State agency of the State in which
7 the housing is located; and

8 (iii) the Secretary.

9 Nothing in this section shall prohibit an owner
10 from taking actions to terminate an afford-
11 ability restriction during any notice period
12 under this section; except that an owner shall
13 comply with all of the notice terms and restric-
14 tions pursuant to paragraphs (2) and (3).

15 (B) CONTENTS.—Written notice under this
16 subparagraph with respect to covered housing
17 shall include—

18 (i) the address of the covered housing;

19 (ii) the name and address of the
20 owner;

21 (iii) a statement identifying that an
22 affordability restriction may terminate;

23 (iv) the date on which each afford-
24 ability restriction may terminate; and

1 (v) such other information as may be
2 required by the Secretary.

3 (C) SINGLE NOTICE COVERING MULTIPLE
4 TERMINATIONS.—In any case in which more
5 than one termination is scheduled to occur
6 within a 12-month period, an owner may pro-
7 vide a single written notice covering all such
8 terminations, but only if the notice is provided
9 in accordance with subparagraph (A) at least
10 one year before the earliest such termination
11 and the notice otherwise complies with this
12 paragraph.

13 (D) TRANSITION.—Subparagraph (A) shall
14 not apply with respect to covered housing sub-
15 ject to an affordability restriction that, as of
16 the effective date under subsection (j), has less
17 than two years of applicability remaining. Such
18 covered housing shall be subject to paragraph
19 (5).

20 (2) NOTICE OF INTENT TO COMPLETE TERMI-
21 NATION.—An owner of covered housing shall not
22 complete a termination or allow a termination to
23 occur with respect to such housing unless, not later
24 than one year before the completion of the last ter-
25 mination event affecting the covered housing, the

1 owner provides the entities identified in paragraph
2 (1) with written notice of intent to complete such
3 termination. The notice shall include—

4 (A) the address of the covered housing;

5 (B) the name and address of the owner;

6 (C) the date on which the owner intends to
7 complete termination; and

8 (D) such other information as may be re-
9 quired by the Secretary.

10 (3) OPPORTUNITY FOR PURCHASE BY SEC-
11 RETARY.—Except as provided in subsection (d), an
12 owner of covered housing shall not sell the covered
13 housing at any time before—

14 (A) providing notice, in writing, to the par-
15 ties identified in paragraph (1) of the owner's
16 intention to sell the property; and

17 (B) offering the Secretary the opportunity
18 to purchase the property pursuant to subsection
19 (b).

20 (4) DELIVERY OF NOTICE.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), any notice required by this
23 subsection shall be deemed to have been pro-
24 vided when delivered in person or mailed by cer-
25 tified or registered mail, return receipt re-

1 requested, to the party to whom notice is re-
2 quired.

3 (B) NOTICE TO TENANT.—With respect to
4 any notice to tenants required by this sub-
5 section, any such notice shall be deemed to have
6 been provided upon the when—

7 (i) the notice is delivered in hand to
8 the tenant or an adult member of the ten-
9 ant’s household;

10 (ii) the notice is sent by first class
11 mail; or

12 (iii) a copy is left in or under the door
13 of the tenant’s dwelling unit.

14 (5) TRANSITION.—Notwithstanding paragraph
15 (1) of this subsection, an owner of covered housing
16 who, on the effective date under subsection (j), has
17 less than one year remaining before the date when
18 the affordability restriction will cease to apply to
19 such housing, shall not be required to give the one-
20 year notice required by paragraph (1), but shall pro-
21 vide such notice within 90 days after the effective
22 date under subsection (j). Notwithstanding para-
23 graph (2) of this subsection, an owner who, on the
24 effective date under subsection (j), has less than one
25 year remaining before a termination shall not be re-

1 quired to give the one-year notice required by para-
2 graph (2), but shall provide such notice within 90
3 days after such effective date.

4 (6) EFFECT OF OFFER, PURCHASE, OR SALE.—

5 The notice requirements of this subsection shall not
6 be affected by the status of an offer, purchase con-
7 tract, or sale under subsection (b) or (c).

8 (b) RIGHT OF SECRETARY TO MAKE OFFER.—

9 (1) OPPORTUNITY FOR PURCHASE BY SEC-
10 RETARY.—An owner of covered housing shall offer
11 the Secretary an opportunity to purchase the cov-
12 ered housing, in accordance with this subsection, be-
13 fore entering into any agreement to sell such hous-
14 ing to a third party. This paragraph may not be
15 construed to establish any obligation on the part of
16 an owner of covered housing to enter into an agree-
17 ment to sell such housing to the Secretary.

18 (2) ASSIGNEE OF SECRETARY.—

19 (A) AUTHORITY TO SELECT.—The Sec-
20 retary may select an assignee to act on behalf
21 of the Secretary under this subsection as the
22 purchaser of covered housing and shall give the
23 owner written notice of any assignee selected.

24 (B) AGREEMENT.— The Secretary shall
25 enter into a written agreement with any as-

1 signee selected, which shall provide that the as-
2 signee, and any of its successors or assigns,
3 agree to preserve the affordability of the cov-
4 ered housing. Upon entering into such an
5 agreement, the assignee shall assume all rights
6 and responsibilities of the Secretary as a pro-
7 spective purchaser under this subsection and
8 subsection (c).

9 (C) REVOCATION.—At any time before a
10 sale of covered housing under this subsection or
11 subsection (d), the Secretary may revoke the se-
12 lection and designation of an assignee with re-
13 spect to the covered housing pursuant to this
14 paragraph and assume the rights and respon-
15 sibilities in the Secretary's own capacity or se-
16 lect a new assignee and enter into an agreement
17 under subparagraph (B) with such assignee. No
18 action under this subparagraph shall operate to
19 extend or alter any time periods for perform-
20 ance under this section or in any purchase con-
21 tract entered into pursuant to this section.

22 (3) PURCHASE OFFER.—

23 (A) TIMING.—During the 90-day period
24 with respect to covered housing that begins
25 upon receipt of notice pursuant to subsection

1 (a)(3) of the owner's intention to sell the cov-
2 ered housing, the Secretary may submit an
3 offer to the owner to purchase the covered
4 housing.

5 (B) FAILURE TO SUBMIT.—Failure by the
6 Secretary to submit an offer to purchase cov-
7 ered housing during the period under subpara-
8 graph (A) shall constitute an irrevocable waiver
9 of the Secretary's rights under this subsection
10 and the owner may sell the covered housing
11 subject to subsection (c).

12 (C) ACCEPTANCE.—If the owner accepts
13 the initial or any revised offer of the Secretary,
14 the owner and the Secretary shall enter into
15 such other agreements as are necessary and ap-
16 propriate to complete the purchase. If the
17 owner and the Secretary have not entered into
18 an agreement for the Secretary to purchase the
19 property within 90 days after receipt of the no-
20 tice pursuant to subsection (a)(3), the owner
21 may enter into an agreement to sell the prop-
22 erty to a purchaser of the owner's choice, sub-
23 ject to subsection (c).

24 (4) AVAILABILITY OF DOCUMENTS.—

1 (A) REQUIREMENT.—If the Secretary
2 makes a request pursuant to this subparagraph
3 to the owner of covered housing at any time
4 after notice required under subsection (a)(1)
5 has been provided, the owner shall, within 10
6 days after receiving the request, make the docu-
7 ments described in subparagraph (B) available
8 to the Secretary for review and photocopying
9 during normal business hours at the owner’s
10 principal place of business or at a commercial
11 photocopying facility.

12 (B) COVERED DOCUMENTS.—The docu-
13 ments described in this subparagraph with re-
14 spect to covered housing shall include—

15 (i) any existing architectural plans
16 and specifications of the covered housing;

17 (ii) itemized lists of monthly operating
18 expenses and capital expenditures for the
19 covered housing in each of the two pre-
20 ceding calendar years;

21 (iii) any capital needs studies or mar-
22 ket studies for the covered housing that
23 have been submitted to a Federal, State,
24 or local agency in the preceding three
25 years;

1 (iv) utility consumption rates for the
2 covered housing for preceding year;

3 (v) the last two audited annual finan-
4 cial statements and physical inspection re-
5 ports for the covered housing filed with
6 Federal, State, or local agencies;

7 (vi) the most recent rent roll for the
8 covered housing showing then-current va-
9 cancies and rent arrearages;

10 (vii) a statement of the approximate
11 annualized vacancy rate for the covered
12 housing for each of the two preceding cal-
13 endar years; and

14 (viii) any other documents relating to
15 the covered housing that the Secretary
16 considers appropriate.

17 (C) PROTECTION OF INFORMATION.—Doc-
18 uments obtained pursuant to a request under
19 this paragraph shall not be considered public
20 records, and the Secretary shall not make such
21 documents available to the public without the
22 written consent of the owner or pursuant to a
23 court order, except that disclosure of such docu-
24 ments may be made to potential funding
25 sources, regulatory agencies, or agents or con-

1 sultants of the Secretary in connection with a
2 purchase transaction pursuant to this sub-
3 section, subject to appropriate confidentiality
4 agreements.

5 (5) INSPECTIONS.—

6 (A) IN GENERAL.—Subject to execution of
7 an access and confidentiality agreement in ac-
8 cordance with subparagraph (B), upon request
9 by the Secretary and with appropriate notice,
10 the owner shall permit reasonable inspections of
11 the dwelling units, building systems, common
12 areas, and common grounds of the covered
13 housing by agents, consultants, and representa-
14 tives of the Secretary or the assignee of the
15 Secretary, including inspections related to envi-
16 ronmental, engineering, structural, or zoning
17 matters.

18 (B) ACCESS AND CONFIDENTIALITY
19 AGREEMENT.—An access and confidentiality
20 agreement in accordance with this subpara-
21 graph is an agreement, entered into by the
22 owner of covered housing and any agents, con-
23 sultants, or representatives of the Secretary or
24 the assignee of the Secretary, in a form ap-
25 proved by the Secretary, with respect to such

1 matters as insurance to be carried by the in-
2 spectors of the covered housing, indemnities of
3 the owner, restrictions on invasive testing, res-
4 toration requirements, the timing of such in-
5 spections, and the requirement to maintain con-
6 fidentiality with respect to all matters discov-
7 ered.

8 (6) NOTIFICATION TO TENANTS.— Not later
9 than 30 days after the Secretary submits an offer to
10 purchase the covered housing pursuant to subsection
11 (c), the Secretary shall notify tenants in the housing
12 development of its plans.

13 (c) FIRST RIGHT OF REFUSAL.—

14 (1) SALE TO THIRD PARTY.—An owner of cov-
15 ered housing may execute a purchase contract with
16 a third party to sell the covered housing pursuant to
17 this subsection during the one-year period that be-
18 gins upon the date on which notice for such housing
19 was provided to the Secretary pursuant to sub-
20 section (a)(3). After such period expires, the owner
21 may not sell the housing without providing notice of
22 such sale in accordance with subsection (a)(3)(A).

23 (2) MATCHING OF THIRD PARTY OFFER BY
24 SECRETARY OR OTHER PARTY.—

1 (A) NOTICE OF THIRD PARTY PURCHASE
2 CONTRACT.—Upon execution of a third party
3 purchase contract for covered housing, the
4 owner shall, within 7 days, submit a copy of the
5 contract to the Secretary, the resident council,
6 if any, all tenants, and the State housing agen-
7 cy.

8 (B) PURCHASE BY SECRETARY AND AS-
9 SIGNMENT OF RIGHT TO MATCH OFFER.—In
10 the case of covered housing for which a third
11 party purchase contract is executed, the Sec-
12 retary may—

13 (i) elect to purchase the housing
14 under a contract under subparagraph (D);
15 or

16 (ii) assign the right to match the
17 third party offer for the covered housing
18 under a contract under subparagraph (D).

19 If the Secretary elects to take action under
20 clause (i) or (ii), the Secretary shall take such
21 action, or execute such other agreement as is
22 acceptable to the owner and the Secretary, dur-
23 ing the 30-day period that begins upon receipt
24 by the Secretary of a copy of the third party
25 purchase contract.

1 (C) EXTENSION OF TIME PERIODS.—The
2 time periods set forth in this paragraph may be
3 extended by agreement between the owner and
4 the Secretary.

5 (D) TERMS OF MATCHING CONTRACT.—
6 The purchase contract between the owner and
7 the Secretary or the Secretary's assignee pursu-
8 ant to this paragraph shall contain the same
9 material terms and conditions as the executed
10 third party purchase contract, except that the
11 purchase contract between the owner and the
12 assignee shall provide at least the following
13 terms:

14 (i) AMOUNT OF EARNEST MONEY DE-
15 POSIT.—The amount of the earnest money
16 deposit shall not exceed the lesser of—

17 (I) the amount of the deposit
18 provided under the third party pur-
19 chase contract;

20 (II) 2 percent of the sale price;

21 or

22 (III) \$250,000.

23 (ii) ESCROW OF EARNEST MONEY DE-
24 POSIT.—The earnest money deposit shall
25 be held under commercially reasonable

1 terms by an escrow agent selected jointly
2 by the owner and the Secretary or the as-
3 signee of the Secretary.

4 (iii) REFUNDING OF EARNEST MONEY
5 DEPOSIT.—The earnest money deposit
6 shall be refundable for not less than 90
7 days from the date of execution of the pur-
8 chase contract or such longer period as
9 provided for in the third party purchase
10 contract; except that if the owner unrea-
11 sonably delays the buyer's ability to con-
12 duct due diligence during the 90-day pe-
13 riod, the earnest money deposit shall con-
14 tinue to be refundable for a period greater
15 than 90 days.

16 (iv) TIME FOR PERFORMANCE.—The
17 time for performance shall be no sooner
18 than 240 days after the date of the execu-
19 tion of the purchase contract, or such later
20 date provided for in the third party pur-
21 chase contract.

22 (3) FAILURE TO EXECUTE PURCHASE CON-
23 TRACT BY SECRETARY OR ASSIGNEE.—If the Sec-
24 retary, or the assignee, fails to execute a proposed
25 purchase contract during the 30-day period under

1 paragraph (2)(B) (as such period may be extended
2 pursuant to paragraph (2)(C)), the owner may, dur-
3 ing the 2-year period beginning upon expiration of
4 such 30-day (or extended) period, complete a sale of
5 the owner's covered housing to a third party, except
6 as provided in paragraph (5). After the expiration of
7 such 2-year period, the owner may not sell the hous-
8 ing without, after such expiration, complying with
9 paragraph (3) of subsection (a) and with this sub-
10 section.

11 (4) FAILURE TO PERFORM PURCHASE CON-
12 TRACT BY SECRETARY OR ASSIGNEE.—If the Sec-
13 retary, or the assignee, executes the proposed pur-
14 chase contract as provided in paragraph (2) but fails
15 to perform as provided in the executed purchase con-
16 tract, the owner may, during the 2-year period be-
17 ginning upon the date on which the executed pur-
18 chase contract terminated, complete a sale of the
19 owner's covered housing to a third party. After the
20 expiration of such 2-year period, the owner may not
21 sell the housing without, after such expiration, com-
22 plying with paragraph (3) of subsection (a) and with
23 this subsection.

24 (5) COUNTEROFFER.—

1 (A) OPPORTUNITY.—After receipt of the
2 third party purchase contract provided for in
3 paragraph (2), the Secretary may, during the
4 30-day period under paragraph (2), make a
5 counteroffer by executing and submitting to the
6 owner an amended proposed purchase contract,
7 or by assigning the right to make such a
8 counteroffer to an assignee.

9 (B) ASSIGNMENT.—If the Secretary as-
10 signs the right under subparagraph (A) to
11 make a counteroffer, the assignee may, during
12 the 15-day period that begins upon such assign-
13 ment or the remaining period remaining in the
14 30-day period under paragraph (2), whichever
15 is longer, make such a counteroffer.

16 (C) FAILURE BY SECRETARY TO EXECUTE
17 OR ASSIGN.— Failure by the Secretary to exe-
18 cute or assign the purchase contract or submit
19 a counteroffer during the 30-day period under
20 paragraph (2) shall constitute a waiver of the
21 Secretary's right to purchase under this sub-
22 section.

23 (D) PERIOD FOR OWNER RESPONSE.—If
24 the Secretary or an assignee submits a
25 counteroffer pursuant to this paragraph, the

1 owner may, during the 30-day period beginning
2 upon receipt of the amended proposed purchase
3 contract, execute the amended proposed pur-
4 chase contract or reject the counteroffer in
5 writing.

6 (E) REJECTION BY OWNER.— If the owner
7 rejects the counteroffer, the owner may, during
8 the 2-year period beginning on the date of such
9 rejection, complete a sale of the covered housing
10 to a third party. If such sale is upon economic
11 terms and conditions that are the same as, or
12 materially more favorable to the proposed pur-
13 chaser than, the economic terms and conditions
14 in the proposed purchase contract offered by
15 the Secretary or assignee in the Secretary's or
16 assignee's counteroffer, the owner shall, within
17 7 days after such execution, provide a copy of
18 the new third party purchase contract, along
19 with a proposed purchase contract for execution
20 by the Secretary or assignee, which shall con-
21 tain the same terms and conditions as the exe-
22 cuted third party purchase contract. The Sec-
23 retary or assignee may, during the 30-day pe-
24 riod beginning upon receipt of the third party
25 purchase contract and the proposed purchase

1 contract, execute the proposed purchase con-
2 tract or such other agreement as is acceptable
3 to the owner and the Secretary or assignee.

4 (6) PROVISION OF THIRD PARTY CONTRACT TO
5 SECRETARY.—If any owner executes any purchase
6 contract with a third party during any of the 2-year
7 periods referred to paragraph (3), (4), or (5), the
8 owner shall—

9 (A) not later than 7 after such execution,
10 provide the Secretary with a copy of the new or
11 amended purchase contract executed with re-
12 spect to the covered housing; and

13 (B) not later than 7 days after the record-
14 ing or filing of the deed or other document with
15 the registry of deeds or the registry district of
16 the land court of the county in which the af-
17 fected covered housing is located, provide the
18 Secretary with a copy of any such deed or other
19 document transferring the owner's interest in
20 the covered housing.

21 (7) CERTIFICATION BY OWNER.—Any third
22 party purchase contract, amended third party pur-
23 chase contract, deed, or any other document trans-
24 ferring the owner's interest in covered housing shall
25 include a certification by the owner that the docu-

1 ment is accurate and complete and that there are no
2 other agreements between the owner and the third
3 party buyer, or an affiliate of either, with respect to
4 the sale of the covered housing.

5 (d) EXEMPTIONS.—

6 (1) INAPPLICABILITY OF FIRST RIGHT OF RE-
7 FUSAL.—Subsection (b) and (c) shall not apply to
8 any of the following actions:

9 (A) A government taking of covered hous-
10 ing by eminent domain or a negotiated pur-
11 chase in lieu of eminent domain.

12 (B) A forced sale of covered housing pur-
13 suant to a foreclosure.

14 (C) A deed-in-lieu of foreclosure for cov-
15 ered housing.

16 (D) A proposed sale of covered housing to
17 a purchaser pursuant to terms and conditions
18 that preserve affordability, as determined by
19 the Secretary (including sales or transfers pur-
20 suant to section 106 of this Act).

21 (E) A proposed sale of covered housing—

22 (i) that the Secretary has determined
23 was not, as of the effective date under sub-
24 section (j), receiving Federal assistance nor
25 subject to regulation by any of the pro-

1 grams identified in subsection (g)(4), other
2 than the program identified in subsection
3 (g)(4)(A); and

4 (ii) under which the buyer has agreed,
5 as provided in a regulatory agreement, to
6 renew in whole, all contracts for project-
7 based assistance under section 8 of the
8 United States Housing Act of 1937 (42
9 U.S.C. 1437f) or any successor program
10 thereto; such renewal shall be subject to
11 the availability, at the time of such re-
12 newal, of such assistance to the owner on
13 economic terms and conditions that are
14 comparable to the existing project-based
15 rental assistance contract.

16 (F) A proposed sale of covered housing to
17 an affiliate of the owner that is not a termi-
18 nation, as determined by the Secretary.

19 (G) A proposed sale of covered housing
20 with respect to which the first scheduled termi-
21 nation will occur more than 15 years after the
22 date of the sale.

23 (H) A bona fide proposed sale pursuant to
24 a purchase contract in effect on the effective
25 date under subsection (j).

1 (2) REQUIREMENT TO SUBMIT REQUEST.—The
2 Secretary shall make a determination that an ex-
3 emption under subparagraph (D), (E), or (F) of
4 paragraph (1) applies only pursuant to a written re-
5 quest for such an exemption submitted by the owner
6 of the covered housing. Such a request shall include
7 the name and address of any resident council for the
8 covered housing. The Secretary shall provide a copy
9 of the Secretary’s determination under subparagraph
10 (D), (E), or (F) of paragraph (1) to the owner and
11 the resident council.

12 (e) REGULATORY AGREEMENT.—A purchase of cov-
13 ered housing by the Secretary or an assignee of the Sec-
14 retary pursuant to this section shall be subject to a regu-
15 latory agreement. Such a regulatory agreement shall not
16 contain any terms or conditions that would preclude an
17 owner or purchaser from participating in, or diminishing
18 the benefits that an owner would otherwise receive by par-
19 ticipating in the mark-to-market program of the Depart-
20 ment under Multifamily Assisted Housing Reform and Af-
21 fordability Act of 1997 (42 U.S.C. 1437f note).

22 (f) CERTIFICATE OF COMPLIANCE.—

23 (1) ISSUANCE.—An owner of covered housing
24 who has complied with subsections (a) , (b), and (c),
25 which has not resulted in a purchase by the Sec-

1 retary or the assignee of the Secretary of the cov-
2 ered housing, or which has resulted in a sale of the
3 covered housing pursuant to subsection (c), may
4 apply to the Secretary for a certificate of compliance
5 by submitting a written request for the certificate, in
6 such form and together with such documentation as
7 the Secretary shall require. The Secretary shall issue
8 the certificate of compliance within 30 days after re-
9 ceipt of the application if the Secretary determines
10 that the owner has complied with said subsections
11 (a) , (b), and (c) and such certificate shall establish
12 the owner's compliance to the satisfaction of the
13 Secretary.

14 (2) FILING.—An owner obtaining a certificate
15 of compliance with respect to covered housing shall
16 file the certificate with the registry of deeds or the
17 registry district of the land court of the county in
18 which the covered housing is located not later than
19 one year after the date of issuance.

20 (3) PROVISION TO TENANTS.— Upon request
21 by any tenant of the affected covered housing, the
22 owner shall provide a copy of the owner's request for
23 a certificate of compliance.

24 (g) RELATIONSHIP WITH OTHER LAWS.—This sec-
25 tion shall not preempt any State or local law that has es-

1 tablished a right of first refusal to preserve affordable
2 housing that is on terms and conditions that are com-
3 parable to this section, establishes such a right after the
4 effective date under subsection (j). Any covered housing
5 located in a State or locality with such a right of first
6 refusal shall not be subject to this section.

7 (h) DEFINITIONS.—For the purposes of this section,
8 the following definitions shall apply:

9 (1) AFFILIATE.—The term “affiliate” means an
10 entity owned or controlled by an owner or under
11 common control with the owner.

12 (2) AFFORDABILITY RESTRICTION.—The term
13 “affordability restriction” means, with respect to
14 covered housing, a limit on rents that an owner may
15 charge for occupancy of a rental unit in the housing
16 or a limit on tenant income for persons or families
17 seeking to qualify for admission to such housing.

18 (3) ASSIGNEE.—The term “assignee” means a
19 State agency, local or regional housing authority,
20 nonprofit or for profit corporation, or other entity
21 qualified to do business in the affected State, that
22 is selected by the Secretary to operate covered hous-
23 ing that is decent, safe, and sanitary affordable
24 housing in a manner to be determined by the Sec-
25 retary.

1 (4) COVERED HOUSING.—The term “covered
2 housing” means a housing unit or development that
3 receives Federal assistance under any of the fol-
4 lowing programs or provisions:

5 (A) The programs under section 8 of the
6 United States Housing Act of 1937 (42 U.S.C.
7 1437f) for new construction, substantial reha-
8 bilitation, moderate rehabilitation, property dis-
9 position, and loan management set-aside, and
10 any other Federal program providing project-
11 based rental assistance.

12 (B) The Federal program for low-income
13 housing tax credits under section 42 of the In-
14 ternal Revenue Code of 1986 (26 U.S.C. 42).

15 (C) The program for rent supplement as-
16 sistance under section 101 of the Housing and
17 Urban Development Act of 1965 (12 U.S.C.
18 1701s).

19 (D) Section 202 of the Housing Act of
20 1959 (12 U.S.C. 1701q).

21 (E) The below-market interest rate pro-
22 gram under paragraphs (3) and (5) of
23 221(d)(3) of the National Housing Act (12
24 U.S.C. 1715(d)(3) and (5)).

1 (F) Section 221(d)(4) of the National
2 Housing Act (12 U.S.C. 1715(d)(4)), to the ex-
3 tent the project's rents are restricted pursuant
4 to a government agreement.

5 (G) Section 236 of the National Housing
6 Act (12 U.S.C. 1715z-1), and any comparable
7 State program providing for interest reduction
8 payments or rental assistance payments, or
9 both.

10 (H) Sections 514, 515, and 516 of the
11 Housing Act of 1949 (42 U.S.C. 1484, 1485,
12 and 1486).

13 (I) Section 521 of the Housing Act of
14 1949 (42 U.S.C. 1490a).

15 (J) The urban development action grant
16 program under section 119 of the Housing and
17 Community Development Act of 1974 (42
18 U.S.C. (42 U.S.C. 5318), to the extent that the
19 affordability of dwelling units subject to such
20 program are restricted pursuant to a govern-
21 ment agreement.

22 (K) The rental development grant program
23 under section 17(d) of the United States Hous-
24 ing Act of 1937 (42 U.S.C. 1437o), as in effect
25 before October 1, 1989, to the extent that rents

1 of a project assisted under such program are
2 restricted pursuant to a government agreement.

3 (5) DEPARTMENT.—The term “Department”
4 means the Department of Housing and Urban De-
5 velopment.

6 (6) LOW-INCOME FAMILY.—The term “low-in-
7 come family” has the meaning given such term in
8 section 3(b) of the Unites States Housing Act of
9 1937 (42 U.S.C. 1437a(b)).

10 (7) OWNER.—The term “owner” means, with
11 respect to covered housing, the person, firm, part-
12 nership, corporation, trust, organization, limited li-
13 ability company, or other entity, or its successors or
14 assigns, that holds title to the housing.

15 (8) PREPAYMENT.—The term “prepayment”
16 means—

17 (A) the payment in full, or the refinancing,
18 of a federally-insured or federally-held mortgage
19 loan indebtedness prior to the original maturity
20 date,

21 (B) the voluntary cancellation of mortgage
22 insurance on covered housing, or

23 (C) the payment in full of a government
24 contract,

1 any of which would have the effect of removing (i)
2 the affordability restrictions applicable to covered
3 housing, or (ii) a requirement to renew any such af-
4 fordability restrictions

5 (9) PURCHASE CONTRACT.—The term “pur-
6 chase contract” means a binding written agreement
7 under which an owner agrees to sell covered housing
8 including, without limitation, a purchase and sale
9 agreement, contract of sale, purchase option, or
10 other similar instrument.

11 (10) RESIDENT COUNCIL.—

12 (A) IN GENERAL.—The term “resident
13 council” means, with respect to covered hous-
14 ing, any incorporated nonprofit organization or
15 association that—

16 (i) is representative of the residents of
17 the covered housing;

18 (ii) adopts written procedures pro-
19 viding for the election of officers on a reg-
20 ular basis; and

21 (iii) has a democratically elected gov-
22 erning board, elected by the residents of
23 the covered housing.

24 (B) LIMITATION.—No owner of covered
25 housing or other third party shall be required

1 to ascertain an organization's or association's
2 compliance with the requirements of subpara-
3 graph (A).

4 (11) SALE.—

5 (A) IN GENERAL.—The term “sale” means
6 an act by which an owner conveys, transfers, or
7 disposes property by deed or otherwise, whether
8 through a single transaction, or a series of
9 transactions, during a 2-year period.

10 (B) LIMITATION.—Such term does not in-
11 clude disposition of covered housing by an
12 owner to an affiliate of such owner.

13 (12) SECRETARY.—The term “Secretary”
14 means the Secretary of Housing and Urban Develop-
15 ment.

16 (13) STATE HOUSING AGENCY.—The term
17 “State housing agency” means the department of
18 housing or department of housing and community
19 development of a State, or any comparable State
20 agency.

21 (14) TENANT.—The term “tenant” means, with
22 respect to covered housing, a person entitled to pos-
23 session or occupancy of a rental unit within the cov-
24 ered housing, including a subtenant, lessee, and sub-
25 lessee.

1 (15) TERMINATION.—The term “termination”
2 means, with respect to covered housing, the date
3 that—

4 (A) the mortgage or loan for the housing
5 matures and the affordability restrictions appli-
6 cable to the housing because of assistance for
7 the housing pursuant to a program referred to
8 in paragraph (4) terminate with respect to the
9 housing;

10 (B) an assistance contract under a pro-
11 gram referred to in paragraph (4) for the hous-
12 ing that is not renewed, terminates, or expires;

13 (C) in the case of housing that is not eligi-
14 ble low-income housing, as such term is defined
15 in section 229 of the Low-Income Housing
16 Preservation and Resident Homeownership Act
17 of 1990 (12 U.S.C. 4119), the mortgage or
18 loan that covers the housing is prepaid or an
19 insurance contract that covers the housing ter-
20 minates; or

21 (D) use restrictions imposed with respect
22 to the housing pursuant to the Emergency Low
23 Income Housing Preservation Act of 1987 ex-
24 pire.

1 (i) REGULATIONS.—The Secretary shall issue regula-
2 tions to carry out this section not later than the effective
3 date under subsection (j). This subsection shall take effect
4 upon the date of the enactment of this Act.

5 (j) EFFECTIVE DATE.—Except as otherwise specifi-
6 cally provided in this section, this section shall take upon
7 the expiration of the 180-day period beginning on the date
8 of the enactment of this Act.

9 **SEC. 108. AMENDMENT TO LOW-INCOME HOUSING PRESER-**
10 **VATION AND RESIDENT HOMEOWNERSHIP**
11 **ACT OF 1990.**

12 Section 232 of the Low-Income Housing Preservation
13 and Resident Homeownership Act of 1990 (12 U.S.C.
14 4122) is amended—

15 (1) in subsection (a), by striking “No State”
16 and inserting “Except as provided in subsection (c),
17 no State”; and

18 (2) by adding at the end the following new sub-
19 section:

20 “(c) INAPPLICABILITY TO HOUSING FOR WHICH NO
21 PLAN OF ACTION IS EXECUTED.—Preemption under sub-
22 section (a) shall not apply to eligible low-income housing
23 for which an owner has not executed a plan of action for
24 incentives under this subtitle.

1 (1) by striking “During” and all that follows
2 through “and thereafter, the provision of” and in-
3 serting “In managing and disposing of multifamily
4 properties that are owned by the Secretary or that
5 have mortgages held by the Secretary, during any
6 fiscal year, the Secretary may provide”;

7 (2) by striking “and multifamily mortgages held
8 by the Secretary”; and

9 (3) by striking “notwithstanding any other pro-
10 vision” and inserting “consistent with other applica-
11 ble provisions”.

12 **SEC. 110. AUTHORITY FOR HUD TO ASSIGN FLEXIBLE SUB-**
13 **SIDY LOANS.**

14 The Secretary of Housing and Urban Development
15 may, in connection with a preservation transaction or
16 transfer of an assisted project to an owner that commits
17 to long-term use and affordability restrictions with respect
18 to the property to forgive or assign to the transferee any
19 debt held by the Secretary that was created pursuant to
20 section 201 of the Housing and Community Development
21 Amendments of 1978 (12 U.S.C. 1715z-1a), if required
22 for the financial viability of the preservation transaction
23 or the transfer. If any low-income housing tax credits
24 under section 42 of the Internal Revenue Code of 1986
25 (26 U.S.C. 42), State or local funds, tax-exempt housing

1 bonds, or other affordable housing resources are being uti-
2 lized by the purchaser in connection with the transfer of
3 the property, the Secretary shall not require any repay-
4 ment in connection with the assignment or forgiveness of
5 the mortgages to the purchaser.

6 **SEC. 111. USE OF EXISTING SECTION 8 FUNDS TO PRE-**
7 **SERVE AND REVITALIZE AFFORDABLE HOUS-**
8 **ING.**

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

12 “(ff) AFFORDABLE HOUSING PRESERVATION AND
13 REVITALIZATION PROGRAM.—

14 “(1) IN GENERAL.—The Secretary of Housing
15 and Urban Development shall ensure that funds in
16 the residual receipts account of an eligible multi-
17 family housing property are, at the time of a quali-
18 fied sale or pursuant to an approved rehabilitation
19 plan approved by the Secretary or the section 8 con-
20 tract administrator, transferred or released, in con-
21 junction with an approved rehabilitation plan, to the
22 acquiring owner.

23 “(2) USE OF RESIDUAL RECEIPT FUNDS BY
24 PURCHASER.—An owner that acquires an assisted
25 multifamily housing property through a qualified

1 sale shall, subject to the approval of the Secretary,
2 use the funds in the residual receipts account trans-
3 ferred to it, or for its benefit —

4 “(A) to pay for rehabilitation costs;

5 “(B) to deposit funds into the replacement
6 reserve account of the property;

7 “(C) to pay for social and other services
8 that directly benefit the tenants of such prop-
9 erty;

10 “(D) to pay for costs associated with the
11 acquisition of the property; and

12 “(E) to pay for any other costs, as deter-
13 mined eligible by the Secretary.

14 “(3) USE OF RESIDUAL RECEIPTS BY OWNERS
15 TO PRESERVE AND RENEW AFFORDABLE HOUS-
16 ING.—Subject to approval and any requirements es-
17 tablished by the Secretary, an owner of an eligible
18 multifamily housing property may use funds in the
19 residual receipts account for the property to—

20 “(A) reduce operating or cash flow deficits
21 when such use would prevent an increase in
22 rental rates for tenants;

23 “(B) make a mortgage payment when a
24 mortgage default is actual or imminent;

1 “(C) pay for rehabilitation costs, which
2 may include—

3 “(i) making repairs to the property
4 not otherwise covered by a reserve for re-
5 placements or other similar fund;

6 “(ii) providing additional project
7 amenities and improvements, such as air
8 conditioning, a sprinkler system, fire or
9 smoke detectors, energy saving devices or
10 improvements, office equipment, and com-
11 puters and associated software; and

12 “(iii) making enhancements to the
13 property or retrofit units to enhance acces-
14 sibility;

15 “(D) pay accrued, allowable distributions
16 in cases in which insufficient surplus cash is
17 available;

18 “(E) repay residual receipt notes approved
19 by the Secretary;

20 “(F) repay flexible subsidy operating as-
21 sistance or capital improvements loans provided
22 under section 201 of the Housing and Commu-
23 nity Development Amendments of 1978 (12
24 U.S.C. 1715z-1a);

1 “(G) provide for testing or abatement of
2 lead-based paint at the property;

3 “(H) provide for social and other services
4 that directly benefit the tenants of such prop-
5 erty; and

6 “(I) pay for any costs or purposes, as de-
7 termined eligible by the Secretary

8 “(4) DELEGATION OF AUTHORITY TO SECTION
9 8 CONTRACT ADMINISTRATOR OR OTHER ENTITY.—

10 At the request of a section 8 contract administrator
11 or other appropriate entity, as determined by the
12 Secretary, that administers assistance referred to in
13 paragraph (5)(A)(i) with respect to an eligible multi-
14 family housing property, the Secretary may delegate
15 to such agency the authority of the Secretary under
16 paragraph (2) or (3), or both, to approve the use of
17 funds in residual receipt accounts for properties so
18 assisted by such agency as provided in such para-
19 graph or paragraphs.

20 “(5) DEFINITIONS.—For purposes of this sub-
21 section, the following definitions shall apply:

22 “(A) ELIGIBLE MULTIFAMILY HOUSING
23 PROPERTY.—The term ‘eligible multifamily
24 housing property’ means a property that—

1 “(i) is assisted under any program
2 providing project-based assistance under
3 section 8 of the United States Housing Act
4 of 1937 (42 U.S.C. 1437f); and

5 “(ii) is subject to regulations of the
6 Secretary in effect on the date of enact-
7 ment of this subsection that require remit-
8 tance of excess funds to the Secretary
9 upon termination of the project-based as-
10 sistance contract.

11 “(B) QUALIFIED SALE.—

12 “(i) IN GENERAL.—The term ‘quali-
13 fied sale’ means the sale or other transfer
14 of an eligible multifamily housing property
15 to an owner who agrees to maintain afford-
16 ability and use restrictions regarding the
17 property that are—

18 “(I) for a term of not less than
19 30 years from the time of the quali-
20 fied sale; and

21 “(II) legally enforceable.

22 “(ii) FUTURE APPLICABILITY OF RE-
23 STRICTIONS.—The restrictions under sub-
24 paragraph (A) shall be—

1 “(I) binding on all successors
2 and assigns of the qualified preserva-
3 tion owner; and

4 “(II) recorded as a restrictive
5 covenant on the property pursuant to
6 State law.

7 “(C) RESIDUAL RECEIPTS.—The term ‘re-
8 sidual receipts’ means—

9 “(i) funds generated by a property in
10 excess of the amount needed for operating
11 expenses, operating reserve requirements,
12 and allowable distributions to project own-
13 ers; and

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

17 “(6) RESIDUAL RECEIPTS NOT TREATED AS
18 FEDERAL FUNDS.—For the purposes of section 42
19 of the Internal Revenue Code of 1986, residual re-
20 ceipts used or transferred under this section shall
21 not be considered Federal funds.”.

1 **SEC. 112. AUTHORITY FOR GINNIE MAE TO SECURITIZE**
2 **FHA RISK-SHARING MORTGAGES.**

3 (a) **AUTHORITY.**—Section 542 of the Housing and
4 Community Development Act of 1992 (12 U.S.C. 1715z–
5 22) is amended—

6 (1) in subsection (b), by striking paragraph (8)
7 and inserting the following new paragraph:

8 “(8) **GINNIE MAE SECURITIZATION.**—The Gov-
9 ernment National Mortgage Association may
10 securitize any multifamily loan insured or reinsured
11 under this subsection under the same terms and
12 conditions as if the loan were insured under the Na-
13 tional Housing Act.”; and

14 (2) in subsection (c), by striking paragraph (6)
15 and inserting the following new paragraph:

16 “(6) **GINNIE MAE SECURITIZATION.**—The Gov-
17 ernment National Mortgage Association may
18 securitize any multifamily loan insured under this
19 subsection under the same terms and conditions as
20 if the loan were insured under the National Housing
21 Act.”.

22 (b) **LIMITATION.**—Section 542 of the Housing and
23 Community Development Act of 1992 is amended by add-
24 ing at the end the following new subsection:

25 “(d) **LIMITATION.**—In carrying out subsections
26 (b)(8) and (c)(6), the Secretary shall prohibit State hous-

1 ing finance agencies from giving preference to, or condi-
2 tioning the approval of, awards of subordinate debt funds,
3 allocation of tax credits, or tax exempt bonds based on
4 the use of financing for the first mortgage that is provided
5 by such State housing finance agency.”.

6 (c) CONFORMING AMENDMENT.—Clause (ii) of the
7 first sentence of section 306(g)(1) of the National Hous-
8 ing Act (12 U.S.C. 1721(g)(1)) is amended by inserting
9 before the period at the end the following: “; or insured
10 or reinsured under subsection (b) or (c) of section 542
11 of the Housing and Community Development Act of 1992,
12 subject to the terms of paragraph (8) or (6), respectively,
13 of such subsection”.

14 **TITLE II—RESTORATION OF**
15 **HOUSING AT RISK OF LOSS**
16 **DUE TO DETERIORATION**

17 **SEC. 201. AUTHORITY TO TRANSFER RENTAL ASSISTANCE**
18 **TO OTHER PROPERTIES.**

19 (a) AUTHORITY.—Subject to subsection (b) and not-
20 withstanding any other provision of law, the Secretary of
21 Housing and Urban Development may authorize the
22 transfer of some or all of project-based assistance, debt,
23 interest reduction payments, and statutorily required low-
24 income and very low-income use restrictions, associated
25 with one or more covered multifamily housing properties

1 to another covered multifamily housing property or prop-
2 erties located in the same metropolitan area.

3 (b) PHASED TRANSFERS.—Transfers of project-
4 based assistance under this section may be done in phases
5 to accommodate the financing and other requirements re-
6 lated to improving or constructing the property or prop-
7 erties to which the assistance is transferred to ensure that
8 such property or properties meet the standards under sub-
9 section (c).

10 (c) CONDITIONS.—A transfer authorized in sub-
11 section (a) shall be subject to the following conditions:

12 (1) TOTAL NUMBER OF LOW-INCOME UNITS.—
13 The number of low-income and very low-income
14 dwelling units provided by the transferring property
15 or properties shall remain the same as the number
16 of such dwelling units in the receiving property or
17 properties. Upon transfer of subsidy, vacant, non-
18 viable, or obsolete units may be replaced with units
19 that meet the demands of the local waiting list for
20 assistance under section 8 of the United States
21 Housing Act of 1937 (42 U.S.C. 1437f) or current
22 market demand, but only if there is no impact on as-
23 sisted residents of such units.

24 (2) NET AMOUNT OF ASSISTANCE.—The net
25 dollar amount of Federal assistance provided to the

1 transferring property or properties shall remain the
2 same as the net dollar amount of Federal assistance
3 provided to the receiving property or properties, un-
4 less an increase in Federal assistance is necessary to
5 secure project financing, to allow rent increases per-
6 mitted under the Multifamily Affordable Housing
7 Reform and Affordability Act of 1997 (42 U.S.C.
8 1437f note), to accommodate allowable reconfigura-
9 tions of the units and bedrooms, or to allow stand-
10 ard contract extensions, or simultaneous termination
11 of current contracts with extensions of new contract
12 authority, similar to that extended to comparable
13 properties, as determined by the Secretary.

14 (3) CONDITION OF TRANSFERRING PROP-
15 erty.—The transferring property shall, as deter-
16 mined by the Secretary, be physically obsolete or
17 economically non-viable.

18 (4) CONDITION OF RECEIVING PROPERTY.—The
19 receiving property shall meet or exceed applicable
20 physical standards established by the Secretary with-
21 in a reasonable period of time, as determined by the
22 Secretary.

23 (5) TENANT PROTECTION.—

24 (A) NOTIFICATION AND CONSULTATION.—

25 The owner or mortgagor of the transferring

1 property shall notify and consult with the ten-
2 ants of the transferring property concerning all
3 significant elements of the transfer plan, includ-
4 ing the identification of receiving properties and
5 any proposed additional ownership entities.

6 (B) BEST INTEREST OF TENANTS; FAIR
7 HOUSING.—The transfer shall, as determined
8 by the Secretary—

9 (i) be in the best interest of the ten-
10 ants; and

11 (ii) comply with applicable statutes
12 and regulations relating to fair housing.

13 (6) AVAILABILITY OF NEW UNITS.—The ten-
14 ants of the transferring property shall not be re-
15 quired to vacate their dwelling units in the transfer-
16 ring property until new units in the receiving prop-
17 erty or properties are available for occupancy, in-
18 cluding a phase or phases of a multi-phase project
19 or projects that are available for occupancy. Tenants
20 may choose to be temporarily relocated to facilitate
21 their transition to the receiving property according
22 to relocation procedures set forth in the Uniform
23 Relocation Assistance and Real Property Acquisition
24 Act of 1970 (42 U.S.C. 4601 et seq.).

1 (7) MORTGAGES UNDER NATIONAL HOUSING
2 ACT.—Any lien on the receiving property resulting
3 from additional financing obtained by the owner
4 shall be subordinate to any lien under a mortgage
5 insured under the National Housing Act that is
6 transferred to, or placed on, such property by the
7 Secretary, except that the Secretary may waive this
8 requirement upon determination that such waiver is
9 necessary to facilitate the financing of acquisition,
10 construction, or rehabilitation of the receiving prop-
11 erty.

12 (8) HOUSING SUBJECT TO A USE AGREE-
13 MENT.—The owner or mortgagor of the receiving
14 property shall execute and record a continuation of
15 the existing use agreement or a new use agreement
16 for the property containing use restrictions having a
17 duration at least as long as the existing restrictions.

18 (9) NO INCREASE OF RISK TO INSURANCE
19 FUNDS.—The transfer under this section shall result
20 in no increase in financial risk to the General and
21 Special Risk Insurance Funds of the Secretary, as
22 determined by the Secretary, except that the Sec-
23 retary may waive this requirement upon determina-
24 tion that such waiver is necessary to facilitate the fi-

1 financing of acquisition, construction, or rehabilitation
2 of the receiving property.

3 (10) NO INCREASE OF FEDERAL LIABILITY.—
4 Federal liability with regard to the receiving prop-
5 erty shall not be increased, as determined by the
6 Secretary, except as provided in paragraph (2).

7 (d) DEFINITIONS.—For purposes of this section, the
8 following definitions shall apply:

9 (1) COVERED MULTIFAMILY HOUSING PROP-
10 erty.—The term “covered multifamily housing
11 property” means housing that is assisted or insured
12 under one or more of the following programs:

13 (A) The rent supplement program under
14 section 101 of the Housing and Urban Develop-
15 ment Act of 1965 (12 U.S.C. 1701s).

16 (B) The below-market interest rate mort-
17 gage insurance program under section
18 221(d)(3) of the National Housing Act (12
19 U.S.C. 17151(d)(3)).

20 (C) The program for assistance provided
21 under the proviso in section 221(d)(5) of the
22 National Housing Act (12 U.S.C. 17151(d)(5)).

23 (D) The program for interest reduction
24 payments under section 236 of the National
25 Housing Act (12 U.S.C. 1715z-1) or a com-

1 parable State program providing for interest re-
2 duction payments.

3 (E) Any other mortgage insurance pro-
4 gram provided under the National Housing Act
5 for which the insured property is subject to
6 budget-based rent restrictions.

7 (F) The program for supportive housing
8 for the elderly under section 202 of the Hous-
9 ing Act of 1959 (12 U.S.C. 1701q), including
10 assistance under such section as was in effect
11 before the enactment of the Cranston-Gonzales
12 National Affordable Housing Act.

13 (G) The program for rural rental housing
14 under section 515 of the Housing Act of 1949
15 (42 U.S.C. 1485).

16 (H) Any program providing project-based
17 assistance that is attached to the structure.

18 (I) Any other program under which the
19 Secretary provides any rental assistance, mort-
20 gage insurance, subsidy, or other financial as-
21 sistance.

22 (2) LOW-INCOME; VERY LOW-INCOME.—The
23 terms “low-income” and “very low-income”, with re-
24 spect to a covered multifamily housing property,
25 shall have the meanings provided under the laws and

1 regulations governing the program under which the
2 covered multifamily housing property is insured or
3 assisted.

4 (3) PROJECT-BASED ASSISTANCE.—The term
5 “project-based assistance” means—

6 (A) assistance provided under section 8(b)
7 of the United States Housing Act of 1937 (42
8 U.S.C. 1437f(b)), including the additional as-
9 sistance program;

10 (B) assistance for housing constructed or
11 substantially rehabilitated pursuant to assist-
12 ance provided under section 8(b)(2) of such Act
13 (as such section was in effect immediately be-
14 fore October 1, 1983);

15 (C) rent supplement payments under sec-
16 tion 101 of the Housing and Urban Develop-
17 ment Act of 1965 (12 U.S.C. 1701s);

18 (D) additional assistance payments under
19 section 236(f)(2) of the National Housing Act
20 (12 U.S.C. 1715z–1(f)(2)) or a comparable
21 State program providing for interest reduction
22 payments;

23 (E) payments made under section
24 202(c)(2) of the Housing Act of 1959 (12
25 U.S.C. 1701q(e)(2)); and

1 (F) payments made under any other Fed-
2 eral program under which rental assistance is
3 attached to the structure.

4 (4) RECEIVING PROPERTY.—The term “receiv-
5 ing property” means, with respect to a transfer of
6 project-based assistance, debt, and statutorily re-
7 quired low-income and very low-income use restric-
8 tions under this section, the covered multifamily
9 housing property or properties to which the assist-
10 ance, debt, and use restrictions are to be trans-
11 ferred.

12 (5) SECRETARY.—The term “Secretary” means
13 the Secretary of Housing and Urban Development.

14 (6) TRANSFERRING PROPERTY.—The term
15 “transferring property” means, with respect to a
16 transfer of project-based assistance, debt, and statu-
17 torily required low-income and very low-income use
18 restrictions under this section, the covered multi-
19 family housing property or properties from which
20 the assistance, debt, and use restrictions are to be
21 transferred.

1 **SEC. 202. BUILDING TRANSFERS: REQUIREMENTS FOR PUR-**
2 **CHASERS OF FHA INSURED PROJECTS AND**
3 **SECTION 8 PROJECTS.**

4 (a) REQUIREMENTS FOR POTENTIAL PUR-
5 CHASERS.—Not later than 90 days after the date of the
6 enactment of this Act, the Secretary of Housing and
7 Urban Development shall issue a proposed rulemaking, in
8 accordance with title 5, United States Code, that applies
9 the participation and certification requirements for poten-
10 tial purchasers required under section 219 of Division G
11 of the Consolidated Appropriations Act, 2004 (Public Law
12 108–199; 118 Stat. 397) to the sale or transfer of any
13 multifamily housing having a mortgage that is insured or
14 receives assistance under the National Housing Act or for
15 which project-based assistance is provided under section
16 8 of the United States Housing Act of 1937 (42 U.S.C.
17 1437f).

18 (b) NOTICE TO LOCAL GOVERNMENT AND RESI-
19 DENTS OF APPLICATION FOR TRANSFER.— The Secretary
20 shall provide notice of an owner’s application for approval
21 of any such transfer to the unit of local government where
22 the property is located, and to the residents of the prop-
23 erty, using procedures required under the Housing and
24 Community Development Amendments of 1978.

25 (c) GROUNDS FOR DISAPPROVAL.—Grounds for dis-
26 approval of a transfer may include—

1 (1) a purchaser's record of pervasive or con-
2 tinuing noncompliance under housing, health, and
3 safety codes with respect to other housing owned or
4 managed by the purchaser, regardless of location,
5 except where the Secretary determines that such
6 noncompliance did not result from the actions of the
7 purchaser and would be satisfactorily remedied by a
8 plan approved by the Secretary; and

9 (2) a risk of financial instability for the project
10 under the terms of the acquisition, such as indicated
11 by the application of conventional underwriting
12 standards.

13 **SEC. 203. USE OF INTEREST REDUCTION PAYMENTS FOR**
14 **REHABILITATION GRANTS.**

15 The Secretary of Housing and Urban Development
16 may obligate any amounts recaptured from the termi-
17 nation of a contract for interest reduction payments under
18 section 236 of the National Housing Act (12 U.S.C.
19 1715z-1), for the use under subsection (s) of such section,
20 except that the Secretary shall take immediate action to
21 issue appropriate guidelines to make such funds available
22 within 180 days after the date of the enactment of this
23 Act, which shall include the availability of both loans and
24 grants.

1 **SEC. 204. CLARIFICATION OF BUDGET-BASED RENT IN-**
2 **CREASES FOR REHABILITATED PROJECTS.**

3 (a) APPROVAL OF RENT INCREASES.—

4 (1) APPROVAL.—At the request of an owner of
5 a covered multifamily housing property (which term,
6 for purposes of this section, shall have the same
7 meaning given such term in section 201(c) of this
8 Act) that meets the requirements of paragraph (2),
9 the Secretary of Housing and Urban Development
10 shall, prior to rehabilitation and subject to sub-
11 section (b), adjust project rents on a budget-based
12 basis to support the cost of the rehabilitation, any
13 increased debt service, and other appropriate costs.

14 (2) REQUIREMENTS.—The requirements of this
15 paragraph with respect to a covered multifamily
16 housing property are that—

17 (A) the project is to undergo rehabilitation;
18 and

19 (B) the owner or purchaser of the project
20 executes a binding agreement to preserve the
21 project as affordable housing at least until the
22 later of the maturity date of the original mort-
23 gage for the project or the termination of an as-
24 sistance contract on the property.

1 (b) CONDITIONS.—Rent adjustments pursuant to this
2 section for a covered multifamily housing property shall
3 be subject to the following conditions and requirements:

4 (1) EFFECTIVENESS.—Such rent adjustments
5 shall not become effective until completion of the re-
6 habilitation of the property.

7 (2) AMOUNT.—Such rent adjustments shall —

8 (A) be subject to adjustment by the Sec-
9 retary based on differences between estimated
10 and actual costs; and

11 (B) with respect to units that are assisted
12 under section 8 of the United States Housing
13 Act of 1937 (42 U.S.C. 1437) that are subject
14 to a renewal contract under section 524(a) of
15 the Multifamily Assisted Housing Reform and
16 Affordability Act of 1997 (42 U.S.C. 1437f
17 note), not exceed, after rehabilitation, the rent
18 for comparable unassisted units in the area.

19 (3) TENANT NOTICE AND OPPORTUNITY TO
20 COMMENT.—Tenants in the property shall be pro-
21 vided notice and an opportunity to comment on such
22 rent adjustments in accordance with rent increase
23 procedures of the Department of Housing and
24 Urban Development issued pursuant to the authority
25 under section 202(b) of the Housing and Commu-

1 nity Development Amendments of 1978 (12 U.S.C.
2 1715z-1b(b)).

3 (4) PROVISION OF RENTAL ASSISTANCE.—Rent-
4 al assistance shall be provided for all affected eligi-
5 ble tenants of the property in the form of new
6 project-based assistance for previously unassisted
7 units and legally authorized contract rent increases
8 under existing project-based contracts.

9 (c) EFFECT ON OTHER TRANSACTIONS.—This sec-
10 tion shall not have any effect on transactions not meeting
11 the terms and conditions of this section.

12 **SEC. 205. INTEREST REDUCTION PAYMENTS FOR SECTION**
13 **236 PROJECTS EXPERIENCING A REDUCTION**
14 **OF UNITS.**

15 (a) IN GENERAL.—Section 236(e)(2) of the National
16 Housing Act (12 U.S.C. 1715z-1(e)(2)) is amended—

17 (1) by striking “under the terms” and inserting
18 “for the remaining term”; and

19 (2) by adding at the end the following new sen-
20 tence: “The Secretary may continue to provide the
21 interest reduction payments in their entirety, not-
22 withstanding a reduction of total units, if the project
23 owner is able to demonstrate that such an action will
24 contribute to the long-term physical or financial via-
25 bility of the property.”.

1 (b) APPLICABILITY.—The amendments made by sub-
2 section (a) shall apply to all interest reduction payments
3 made after October 1, 2006.

4 **TITLE III—PROTECTION OF**
5 **RESIDENTS**

6 **SEC. 301. TENANT PROTECTION VOUCHER TO REPLACE**
7 **LOST SUBSIDIZED UNITS ON 1-FOR-1 BASIS.**

8 Subject only to the availability of amounts provided
9 for such purpose in appropriation Acts, the Secretary of
10 Housing and Urban Development shall provide replace-
11 ment vouchers for rental assistance under section 8 of the
12 United States Housing Act of 1937 (42 U.S.C. 1437f) for
13 all dwelling units in projects that cease to be covered mul-
14 tifamily housing properties (as such term is defined in sec-
15 tion 201 of this Act) due to demolition, disposition, or con-
16 version.

17 **SEC. 302. MAINTENANCE OF HOUSING.**

18 Section 8(d) of the United States Housing Act of
19 1937 (42 U.S.C. 1437f(d)) is amended by adding at the
20 end the following new paragraphs:

21 “(7) ENFORCEMENT OF HOUSING STANDARDS RE-
22 LATED TO PHYSICAL CONDITION OF PROPERTY.—If the
23 Secretary determines, upon any inspection or management
24 review for any multifamily housing project covered by a
25 housing assistance payments contract under this section,

1 that there are serious violations of housing standards ap-
2 plicable to such project that are not corrected after reason-
3 able notice, or any other substantial or repeated violations
4 of other program requirements, including residents right
5 to organize, the Secretary may take one or more of the
6 following actions:

7 “(A) Withhold all or part of the housing assist-
8 ance payments due under the contract.

9 “(B) Withhold any rent increases otherwise
10 due.

11 “(C) Assume possession and management of
12 the project and take any actions necessary to correct
13 the violations, including using such withheld pay-
14 ments to effectuate repairs or to reimburse others
15 who make repairs.

16 “(D) Use such withheld payments to pay for
17 utilities and other services that are the responsibility
18 of the owner under the lease or applicable law.

19 “(8) ESCROW OF TENANT RENTS.—If the Secretary
20 determines that there are serious violations of housing
21 standards applicable to any multifamily housing project
22 covered by a housing assistance payments contract under
23 this section or any other substantial or repeated violations
24 of other program requirements, any tenants in assisted
25 units in the project may withhold the tenant contribution

1 toward rent and pay such amount, when due, into an es-
2 crow fund, or use such withheld payments to effectuate
3 repairs, in accordance with procedures established by the
4 Secretary. If a tenant withholds the tenant contribution
5 toward rent in accordance with this paragraph, the Sec-
6 retary shall withhold all or part of the housing assistance
7 payments due under the contract until the violation is
8 remedied. An owner of a project shall not evict tenants
9 for nonpayment of rent for exercising rights under this
10 paragraph.

11 “(9) PROTECTION OF TENANTS.—An owner of a
12 multifamily housing project covered by a housing assist-
13 ance payments contract under this subsection may not ter-
14 minate the tenancy of any tenant because of the with-
15 holding or abatement of assistance pursuant to this sub-
16 section. During the period that assistance is abated pursu-
17 ant to this subsection, the tenant may terminate the ten-
18 ancy by notifying the owner.

19 “(10) INSPECTIONS UPON REQUEST OR PETITION.—
20 In addition to periodic inspections by the Secretary, the
21 Secretary shall conduct an inspection or management re-
22 view of any multifamily housing project covered by a hous-
23 ing assistance payments contract under this section when
24 requested by the local government in which the project is

1 located or by a petition signed by not less than 25 percent
2 of the tenants of the occupied units in the project.”.

3 **SEC. 303. RESIDENT ENFORCEMENT OF PUBLIC HOUSING**
4 **AGENCY OR PROJECT OWNER AGREEMENTS**
5 **WITH HUD.**

6 (a) **IN GENERAL.**—In each covered agreement de-
7 scribed in subsection (c), any resident, or resident or ten-
8 ant association, of an affected project shall be permitted
9 to petition the Secretary of Housing and Urban Develop-
10 ment requesting enforcement of alleged violations of the
11 covered agreement.

12 (b) **JUDICIAL RELIEF.**—If the Secretary, or the des-
13 ignee of the Secretary, fails to issue a determination re-
14 garding an enforcement request within 90 days after re-
15 ceipt of the petition, the resident, or resident or tenant
16 association, may seek appropriate judicial relief in connec-
17 tion with the alleged violation and enforcement of a cov-
18 ered agreement in any forum of competent jurisdiction.
19 In the case of any alleged violation that threaten the
20 health or safety of tenants, the time period for making
21 such a determination shall be no longer than 15 days.

22 (c) **COVERED AGREEMENTS.**—A covered agreement
23 described in this subsection is any—

24 (1) contract between the Secretary and any
25 public housing agency for housing assistance pay-

1 ments under section 8 of the United States Housing
2 Act of 1937 (42 U.S.C. 1437f);

3 (2) agreement under the Multifamily Assisted
4 Housing Reform and Affordability Act of 1997 (42
5 U.S.C. 1437f note) for—

6 (A) Mark-to-Market Restructuring Com-
7 mitments or renewal of section 8 rental assist-
8 ance for a project involving any action under
9 section 517(b) of such Act; or

10 (B) Rehabilitation Escrow Deposit Agree-
11 ments for Mark-to-Market; or

12 (3) contract for mortgage insurance executed by
13 the Secretary and any owner or purchaser of a mul-
14 tifamily housing project.

15 (d) REGULATIONS.—Within 180 days after the date
16 of the enactment of this Act, the Secretary shall issue reg-
17 ulations providing procedures for—

18 (1) receiving tenant petitions to enforce the
19 terms of a covered agreement;

20 (2) evaluating alleged violations of a covered
21 agreement; and

22 (3) providing notice to residents, and resident
23 and tenant associations.

1 **SEC. 304. RESIDENT ACCESS TO BUILDING INFORMATION.**

2 (a) ACCESS TO INFORMATION.— Upon a written re-
3 quest by a legitimate residents association established with
4 respect to a multifamily housing property to which part
5 245 of the regulations of the Secretary of Housing and
6 Urban Development (24 C.F.R. Part 245), by or through
7 its duly appointed designee or representative, the Sec-
8 retary shall make available, for the property represented
9 by the association—

10 (1) information identifying the legal entities
11 that own and manage the property, including identi-
12 fication of general partners and other principals, and
13 their other properties assisted by the Department of
14 Housing and Urban Development, including previous
15 participation certifications (with social security num-
16 bers redacted);

17 (2) an annual operating statement of profit and
18 loss, and project budgets submitted to the Depart-
19 ment of Housing and Urban Development;

20 (3) subsidy contracts and regulatory agree-
21 ments, use agreements, or other contracts referred
22 to in section 303(c) of this Act between owners and
23 the Department of Housing and Urban Develop-
24 ment, including correspondence between owners and
25 the Department;

1 (4) management reviews, capital needs assess-
2 ments, and physical inspection reports conducted of
3 entities identified in paragraph (1) by the Depart-
4 ment or a contractor of the Department; and

5 (5) an annual statement, prepared by the De-
6 partment's contract administrator for the subject
7 property, of the balances of, and expenditures from,
8 any replacement reserves and other escrow funds for
9 the property.

10 (b) PROTECTION OF PERSONAL INFORMATION.—
11 Subsection (a) shall not be construed to require disclosure
12 of social security numbers, personal tax returns, or any
13 other personal financial information of or concerning indi-
14 viduals who have an interest in the ownership or manage-
15 ment entities referred to in subsection (a).

16 **TITLE IV—PRESERVATION OF**
17 **TROUBLED PROJECTS FAC-**
18 **ING FORECLOSURE**

19 **SEC. 401. MAINTAINING AFFORDABILITY THROUGH**
20 **ESCROWING OF RENTAL ASSISTANCE.**

21 In the case of any transfer of a distressed multifamily
22 property that does not comply with housing quality stand-
23 ards applicable to the property, the Secretary of Housing
24 and Urban Development may not recapture any rental as-
25 sistance that is attached to any dwelling units in the prop-

1 erty and provided under a contract for the property under
2 section 8 of the United States Housing Act of 1937 or
3 under any other program administered by the Secretary,
4 but shall hold any such assistance in escrow for the prop-
5 erty during the period of noncompliance and, upon deter-
6 mining that the property complies with such standards
7 make such assistance available for the property.

8 **SEC. 402. MULTIFAMILY HOUSING MORTGAGE FORE-**
9 **CLOSURE.**

10 The Multifamily Mortgage Foreclosure Act of 1981
11 is amended—

12 (1) in section 362 (12 U.S.C. 3701)—

13 (A) in paragraph (5), by striking “and” at
14 the end;

15 (B) in paragraph (6), by striking the pe-
16 riod at the end and inserting “; and”; and

17 (C) by adding at the end the following new
18 paragraph:

19 “(7) mortgages transferred by the Secretary to
20 State and local governments should be foreclosed in
21 the same manner as mortgages held by the Sec-
22 retary.”;

23 (2) in section 363 (12 U.S.C. 3702)—

24 (A) in paragraph (9), by striking “and” at
25 the end;

1 (B) in paragraph (10), by striking the pe-
2 riod at the end and inserting “; and”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(11) ‘State or local government transferee’
6 means any State or unit of general local govern-
7 ment, any public housing authority, or any State or
8 local housing finance agency that has acquired mort-
9 gages pursuant to section 203 of the Housing and
10 Community Development Amendments of 1978 (12
11 U.S.C. 1701z-11), section 204 of the Departments
12 of Veterans Affairs and Housing and Urban Devel-
13 opment, and Independent Agencies Appropriations
14 Act, 1997 (12 U.S.C. 1715z-11a), or any other pro-
15 vision of law, that were previously held by the Sec-
16 retary.”;

17 (3) in section 364 (12 U.S.C. 3703)—

18 (A) by inserting “, or any State or local
19 government transferee,” after “Secretary” the
20 first and fourth places such term appears; and

21 (B) by inserting “, or the State or local
22 government transferee,” after “Secretary” the
23 second, third, and fifth places such term ap-
24 pears;

25 (4) in section 365 (12 U.S.C. 3704)—

1 (A) by inserting “, or any State or local
2 government transferee,” after “Secretary” the
3 first place such term appears;

4 (B) by inserting “, or the State or local
5 government transferee,” after “Secretary” each
6 other place such term appears; and

7 (C) by striking the last 3 sentences and in-
8 serting the following: “The entity designating
9 the foreclosure commissioner, whether the Sec-
10 retary or any State or local government trans-
11 feree, shall be a guarantor of payment of any
12 judgment against the foreclosure commissioner
13 for damages based upon the commissioner’s
14 failure properly to perform the commissioner’s
15 duties. As between the entity designating the
16 foreclosure commissioner, whether the Secretary
17 or any State or local government transferee,
18 and the mortgagor, the entity designating the
19 foreclosure commissioner shall bear the risk of
20 any financial default by the foreclosure commis-
21 sioner. In the event that the Secretary or any
22 State or local government transferee makes any
23 payment pursuant to the preceding two sen-
24 tences, the Secretary or any State or local gov-

1 ernment transferee shall be fully subrogated to
2 the rights satisfied by such payment.”;

3 (5) in section 366 (12 U.S.C. 3705)—

4 (A) by inserting “, or any State or local
5 government transferee,” after “Secretary” the
6 first, third, fourth, and fifth place such term
7 appears; and

8 (B) by inserting “, or the State or local
9 government transferee,” after “Secretary” the
10 second and sixth places such term appears;

11 (6) in section 367 (12 U.S.C. 3706)—

12 (A) in subsection (a)—

13 (i) in paragraph (1), by inserting “or
14 the State or local government transferee,”
15 after “Secretary,”; and

16 (ii) in paragraph (8), by inserting “,
17 or the State or local government trans-
18 feree” after “Secretary”;

19 (B) in subsection (b)—

20 (i) by inserting “, or any State or
21 local government transferee,” after “Sec-
22 retary” the first and second places such
23 term appears; and

24 (ii) by inserting “, or the State or
25 local government transferee,” after “Sec-

1 retary” the third place such term appears;

2 and

3 (C) by adding at the end the following new

4 subsection:

5 “(c) In any case in which a State or local government
6 transferee is the purchaser of a multifamily project, the
7 State or local government transferee shall manage and dis-
8 pose of such project to benefit those originally intended
9 to be assisted under the prior program unless continued
10 operation and disposition of the property under such pro-
11 gram is not feasible based on consideration of the costs
12 of rehabilitating and operating the property after consid-
13 ering all available Federal, State, and local resources, in-
14 cluding rent adjustments under section 524 of the Multi-
15 family Assisted Housing Reform and Affordability Act of
16 1997 (42 U.S.C. 1437f note).”.

17 (7) in section 368 (12 U.S.C. 3707)—

18 (A) by inserting “, or any State or local
19 government transferee,” after “Secretary” the
20 first and third places such term appears; and

21 (B) by inserting “, or the State of local
22 government transferee,” after “Secretary” the
23 second place such term appears;

24 (8) in section 369A (12 U.S.C. 3709)—

1 (A) by inserting “, or any State or local
2 government transferee,” after “Secretary” the
3 second place such term appears; and

4 (B) by inserting ‘, or the State or local
5 government transferee,’ after ‘Secretary’ the
6 first, third, and fourth places such term ap-
7 pears;

8 (9) in section 369B (12 U.S.C. 3710)—

9 (A) by inserting “, or the State of local
10 government transferee,” after “Secretary” the
11 first and second places such term appears; and

12 (B) by inserting “, or any State or local
13 government transferee,” after “Secretary” each
14 other place such term appears;

15 (10) in section 369E (12 U.S.C. 3713), by in-
16 serting “, or any State or local government trans-
17 feree,” after “Secretary” each place such term ap-
18 pears; and

19 (11) in section 369F(a)(1) (12 U.S.C.
20 3714(a)(1)), by inserting “, or any State or local
21 government transferee,” before the semicolon at the
22 end.

1 **SEC. 403. BUILDING ACQUISITION: VALUATION OF PHYS-**
2 **ICALLY DISTRESSED PROPERTIES SOLD BY**
3 **HUD.**

4 (a) IN GENERAL.— Notwithstanding title II of the
5 Deficit Reduction Act of 2005 (12 U.S.C. 1701z–11 note)
6 or any other provision of law, in determining the market
7 value of any multifamily real property or multifamily loan
8 for any noncompetitive sale to a State or local government,
9 the Secretary of Housing and Urban Development shall
10 consider, but not be limited to, industry standard ap-
11 praisal practices, including the cost of repairs needed to
12 bring the property into such condition as to satisfy min-
13 imum State and local code standards and the cost of main-
14 taining the affordability requirements imposed by the Sec-
15 retary on the multifamily real property or multifamily
16 loan.

17 (b) DEFINITIONS.—For purposes of this section, the
18 terms “affordability requirements”, “multifamily loan”,
19 and “multifamily real property” have the same meaning
20 given such terms in section 2001 of the Deficit Reduction
21 Act of 2005 (12 U.S.C. 1701z–11 note).

22 **SEC. 404. INVESTMENT THROUGH UP-FRONT GRANTS FROM**
23 **GENERAL INSURANCE FUND.**

24 (a) 1997 ACT.—Subsection (a) of section 204 of the
25 Departments of Veterans Affairs and Housing and Urban
26 Development, and Independent Agencies Appropriations

1 Act, 1997 (12 U.S.C. 1715z–11a(a)) is amended by strik-
2 ing the last sentence.

3 (b) 1978 ACT.—Paragraph (4) of section 203(f) of
4 the Housing and Community Development Amendments
5 of 1978 (12 U.S.C. 1701z–11(f)(4)) is amended by strik-
6 ing the last sentence.

7 (c) CLARIFICATION OF AUTHORIZED ASSISTANCE.—
8 In implementing the provisions amended by subsections
9 (a) and (b) of this section, the Secretary of Housing and
10 Urban Development may utilize both up-front grants and
11 project-based rental assistance under section 8 of the
12 United States Housing Act of 1937 (42 U.S.C. 1437f) as
13 necessary to preserve the affordability of a multifamily
14 housing project to low- and very low-income families.

15 **SEC. 405. MAINTAINING PROJECT-BASED ASSISTANCE FOR**
16 **PROJECTS DISPOSED OF BY HUD .**

17 (a) IN GENERAL.—In managing and disposing of any
18 multifamily property that is owned by, or has a mortgage
19 held by, the Secretary of Housing and Urban Develop-
20 ment, the Secretary shall maintain any contracts for rent-
21 al assistance payments under section 8 of the United
22 States Housing Act of 1937 (42 U.S.C. 1437f) and other
23 programs that are attached to any dwelling units in the
24 property.

1 (b) INFEASIBILITY OF CONTINUED ASSISTANCE.—To
2 the extent the Secretary determines, in consultation with
3 the tenants and the local government, that such a multi-
4 family property owned or held by the Secretary is not fea-
5 sible for continued rental assistance payments under such
6 section 8 or other programs, based on consideration of (1)
7 the costs of rehabilitating and operating the property and
8 all available Federal, State, and local resources, including
9 rent adjustments under section 524 of the Multifamily As-
10 sisted Housing Reform and Affordability Act of 1997 (42
11 U.S.C. 1437f note), and (2) environmental conditions that
12 cannot be remedied in a cost-effective fashion, the Sec-
13 retary may, in consultation with the tenants of such prop-
14 erty, contract for project-based rental assistance payments
15 with an owner or owners of other existing housing prop-
16 erties, or provide other rental assistance.

17 (c) FORECLOSURE.—For all properties with project-
18 based section 8 assistance, regardless of the type of under-
19 lying financing, the Secretary shall also take appropriate
20 actions to ensure that project-based contracts remain in
21 effect prior to foreclosure, subject to the exercise of con-
22 tractual remedies to assist relocation of tenants for immi-
23 nent major threats to health and safety, after written no-
24 tice to and informed consent of the affected tenants and

1 use of other available remedies, such as partial abatements
2 or receivership.

3 (d) **APPLICABILITY OF MAHRA.**—After disposition
4 of any multifamily property described under this section,
5 the contract and allowable rent levels on such properties
6 shall be subject to section 524 of the Multifamily Assisted
7 Housing Reform and Affordability Act of 1997 (42 U.S.C.
8 1437f note).

9 **SEC. 406. CORRECTING HARM CAUSED BY LATE SUBSIDY**
10 **PAYMENTS.**

11 Section 8 of the United States Housing Act of 1937
12 (42 U.S.C. 1437f), as amended by the preceding provi-
13 sions of this Act, is further amended by adding at the end
14 the following new subsection:”.

15 “(gg) **LATE PAYMENTS.**—

16 “(1) **IN GENERAL.**—The Secretary shall make
17 payments of project-based rental assistance provided
18 under this section for each month on or before the
19 due date under paragraph (2) for the payment.

20 “(2) **DUE DATE.**—The due date under this
21 paragraph for a monthly payment is the first busi-
22 ness day of the month.

23 “(3) **NOTIFICATION OF LATE PAYMENT.**—The
24 Secretary shall notify a project owner at least 10
25 days before the due date for a housing assistance

1 payment if such payment will be late and shall in-
2 form the project owner of the approximate date the
3 payment will be made.

4 “(4) USE OF RESERVES.—If a housing assist-
5 ance payment for a project has not been received be-
6 fore the expiration of the 10-day period beginning
7 upon the due date for such payment, the project
8 owner shall, after the expiration of such period, be
9 entitled to obtain funds from a project replacement
10 reserve, residual receipts reserve, or other project re-
11 serve in order to pay operating and debt service
12 costs for the project. Upon receipt of the monthly
13 housing assistance payment from the Secretary, the
14 project owner shall promptly replace or replenish
15 any such funds advanced pursuant to the preceding
16 sentence.

17 “(5) INTEREST PAYMENT.—If a monthly hous-
18 ing assistance payment is not made before the expi-
19 ration of the 30-day period beginning upon the due
20 date for such payment, the Secretary shall pay to
21 the owner simple interest on the amount of such
22 monthly payment, from the due date until the date
23 of payment, at a rate determined by the Secretary
24 of Treasury in accordance with section 12 of the
25 Contract Disputes Act of 1978 (41 U.S.C. 611). In-

1 terest payments under this paragraph shall be made
2 from amounts made available for management and
3 administration of the Department of Housing and
4 Urban Development.”.

5 **TITLE V—INCENTIVES UNDER**
6 **MAHRA FOR OWNERS TO**
7 **MAINTAIN HOUSING AFFORD-**
8 **ABILITY**

9 **SEC. 501. EXTENSION OF MARK-TO-MARKET PROGRAM.**

10 Section 579 of the Multifamily Assisted Housing Re-
11 form and Affordability Act of 1997 (42 U.S.C. 1437f
12 note) is amended by striking “October 1, 2011” each place
13 such term appears and inserting “October 1, 2015”.

14 **SEC. 502. MAINTAINING AFFORDABILITY IN PRESERVATION**
15 **PROJECT TRANSACTIONS.**

16 (a) RENEWAL UNDER ALTERNATIVE AUTHORI-
17 TIES.—Paragraph (1) of section 524(e) of the Multifamily
18 Assisted Housing Reform and Affordability Act of 1997
19 (42 U.S.C. 1437f note) is amended by adding at the end
20 the following new sentences: “At the request of the owner
21 of the project, in order to facilitate a rehabilitation plan
22 approved by the Secretary as being necessary to ensure
23 the sustainability of a project, a contract eligible for re-
24 newal pursuant to this paragraph may instead be renewed
25 pursuant to any provision of subsection (a) or (b) of this

1 section if the contract is otherwise eligible for renewal pur-
2 suant to such provision. In the case of a renewal pursuant
3 to subsection (a) or (b), the rent and rent adjustment
4 standards applicable to a renewal pursuant to those sub-
5 sections shall apply, but tenant occupancy and afford-
6 ability restrictions in the plan of action shall continue to
7 apply to the project for the duration of those restric-
8 tions.”.

9 (b) EXTENSION OF AFFORDABILITY PERIOD FOR
10 ELIHPA PROJECTS.—Section 524(e) of the Multifamily
11 Assisted Housing Reform and Affordability Act of 1997
12 (42 U.S.C. 1437f note) is amended by adding at the end
13 the following new paragraph:

14 “(4) HYBRID CONTRACT.—To facilitate the
15 sale, transfer, or rehabilitation of a project that is
16 subject to a plan of action under the Emergency
17 Low Income Housing Preservation Act of 1987 (12
18 U.S.C. 1715l note) to an owner who agrees to bind-
19 ing low-income affordability restrictions for at least
20 30 years beyond the term of the plan of action and
21 a rehabilitation plan approved by the Secretary as
22 being necessary to ensure the sustainability of the
23 project, a contract for such a project shall, at the re-
24 quest of the owner of the project, be renewed under
25 this paragraph for a term of not less than 30 years.

1 The contract shall provide that the terms of the plan
2 of action shall apply for the duration of the original
3 plan of action, and that at the expiration of the plan
4 of action the rents shall be established at rent levels
5 equal to comparable market rents for the market
6 area. After expiration of the plan of action, rent ad-
7 justments shall be determined in accordance with
8 the provisions of subsection (c) that are applicable to
9 contracts renewed pursuant to subsection (a). Any
10 existing contract entered into pursuant to paragraph
11 (1) shall be terminated at the request of the owner
12 of the project, and replaced by a contract under this
13 paragraph.”.

14 **SEC. 503. ENCOURAGING CONTINUED PARTICIPATION IN**
15 **ASSISTED HOUSING PROGRAMS.**

16 (a) **ELIMINATION OF DISCRIMINATORY RENEWAL**
17 **TERMS.**—Paragraph (3) of section 524(b) of the Multi-
18 family Assisted Housing Reform and Affordability Act of
19 1997 (42 U.S.C. 1437f note) is amended—

20 (1) in the matter preceding subparagraph (A),
21 by striking “the lesser of” and inserting “as follows”
22 ; and

23 (2) by striking subparagraphs (A), (B), and (C)
24 and inserting the following:

1 (A) by striking paragraph (1) and insert-
2 ing the following new paragraph;

3 “(1) the Secretary has determined that—

4 “(A) such project is no longer meeting a
5 need for rental housing for lower income fami-
6 lies in the area, as evidenced by a persistent
7 lack of demand for the units under the rent
8 schedule approved by the Secretary; or

9 “(B) the prepayment is part of a trans-
10 action to preserve and improve the project as
11 affordable housing, pursuant to the guidance in
12 effect that implements section 236(e)(2) of this
13 Act (12 U.S.C. 1715z-1(e)2)) or pursuant to
14 additional administrative guidance, ensuring
15 that—

16 “(i) the proceeds of any refinancing
17 will be used for rehabilitation of the
18 project and related costs or for affordable
19 housing and related social services under a
20 plan approved by the Secretary;

21 “(ii) tenants will not be displaced
22 from the project;

23 “(iii) rent burdens for unassisted ten-
24 ants as a result of the transaction will not
25 be increased by more than 10 percent an-

1 nually or 20 percent in total, unless addi-
2 tional project-based assistance is provided;
3 and

4 “(iv) binding commitments, which
5 shall apply to current and subsequent own-
6 ers, are made to ensure that the project
7 will operate in accordance with all cur-
8 rently applicable low-income affordability
9 restrictions for a period of not less than
10 the original mortgage term plus an addi-
11 tional 20 years, including a duty to main-
12 tain a substantially similar occupancy pro-
13 file for the project of low-, very low-, and
14 extremely low-income tenants, to renew
15 any expiring rental assistance contracts for
16 the project, and accept additional rental
17 assistance for the project.”.

18 (B) in paragraph (2)—

19 (i) in subparagraph (A), by inserting
20 before the semicolon at the end the fol-
21 lowing: “which shall include reasonable ac-
22 cess to all information relevant to the re-
23 quest, including the anticipated sources
24 and uses of proceeds, any additional fi-
25 nancing, subsidies, and rental assistance,

1 and any proposed rehabilitation plan, af-
2 fordable housing and services plan, or use
3 agreement”;

4 (ii) in subparagraph (C), by inserting
5 before the semicolon the following: “in
6 making the determination required by
7 paragraph (1)”;

8 (C) in paragraph (3), by striking the pe-
9 riod at the end and inserting “; and”;

10 (D) by adding at the end the following new
11 paragraph:

12 “(4) the Secretary has ensured that such pre-
13 payment or termination involves extension of any
14 low-income affordability restrictions (as such term is
15 defined in section 229 of the Low-Income Housing
16 Preservation and Resident Homeownership Act of
17 1990 (12 U.S.C. 4119) for the project for a period
18 of not less than 30 years.”.

19 (b) USE OF PROCEEDS OF PRESERVATION TRANS-
20 ACTIONS BY NONPROFIT OWNERS OF MULTIFAMILY
21 PROJECTS; SECTION 236 TRANSACTIONS; CLARIFICATION
22 OF EFFECT.—Section 250 of the National Housing Act
23 (12 U.S.C. 1715z–15) is amended by adding at the end
24 the following new subsections:

1 “(d) USE OF PROCEEDS FROM PRESERVATION
2 TRANSACTION.—Notwithstanding any other provision of
3 law, in connection with a preservation transaction, the pre-
4 payment of a mortgage on a multifamily rental housing
5 project or termination of an insurance contract pursuant
6 to section 229, or the sale or refinancing of a multifamily
7 rental housing project for which approval of the Secretary
8 is required, the Secretary may not, in any manner that
9 is not equally applicable to a for-profit owner of such a
10 project—

11 “(1) impose on any owner of such a project
12 that is a nonprofit organization or controlled by a
13 nonprofit organization any limitation on the right of
14 such owner to use the proceeds of such preservation
15 transaction for the affordable housing mission (in-
16 cluding tenant and supportive services) of such orga-
17 nization, except that any increase in the project-
18 based rental assistance shall be used solely to cover
19 the cost of actual debt service, customary operating
20 costs, and project reserve requirements, and for any
21 rehabilitation of the project and reasonably related
22 costs, and not for cash distributions or proceeds
23 made to any project owner or purchaser; or

24 “(2) restrict the right of any owner of such a
25 project that is a nonprofit organization or controlled

1 by a nonprofit organization to do business, in con-
2 nection with any affiliate or entity in which it has
3 a financial interest.

4 “(e) SECTION 236 DECOUPLING REFINANCING
5 TRANSACTIONS.—In the case of a decoupling refinancing
6 transaction under section 236, the Secretary may not
7 enter into any agreement that establishes an escrow for
8 the payment of future section 8 rent increases from sales
9 proceeds funded by low-income housing tax credit equity
10 and any such agreement already entered into shall be con-
11 sidered unenforceable, shall be rescinded, and may be re-
12 issued without the void condition.

13 “(f) APPLICABILITY.—Notwithstanding any existing
14 administrative directive of the Secretary to the contrary,
15 except as specifically authorized in this section, this sec-
16 tion shall apply to the prepayment of any multifamily
17 mortgage on any property insured or held by the Secretary
18 under this Act for which the approval of the Secretary
19 is required for prepayment of the mortgage.”.

20 **SEC. 505. PERIOD OF ELIGIBILITY FOR NONPROFIT DEBT**
21 **RELIEF.**

22 Section 517(a)(5) of the Multifamily Assisted Hous-
23 ing Reform and Affordability Act of 1997 (42 U.S.C.
24 1437f note) is amended by adding at the end the following
25 new sentences: “If such purchaser acquires such project

1 subsequent to the date of recordation of the affordability
2 agreement described in section 514(e)(6), (A) the pur-
3 chaser must acquire the project on or before the later of
4 (i) seven years after the date of recordation of the afford-
5 ability agreement and (ii) two years after the date of en-
6 actment of this sentence; and (B) the Secretary must have
7 received, and determined acceptable, the purchaser's ap-
8 plication for modification, assignment, or forgiveness prior
9 to the purchaser's acquisition of the project. In the event
10 any low-income housing tax credits, State or local funds,
11 tax-exemption or other affordable housing resources are
12 being utilized by the purchaser in connection with the
13 transfer of the property, the Secretary shall not require
14 any repayment in connection with the assignment or for-
15 giveness of the mortgages to the purchaser.”.

16 **SEC. 506. ACQUISITION OF RESTRUCTURED PROJECTS BY**
17 **NONPROFIT ORGANIZATIONS.**

18 Paragraph (5) of section 517(a) of the Multifamily
19 Assisted Housing Reform and Affordability Act of 1997
20 (42 U.S.C. 1437 note) is amended by inserting “, or the
21 sole general partner of the limited partnership owning the
22 project,” after “if the project”.

1 **SEC. 507. RENT ADJUSTMENTS UPON SUBSEQUENT RENEW-**
2 **ALS OF SECTION 8 CONTRACTS.**

3 Section 524(c) of the Multifamily Assisted Housing
4 Reform and Affordability Act of 1997 (42 U.S.C. 1437f
5 note) is amended by adding at the end the following new
6 paragraph:

7 “(3) SUBSEQUENT RENEWALS.—At the request
8 of the owner of the project, a contract initially re-
9 newed pursuant to this section may subsequently be
10 renewed under any renewal authority in this section
11 for which it is eligible. The subsequent renewal of a
12 contract initially renewed under subsection (b)(1)
13 shall be at rents established in accordance with
14 paragraph (1) of this subsection. A project whose
15 contract is initially renewed under this section shall
16 not be considered an eligible multifamily housing
17 project as defined in section 512(2) unless (A) the
18 owner of the project and the Secretary consent to
19 the project’s designation as an eligible multifamily
20 housing project, and (B) the project meets the re-
21 quirements of subparagraphs (A) and (C) of such
22 section 512(2).”.

23 **SEC. 508. BUDGET-BASED RENT ADJUSTMENTS.**

24 (a) METHODS FOR ANNUAL RENT ADJUSTMENTS.—
25 Section 514(g) of the Multifamily Assisted Housing Re-
26 form and Affordability Act of 1997 (42 U.S.C. 1437f

1 note) is amended by adding at the end the following new
2 paragraph:

3 “(4) ANNUAL RENT ADJUSTMENTS.—The Sec-
4 retary shall annually adjust the rents initially estab-
5 lished pursuant to this section using an operating
6 cost adjustment factor established by the Secretary
7 (which shall not result in a negative adjustment) or,
8 upon the request of the project owner, on a budget
9 basis.”

10 (b) MEETING REHABILITATION NEEDS OF PRE-
11 VIOUSLY RESTRUCTURED PROJECTS.—Section 517(c) of
12 the Multifamily Assisted Housing Reform and Afford-
13 ability Act of 1997 (42 U.S.C. 1437f note) is amended
14 by adding at the end the following new paragraph:

15 “(3) REHABILITATION NEEDS OF RESTRUC-
16 TURED PROJECTS.—

17 “(A) REHABILITATION ASSISTANCE.—Not-
18 withstanding any other provision of this title, at
19 the request of a project owner, the Secretary
20 shall, pursuant to a revised evaluation of the
21 physical condition of the project approved by
22 the Secretary, provide rehabilitation assistance
23 from the funding sources specified in the first
24 sentence of paragraph (1)(A) for any project
25 for which the Secretary and the project owner

1 executed a mortgage restructuring and rental
2 assistance sufficiency plan prior to October 1,
3 2001, pursuant to which mortgage debt on the
4 project was restructured.

5 “(B) FUNDING THROUGH DEBT RESTRUC-
6 TURING.—The Secretary may, in connection
7 with the transfer of a project to a qualified
8 preservation owner, modify or waive any of the
9 requirements or conditions on debt restruc-
10 turing contained in this title in order to provide
11 a simplified debt restructuring for funding the
12 rehabilitation of previously restructured projects
13 under this title. The Secretary may make a
14 non-default partial or full payment of claim
15 under a mortgage insurance contract pursuant
16 to section 541(b) of the National Housing Act
17 (12 U.S.C. 1735f-19(b)), notwithstanding the
18 limitation in section 541(b) to its one-time use.
19 The Secretary may also modify or waive any re-
20 quirement or condition in such section 541(b)
21 that the Secretary considers inconsistent with
22 the simplified debt restructuring authorized by
23 this paragraph.

24 “(C) CONTRIBUTION.—The project owner
25 receiving rehabilitation assistance under this

1 paragraph shall not be required to make the
2 contribution specified in paragraph (1)(B) or
3 (2)(C), except to the extent the Secretary in-
4 creases project rents to provide for a return of
5 the owner's contribution over such period as the
6 Secretary shall determine.”.

7 **SEC. 509. INDEPENDENT APPRAISAL REQUIREMENT IN**
8 **CASES OF DIVERGENT RENT STUDIES.**

9 Section 524(a)(5) of the Multifamily Assisted Hous-
10 ing Reform and Affordability Act of 1997 (42 U.S.C.
11 1437f note) is amended by adding at the end the following
12 new sentence: “In connection with a contract renewal
13 under this section or section 515, if the comparable mar-
14 ket rent determination made by the Secretary and the
15 owner's appraiser differ by 15 percent or more, the owner
16 may request a third appraiser, jointly selected and com-
17 pensated by the Secretary and the owner, to make a com-
18 parable market rent determination that shall be binding
19 on both parties.”.

20 **SEC. 510. EXTENSION OF HOUSING ASSISTANCE PAYMENT**
21 **CONTRACT.**

22 (a) IN GENERAL.—Section 524(a) of the Multifamily
23 Assisted Housing Reform and Affordability Act of 1997
24 (42 U.S.C. 1437f note) is amended by adding at the end
25 the following new paragraph:

1 “(6) EXTENSION OF CONTRACT TERM.—In con-
2 nection with the refinancing or sale of a project cov-
3 ered by a contract renewed under this subsection,
4 the Secretary shall, at the request of the owner,
5 amend the contract to extend the term to 30 years
6 or such shorter term as the owner may request.
7 Such an extension shall be subject to the availability
8 of sufficient amounts provided in appropriation
9 Acts.”.

10 (b) EXCEPTION RENT PROJECTS.—Section 524(b) of
11 the Multifamily Assisted Housing Reform and Afford-
12 ability Act of 1997 (42 U.S.C. 1437f note) is amended
13 by adding at the end the following new paragraph:

14 “(4) EXTENSION OF CONTRACT TERM.—In con-
15 nection with the refinancing or sale of a project cov-
16 ered by a contract renewed under this subsection,
17 the Secretary shall, at the request of the owner,
18 amend the contract to extend the term to 30 years
19 or such shorter term as the owner may request.
20 Such an extension shall be subject to the availability
21 of sufficient amounts provided in appropriation
22 Acts”.

23 **SEC. 511. OTHERWISE ELIGIBLE PROJECTS.**

24 Section 514 of the Multifamily Assisted Housing Re-
25 form and Affordability Act of 1997 (42 U.S.C. 1437f

1 note) is amended by adding at the end the following new
2 subsection:

3 “(i) OTHER ELIGIBLE PROJECTS.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of this subtitle, a project that meets the re-
6 quirements of subparagraphs (B) and (C) of section
7 512(2) but does not meet the requirements of sub-
8 paragraph (A) of section 512(2), may be treated as
9 an eligible multifamily housing project on an excep-
10 tion basis if the Secretary determines, subject to
11 paragraph (2), that such treatment is necessary to
12 preserve the project in the most cost-effective man-
13 ner in relation to other alternative preservation op-
14 tions.

15 “(2) OWNER REQUEST.—

16 “(A) REQUEST REQUIRED.—The Secretary
17 shall not treat an otherwise eligible project de-
18 scribed under paragraph (1) as an eligible mul-
19 tifamily housing project unless the owner of the
20 project requests such treatment.

21 “(B) NO ADVERSE TREATMENT IF NO RE-
22 QUEST MADE.—If the owner of a project does
23 not make a request under subparagraph (A),
24 the Secretary shall not withhold from such
25 project any other available preservation option.

1 “(3) CANCELLATION.—

2 “(A) TIMING.—At any time prior to the
3 completion of a mortgage restructuring under
4 this subtitle, the owner of a project may—

5 “(i) withdraw any request made under
6 paragraph (2)(A); and

7 “(ii) pursue any other option with re-
8 spect to the renewal of such owner’s sec-
9 tion 8 contract pursuant to any applicable
10 statute or regulation.

11 “(B) DOCUMENTATION.—If an owner of a
12 project withdraws such owner’s request and
13 pursues other renewal options under this para-
14 graph, such owner shall be entitled to submit
15 documentation or other information to replace
16 the documentation or other information used
17 during processing for mortgage restructuring
18 under this subtitle.

19 “(4) LIMITATION.—The Secretary may exercise
20 the authority to treat projects as eligible multifamily
21 housing projects pursuant to this subsection only to
22 the extent that the number of units in such projects
23 do not exceed 10 percent of all units for which mort-
24 gage restructuring pursuant to section 517 is com-
25 pleted.”.

1 **SEC. 512. EXCEPTION RENTS.**

2 In the matter preceding clause (i) of section
3 514(g)(2)(A) of the Multifamily Assisted Housing Reform
4 and Affordability Act of 1997 (42 U.S.C. 1437f note) is
5 amended—

6 (1) by inserting “disaster-damaged eligible
7 projects and” after “waive this limit for”; and

8 (2) by striking “five percent of all units” and
9 inserting “9 percent of all units”.

10 **SEC. 513. DISASTER-DAMAGED ELIGIBLE PROJECTS.**

11 (a) **MARKET RENT DETERMINATION.**—Section
12 514(g)(1)(B) of the Multifamily Assisted Housing Reform
13 and Affordability Act of 1997 (42 U.S.C. 1437f note) is
14 amended by striking “determined, are equal” and insert-
15 ing the following: “determined—

16 “(i) with respect to a disaster-dam-
17 aged property, are equal to 100 percent of
18 the fair market rents for the relevant mar-
19 ket area (as such rents were in effect at
20 the time of such disaster); and

21 “(ii) with respect to other eligible
22 multifamily housing projects, are equal”.

23 (b) **OWNER INVESTMENT.**—Section 517(c) of the
24 Multifamily Assisted Housing Reform and Affordability
25 Act of 1997 (42 U.S.C. 1437f note) is amended by adding
26 at the end the following:”.

1 renthesis the following: “, and
2 predevelopment assistance to enable such
3 transfers”; and

4 (B) by inserting after the period at the end
5 the following: “For outreach and training of
6 tenants and technical assistance, the Secretary
7 shall implement a grant program utilizing per-
8 formance-based outcome measures for eligible
9 costs incurred. Recipients providing capacity
10 building or technical assistance services to ten-
11 ant groups shall be qualified nonprofit State-
12 wide, countywide, area-wide or citywide organi-
13 zations with demonstrated experience including
14 at least a two-year recent track record of orga-
15 nizing and providing assistance to tenants, and
16 independence from the owner, a prospective
17 purchaser, or their managing agents. The Sec-
18 retary may provide assistance and training to
19 grantees in administrative and fiscal manage-
20 ment to ensure compliance with applicable Fed-
21 eral requirements. The Secretary shall expedite
22 the provision of funding for the fiscal year in
23 which the date of the enactment of the Housing
24 Preservation and Tenant Protection Act of
25 2010 occurs by entering into new multi-year

1 contracts with any prior grantee without ad-
2 verse audit findings or whose adverse audit
3 findings have been cleared, and by entering into
4 an interagency agreement for not less than
5 \$1,000,000 with the Corporation for National
6 and Community Service or any other agency of
7 the Federal Government, that is selected by the
8 Secretary and the Secretary determines is
9 qualified to conduct such program, to conduct
10 a tenant outreach and training program under
11 the same or similar terms and conditions as
12 was most recently conducted by the Corpora-
13 tion. The Secretary shall also make available
14 flexible grants to qualified nonprofit organiza-
15 tions that do not own eligible multifamily prop-
16 erties, for tenant outreach in underserved areas,
17 and to experienced national or regional non-
18 profit organizations to provide specialized train-
19 ing or support to grantees assisted under this
20 section. Notwithstanding any other provision of
21 law, funds authorized under this section for any
22 fiscal year shall be available for obligation in
23 subsequent fiscal years. The Secretary shall re-
24 quire each recipient of amounts made available
25 pursuant to this subparagraph to submit to the

1 Secretary reports, on a quarterly basis, detail-
2 ing the use of such funds and including such in-
3 formation as the Secretary shall require.”; and
4 (2) by adding at the end the following new sub-
5 paragraphs:

6 “(D) PROHIBITIONS.—None of the funds
7 made available under subparagraph (A) may be
8 used for any political activities, political advo-
9 cacy, or lobbying (as such terms are defined by
10 Circular A-122 of the Office of Management
11 and Budget, entitled ‘Cost Principles for Non-
12 Profit Organizations’), or for expenses for trav-
13 el to engage in political activities or preparation
14 of or provision of advice on tax returns.

15 “(E) PROGRAM COMPLIANCE SYSTEMS.—
16 Each recipient of amounts made available under
17 subparagraph (A) shall develop systems to en-
18 sure compliance with the program and the re-
19 quirements of this paragraph.

20 “(F) PENALTIES.—The Secretary may im-
21 pose penalties on any recipient of amounts
22 made available under subparagraph (A) that
23 fails to comply with any requirement under this
24 paragraph or of the program established pursu-

1 ant to this paragraph, which penalties may in-
2 clude—

3 “(i) ineligibility for further assistance
4 from amounts made available under sub-
5 paragraph (A); and

6 “(ii) requiring the recipient to reim-
7 burse the Secretary for any amounts that
8 were so misused.”.

9 **TITLE VI—PRESERVATION** 10 **DATABASE**

11 **SEC. 601. PRESERVATION DATABASE.**

12 (a) **UNIQUE IDENTIFIER.**—The Secretary of Housing
13 and Urban Development, in consultation with the Sec-
14 retary of Agriculture, shall establish a unique alpha-
15 numeric identifier for each covered multifamily property
16 (as such term is defined in subsection (i)). A property
17 shall have only one such identifier, regardless of whether
18 such property is receiving more than one of the forms of
19 assistance identified in subsection (i).

20 (b) **PUBLIC AVAILABILITY OF INFORMATION.**—The
21 Secretary of Housing and Urban Development shall re-
22 quire the submission of information and make publicly
23 available such information about each covered multifamily
24 property, which information shall include the following:

1 (1) The unique identifier for the property estab-
2 lished pursuant to subsection (a).

3 (2) The name of the property.

4 (3) The address and geographical coordinates of
5 the property

6 (4) The name of, and contact information for,
7 the owner (or owners) or sponsor (or sponsors) of
8 the property.

9 (5) A characterization of the type of owners or
10 sponsors of the property (such as nonprofit or for-
11 profit).

12 (6) The name of, and contact information for,
13 the property management company.

14 (7) The year that the property was built or
15 placed in service.

16 (8) The total number of dwelling units in the
17 property.

18 (9) The total number of dwelling units in the
19 property of each size (such as studio units, 1-bed-
20 room units, or 2-bedroom units).

21 (10) The average income of tenants residing in
22 dwelling units in the property receiving project-based
23 rental assistance, according to the most recent avail-
24 able information.

1 (11) For each size of dwelling unit in the prop-
2 erty, the contract rents for such dwelling units.

3 (12) For each size of dwelling unit in the prop-
4 erty, the ratio of the contract rents for such dwelling
5 units to the fair market rent established under sec-
6 tion 8(c) of the United States Housing Act of 1937
7 for such size dwelling units for the area in which the
8 property is located.

9 (13) The most recent 3 scores for the property
10 for any physical inspections, including any real es-
11 tate assessment center (REAC) scores for the prop-
12 erty, and the dates of such inspections.

13 (14) Indicators of the financial condition of the
14 property, which may include notification of any fore-
15 closure proceedings on the property and any bank-
16 ruptcy filings by the entity holding title to the prop-
17 erty.

18 (15) The form or forms of assistance identified
19 in subsection (i) that are provided for the property.

20 (16) For each form of assistance identified in
21 subsection (i) that is provided for the property, the
22 total number of dwelling units in the property for
23 which such assistance is provided.

24 (17) For each form of assistance identified in
25 subsection (i) that is provided for the property, the

1 total number of assisted dwelling units in the prop-
2 erty of each size (such as studio units, 1-bedroom
3 units, and 2-bedroom units).

4 (18) For each form of assistance identified in
5 subsection (i) that is provided for the property, a
6 characterization of occupancy restrictions applicable
7 to the property (such as restrictions limiting occu-
8 pancy to only elderly, disabled, or families).

9 (19) For each form of assistance identified in
10 subsection (i) that is provided for the property, any
11 limitations on the incomes of tenants applicable to
12 the assistance.

13 (20) For each form of assistance identified in
14 subsection (i) that is provided for the property, the
15 day, month, and year that any affordability or low-
16 income use restrictions applicable to the property
17 first applied.

18 (21) For each form of assistance identified in
19 subsection (i) that is provided for the property, the
20 day, month, and year that any affordability or low-
21 income use restrictions applicable to the property
22 will terminate.

23 (22) For each form of assistance identified in
24 subsection (i) that is provided for the property, the
25 day, month, and year of any early termination date

1 for such form of assistance after which any afford-
2 ability or low-income use restrictions will not nec-
3 essarily apply to the property (such as the termi-
4 nation of the compliance period for any low-income
5 housing tax credit for the property or the date that
6 a loan or mortgage for the property held or insured
7 by the Secretary is first eligible for prepayment).

8 (23) Any notices, plans, and information relat-
9 ing to the property required under the Low-Income
10 Housing Preservation and Resident Homeownership
11 Act of 1990 (12 U.S.C. 4101 et seq.), including any
12 notice of intent to prepay a mortgage under section
13 212 of such Act, information provided under section
14 216 of such Act by the Secretary, second notice of
15 intent under section 216(d) of such Act, plan of ac-
16 tion under section 217 of such Act, and notice of ap-
17 proval of a plan of action under section 225 of such
18 Act.

19 (24) Any notice of a request to terminate an in-
20 surance contract under title II of the National
21 Housing Act for a loan or mortgage on the property.

22 (25) Any notice of a request to prepay a loan
23 or mortgage on the property insured under title II
24 of the National Housing Act and an indication of

1 whether such request was made in conjunction with
2 a refinance application under such title.

3 (26) Any notice under section 8(c)(8) of the
4 United States Housing Act of 1937 of proposed ter-
5 mination of an assistance contract under such sec-
6 tion for the property.

7 (27) A description of any notice indicating an
8 intention of the owner in selling the property.

9 (28) Any other information as the Secretary or
10 the designee of the Secretary determines is appro-
11 priate.

12 (c) MEANS.—

13 (1) AVAILABILITY THROUGH WORLD WIDE
14 WEB.—The information made available pursuant to
15 subsection (b) shall be made available to the public
16 through a World Wide Web site of the Department
17 of Housing and Urban Development.

18 (2) SEARCHABLE ELECTRONIC DATABASE.—
19 Such information shall be made available in a
20 searchable electronic database format that allows for
21 the data for each of the forms of assistance specified
22 in subsection (i) to be aggregated in a single data-
23 base.

24 (3) USE OF EXISTING SYSTEMS AND DATA-
25 BASES.—The requirements of subsection (b) may be

1 met by adapting existing systems or databases to in-
2 clude the unique identifier established pursuant to
3 subsection (a) and the information specified in sub-
4 section (b).

5 (4) ANNUAL AND QUARTERLY LIST.—At least
6 annually, the Secretary shall update and make avail-
7 able a list of properties receiving one of more forms
8 of assistance specified in subsection (i). At least on
9 a quarterly basis, the Secretary shall make available
10 through a World Wide Web site of the Department
11 of Housing and Urban Development a list of prop-
12 erties receiving one or more forms of assistance
13 specified in subsection (i). Each such annual and
14 quarterly list shall include, for each such property,
15 the unique identifier established pursuant to sub-
16 section (a) and the information specified in para-
17 graphs (1) through (3) of subsection (b).

18 (d) UPDATING.—The information made available
19 pursuant to subsection (b) shall be updated not less than
20 annually or in accordance with any rules or practice appli-
21 cable to the subsidy program involved that require infor-
22 mation to be made available more frequently. Any histor-
23 ical databases shall remain available to the public through
24 a World Wide Web site of the Department of Housing and
25 Urban Development.

1 (e) INITIAL AVAILABILITY.—The Secretary of Hous-
2 ing and Urban Development shall make information ini-
3 tially publicly available pursuant to this section not later
4 than the expiration of the 18-month period beginning on
5 the date of the enactment of this Act.

6 (f) INFORMATION FROM DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall take such
7 actions as may be necessary to ensure that information
8 regarding any covered multifamily properties described in
9 paragraphs (1)(E) and (3)(G) of subsection (i) that is suf-
10 ficient for the Secretary of Housing and Urban Develop-
11 ment to comply with the requirements of this section, with
12 respect to such properties, is timely made available to the
13 Secretary of Housing and Urban Development.

14 (g) INFORMATION FROM SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall take such ac-
15 tions as may be necessary to ensure that information re-
16 garding any covered multifamily properties described in
17 paragraphs (4) and (6) of subsection (i) that is sufficient
18 for the Secretary of Housing and Urban Development to
19 comply with the requirements of this section, with respect
20 to such properties, is timely made available to the Sec-
21 retary of Housing and Urban Development

22 (h) GRANTS TO STATES AND LOCALITIES.—
23
24

1 (1) **AUTHORITY.**—The Secretary of Housing
2 and Urban Development shall, to the extent amounts
3 are made available for grants under this subsection,
4 make grants to States and units of local government
5 to enable such entities to collect and make available
6 to the public information about State and local as-
7 sistance provided to covered multifamily properties
8 identified in databases developed by the Secretary
9 pursuant to this section or to other properties as-
10 sisted by such States and units of local government.

11 (2) **AUTHORIZATION OF APPROPRIATIONS.**—
12 There is authorized to be appropriated to the Sec-
13 retary of Housing and Urban Development for
14 grants under this subsection such sums as may be
15 necessary in each fiscal year to carry out this sub-
16 section.

17 (i) **COVERED MULTIFAMILY PROPERTIES.**—For pur-
18 poses of this section, the term “covered multifamily prop-
19 erty” means a property consisting of more than 4 rental
20 dwelling units, which property—

21 (1) is covered in whole or in part by a contract
22 for assistance that is attached to the structure
23 under—

24 (A) section 8 of the United States Housing
25 Act of 1937 (42 U.S.C. 1437f), including—

1 (i) subsections (b) and (o)(13) of such
2 section 8;

3 (ii) the new construction and substan-
4 tial rehabilitation program under such sec-
5 tion 8(b)(2), as in effect before October 1,
6 1983;

7 (iii) the property disposition program
8 under such section 8(b);

9 (iv) the moderate rehabilitation pro-
10 gram under such section 8(e)(2); and

11 (v) the loan management assistance
12 program under such section 8;

13 (B) section 23 of the United States Hous-
14 ing Act of 1937, as in effect before January 1,
15 1975;

16 (C) the rent supplement program under
17 section 101 of the Housing and Urban Develop-
18 ment Act of 1965 (12 U.S.C. 1701s);

19 (D) section 8 of the United States Housing
20 Act of 1937, following conversion from assist-
21 ance under section 101 of the Housing and
22 Urban Development Act of 1965; or

23 (E) section 521 of the Housing Act of
24 1949 (42 U.S.C. 1490a);

1 (2) is financed by a mortgage insured or held
2 by the Secretary under title II of the National Hous-
3 ing Act (12 U.S.C. 1707 et seq.);

4 (3) receives assistance that is attached to the
5 structure pursuant to—

6 (A) section 202 of the Housing Act of
7 1959 (12 U.S.C. 1701q), including properties
8 receiving assistance prior to the enactment of
9 the Cranston-Gonzalez National Affordable
10 Housing Act;

11 (B) section 811 of the Cranston-Gonzalez
12 National Affordable Housing Act (42 U.S.C.
13 8013);

14 (C) section 5 or 9 of the United States
15 Housing Act of 1937 (42 U.S.C. 1437e,
16 1437g);

17 (D) title II of the Cranston-Gonzalez Na-
18 tional Affordable Housing Act (42 U.S.C.
19 12721 et seq.);

20 (E) subtitle D of title VIII of the Cran-
21 ston-Gonzalez National Affordable Housing Act
22 (42 U.S.C. 12901 et seq.);

23 (F) title IV of the McKinney-Vento Home-
24 less Assistance Act (12 U.S.C. 11301 et seq.);

25 or

1 (G) sections 514, 515, or 516 of the Hous-
2 ing Act of 1949 (42 U.S.C. 1484, 1485);

3 (4) is financed in whole or part with low-income
4 housing tax credits pursuant to section 42 of the In-
5 ternal Revenue Code of 1986 (26 U.S.C. 42);

6 (5) is financed in whole or part with amounts
7 from the Housing Trust Fund established under sec-
8 tion 1338 of the Federal Housing Enterprises Fi-
9 nancial Safety and Soundness Act of 1992 (12
10 U.S.C. 4568); or

11 (6) is financed in whole or in part with the pro-
12 ceeds from a bond issued pursuant to section 141 or
13 142 of the Internal Revenue Code of 1986 (26
14 U.S.C. 141, 142).

15 (j) PROTECTION OF INFORMATION.—This title shall
16 not be construed to require disclosure of social security
17 numbers, personal tax returns, or any other personal fi-
18 nancial information of or concerning individuals who have
19 an interest in the ownership or management entities of
20 covered housing.

1 **TITLE VII—SECTION 202 SUP-**
2 **PORTIVE HOUSING FOR THE**
3 **ELDERLY**

4 **SEC. 701. SHORT TITLE AND TABLE OF CONTENTS.**

5 This title may be cited as the “Section 202 Sup-
6 portive Housing for the Elderly Act of 2010”.

7 **Subtitle A—New Construction**
8 **Reforms**

9 **SEC. 711. PROJECT RENTAL ASSISTANCE.**

10 Paragraph (2) of section 202(c) of the Housing Act
11 of 1959 (12 U.S.C. 1701q(c)(2)) is amended—

12 (1) by inserting after “ASSISTANCE.—” the fol-
13 lowing: “(A) INITIAL PROJECT RENTAL ASSISTANCE
14 CONTRACT.—”;

15 (2) in the last sentence, by striking “may” and
16 inserting “shall”; and

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(B) RENEWAL OF AND INCREASES IN CON-
20 TRACT AMOUNTS.—

21 “(i) EXPIRATION OF CONTRACT TERM.—

22 Upon the expiration of each contract term, the
23 Secretary shall adjust the annual contract
24 amount to provide for reasonable project costs,

1 and any increases, including adequate reserves,
2 supportive services, and service coordinators.

3 “(ii) EMERGENCY SITUATIONS.—In the
4 event of emergency situations that are outside
5 the control of the owner, the Secretary shall in-
6 crease the annual contract amount, subject to
7 reasonable review and limitations as the Sec-
8 retary shall provide.”.

9 **SEC. 712. SELECTION CRITERIA.**

10 Section 202(f)(1) of the Housing Act of 1959 (12
11 U.S.C. 1701q(f)) is amended—

12 (1) by redesignating subparagraphs (F) and
13 (G) as subparagraphs (G) and (H), respectively; and

14 (2) by inserting after subparagraph (E):

15 “(F) the extent to which the applicant has en-
16 sured that a service coordinator will be employed or
17 otherwise retained for the housing, who has the
18 managerial capacity and responsibility for carrying
19 out the actions described in subparagraphs (A) and
20 (B) of subsection (g)(2);”.

21 **SEC. 713. DEVELOPMENT COST LIMITATIONS.**

22 Section 202(h)(1) of the Housing Act of 1959 (12
23 U.S.C. 1701q(h)(1)) is amended, in the matter preceding
24 subparagraph (A), by inserting “reasonable” before “de-
25 velopment cost limitations”.

1 **SEC. 714. OWNER DEPOSITS.**

2 Section 202(j)(3)(A) of the Housing Act of 1959 (12
3 U.S.C. 1701q(j)(3)(A)) is amended by inserting after the
4 period at the end the following: “Such amount shall be
5 used only to cover operating deficits during the first 3
6 years of operations and shall not be used to cover con-
7 struction shortfalls or inadequate initial project rental as-
8 sistance amounts.”.

9 **SEC. 715. DEFINITION OF PRIVATE NONPROFIT ORGANIZA-**
10 **TION.**

11 Paragraph (4) of section 202(k) of the Housing Act
12 of 1959 (12 U.S.C. 1701q(k)(4)) is amended to read as
13 follows:

14 “(4) The term “private nonprofit organization”
15 means—

16 “(A) any incorporated private institution
17 or foundation—

18 “(i) no part of the net earnings of
19 which inures to the benefit of any member,
20 founder, contributor, or individual;

21 “(ii) which has a governing board—

22 “(I) the membership of which is
23 selected in a manner to assure that
24 there is significant representation of
25 the views of the community in which
26 such housing is located, except that,

1 in the case of any organization that is
2 the sponsor of multiple housing
3 projects assisted under this section,
4 the organization may comply with this
5 subclause by having a local advisory
6 board for each community to the gov-
7 erning board of the organization, the
8 membership of which is selected in the
9 manner required under this subclause;
10 and

11 “(II) which is responsible for the
12 operation of the housing assisted
13 under this section; and

14 “(iii) which is approved by the Sec-
15 retary as to financial responsibility;

16 “(B) a for-profit limited partnership the
17 sole general partner of which is—

18 “(i) an organization meeting the re-
19 quirements under subparagraphs (A); or

20 “(ii) a for-profit corporation wholly
21 owned and controlled by one or more orga-
22 nizations meeting the requirements under
23 subparagraph (A); and

24 “(C) a limited liability company wholly
25 owned or controlled by one or more organiza-

1 tions meeting the requirements under subpara-
2 graph (A).”.

3 **SEC. 716. PREFERENCES FOR HOMELESS ELDERLY.**

4 Subsection (j) of section 202 of the Housing Act of
5 1959 (12 U.S.C. 1701q(j)) is amended by adding at the
6 end the following new paragraph:

7 “(9) PREFERENCES FOR HOMELESS ELDER-
8 LY.—The Secretary shall permit an owner of hous-
9 ing assisted under this section to establish for, and
10 apply to, such housing a preference in tenant selec-
11 tion for the homeless elderly, either within the appli-
12 cation or after selection pursuant to subsection (f),
13 but only if—

14 “(A) such preference is consistent with
15 paragraph (2); and

16 “(B) the owner demonstrates that the sup-
17 portive services identified pursuant to sub-
18 section (e)(4), or additional supportive services
19 to be made available upon implementation of
20 the preference, will meet the needs of the home-
21 less elderly, maintain safety and security for all
22 tenants, and be provided on a consistent, long-
23 term, and economical basis.”.

1 **SEC. 717. NONMETROPOLITAN ALLOCATION.**

2 Paragraph (3) of section 202(l) of the Housing Act
3 of 1959 (12 U.S.C. 1701q(l)(3)) is amended by inserting
4 after the period at the end the following: “In complying
5 with this paragraph, the Secretary shall either operate a
6 national competition for the nonmetropolitan funds or
7 make allocations to regional offices of the Department of
8 Housing and Urban Development.”.

9 **Subtitle B—Refinancing**

10 **SEC. 721. APPROVAL OF PREPAYMENT OF DEBT.**

11 Subsection (a) of section 811 of the American Home-
12 ownership and Economic Opportunity Act of 2000 (12
13 U.S.C. 1701q note) is amended—

14 (1) in the matter preceding paragraph (1), by
15 inserting “, for which the Secretary’s consent to pre-
16 payment is required,” after “Affordable Housing
17 Act)”;

18 (2) in paragraph (1)—

19 (A) by inserting “at least 30 years fol-
20 lowing” before “the maturity date”;

21 (B) by inserting “project-based” before
22 “rental assistance payments contract”;

23 (C) by inserting “project-based” before
24 “rental housing assistance programs”; and

1 (D) by inserting “, or any successor
2 project-based rental assistance program,” after
3 “1701s))”;

4 (3) by amending paragraph (2) to read as fol-
5 lows:

6 “(2) the prepayment may involve refinancing of
7 the loan if such refinancing results in—

8 “(A) a lower interest rate on the principal
9 of the loan for the project and in reductions in
10 debt service related to such loan; or

11 “(B) a transaction in which the project
12 owner will address the physical needs of the
13 project, but only if, as a result of the refi-
14 nancing—

15 “(i) the rent charges for unassisted
16 families residing in the project do not in-
17 crease or such families are provided rental
18 assistance under a senior preservation
19 rental assistance contract for the project
20 pursuant to subsection (e); and

21 “(ii) the overall cost for providing
22 rental assistance under section 8 for the
23 project (if any) is not increased, except,
24 upon approval by the Secretary to—

1 “(I) mark-up-to-market contracts
2 pursuant to section 524(a)(3) of the
3 Multifamily Assisted Housing Reform
4 and Affordability Act of 1997(42
5 U.S.C. 1437f note), as such section is
6 carried out by the Secretary for prop-
7 erties owned by nonprofit organiza-
8 tions; or

9 “(II) mark-up-to-budget con-
10 tracts pursuant to section 524(a)(4)
11 of the Multifamily Assisted Housing
12 Reform and Affordability Act of 1997
13 (42 U.S.C. 1437f note), as such sec-
14 tion is carried out by the Secretary
15 for properties owned by eligible own-
16 ers (as such term is defined in section
17 202(k) of the Housing Act of 1959
18 (12 U.S.C. 1701q(k)); and”;

19 (4) by adding at the end the following:

20 “(3) notwithstanding paragraph (2)(A), the
21 prepayment and refinancing authorized pursuant to
22 paragraph (2)(B) involves an increase in debt service
23 only in the case of a refinancing of a project assisted
24 with a loan under such section 202 carrying an in-
25 terest rate of 6 percent or lower.”.

1 **SEC. 722. SOURCES OF REFINANCING.**

2 The last sentence of section 811(b) of the American
3 Homeownership and Economic Opportunity Act of 2000
4 (12 U.S.C. 1701q note) is amended—

5 (1) by inserting after “National Housing Act,”
6 the following: “or approving the standards used by
7 authorized lenders to underwrite a loan refinanced
8 with risk sharing as provided by section 542 of the
9 Housing and Community Development Act of 1992
10 (12 U.S.C. 1701 note),”; and

11 (2) by striking “may” and inserting “shall”.

12 **SEC. 723. USE OF UNEXPENDED AMOUNTS.**

13 Subsection (c) of section 811 of the American Home-
14 ownership and Economic Opportunity Act of 2000 (12
15 U.S.C. 1701q note) is amended—

16 (1) by striking “USE OF UNEXPENDED
17 AMOUNTS.—” and inserting “USE OF PROCEEDS.—
18 ”;

19 (2) by amending the matter preceding para-
20 graph (1) to read as follows: “Upon execution of the
21 refinancing for a project pursuant to this section,
22 the Secretary shall ensure that proceeds are used in
23 a manner advantageous to tenants of the project, or
24 are used in the provision of affordable rental hous-
25 ing and related social services for elderly persons
26 that are tenants of the project or of other projects

1 assisted with a loan under section 202 of the Hous-
2 ing Act of 1959 (12 U.S.C. 1701q). by the private
3 nonprofit organization project owner, private non-
4 profit organization project sponsor, or private non-
5 profit organization project developer, including—”;

6 (3) in paragraph (1), by striking “not more
7 than 15 percent of”;

8 (4) in paragraph (2), by inserting before the
9 semicolon the following; “, including reducing the
10 number of units by reconfiguring units that are
11 functionally obsolete, unmarketable, or not economi-
12 cally viable”;

13 (5) in paragraph (3), by striking “or” at the
14 end;

15 (6) in paragraph (4), by striking “according to
16 a pro rata allocation of shared savings resulting
17 from the refinancing.” and inserting a semicolon;
18 and

19 (7) by adding at the end the following new
20 paragraphs:

21 “(5) rehabilitation of the project to ensure long-
22 term viability;

23 “(6) the payment to the project owner, sponsor,
24 or third party developer of a developer’s fee in an
25 amount not to exceed or duplicate—

1 “(A) in the case of a project refinanced
2 through a State low income housing tax credit
3 program, the fee permitted by the low income
4 housing tax credit program as calculated by the
5 State program as a percentage of acceptable de-
6 velopment cost as defined by that State pro-
7 gram; or

8 “(B) in the case of a project refinanced
9 through any other source of refinancing, 15
10 percent of the acceptable development cost; and
11 “(7) the payment of equity, if any, to—

12 “(A) in the case of a sale, to the seller or
13 the sponsor of the seller, in an amount equal to
14 the lesser of the purchase price or the appraised
15 value of the project, as each is reduced by the
16 cost of prepaying any outstanding indebtedness
17 on the project and transaction costs of the sale;
18 or

19 “(B) in the case of a refinancing without
20 the transfer of the project, to the project owner
21 or the project sponsor, in an amount equal to
22 the difference between the appraised value of
23 the project less the outstanding indebtedness
24 and total acceptable development cost.

1 For purposes of paragraphs (6)(B) and (7)(B), the term
2 “acceptable development cost” shall include, as applicable,
3 the cost of acquisition, rehabilitation, loan prepayment,
4 initial reserve deposits, and transaction costs.”.

5 **SEC. 724. USE OF PROJECT RESIDUAL RECEIPTS.**

6 Paragraph (1) of section 811(d) of the American
7 Homeownership and Economic Opportunity Act of 2000
8 (12 U.S.C. 1701q note) is amended—

9 (1) by striking “not more than 15 percent of”;

10 and

11 (2) by inserting before the period at the end the
12 following: “or other purposes approved by the Sec-
13 retary”.

14 **SEC. 725. ADDITIONAL PROVISIONS.**

15 Section 811 of the American Homeownership and
16 Economic Opportunity Act of 2000 (12 U.S.C. 1701q
17 note) is amended by adding at the end the following new
18 subsections:

19 “(e) SENIOR PRESERVATION RENTAL ASSISTANCE
20 CONTRACTS.—Notwithstanding any other provision of
21 law, in connection with a prepayment plan for a project
22 approved under subsection (a) by the Secretary or as oth-
23 erwise approved by the Secretary to prevent displacement
24 of elderly residents of the project in the case of refinancing
25 or recapitalization and to further preservation and afford-

1 ability of such project, the Secretary shall provide project-
2 based rental assistance for the project under a senior pres-
3 ervation rental assistance contract, as follows:

4 “(1) Assistance under the contract shall be
5 made available to the private nonprofit organization
6 owner—

7 “(A) for a term of at least 20 years, sub-
8 ject to annual appropriations; and

9 “(B) under the same rules governing
10 project-based rental assistance made available
11 under section 8 of the Housing Act of 1937 or
12 under the rules governing such other assistance
13 as may be made available for the project.

14 “(2) Any projects for which a senior preserva-
15 tion rental assistance contract is provided shall be
16 subject to a use agreement to ensure continued
17 project affordability having a term of the longer of
18 (A) the term of the senior preservation rental assist-
19 ance contract, or (B) such term as is required by the
20 new financing.

21 “(f) SUBORDINATION OR ASSUMPTION OF EXISTING
22 DEBT.—In lieu of prepayment under this section of the
23 indebtedness with respect to a project, the Secretary may
24 approve—

1 “(1) in connection with new financing for the
2 project, the subordination of the loan for the project
3 under section 202 of the Housing Act of 1959 (as
4 in effect before the enactment of the Cranston-Gon-
5 zalez National Affordable Housing Act) and the con-
6 tinued subordination of any other existing subordi-
7 nate debt previously approved by the Secretary to
8 facilitate preservation of the project as affordable
9 housing; or

10 “(2) the assumption (which may include the
11 subordination described in paragraph (1)) of the
12 loan for the project under such section 202 in con-
13 nection with the transfer of the project with such a
14 loan to a private nonprofit organization.

15 “(g) FLEXIBLE SUBSIDY DEBT.—The Secretary
16 shall waive the requirement that debt for a project pursu-
17 ant to the flexible subsidy program under section 201 of
18 the Housing and Community Development Amendments
19 of 1978 (12 U.S.C. 1715z–1a) be prepaid in connection
20 with a prepayment, refinancing, or transfer under this sec-
21 tion of a project if such waiver is necessary for the finan-
22 cial feasibility of the transaction and is consistent with
23 the long-term preservation of the project as affordable
24 housing.

1 “(h) TENANT INVOLVEMENT IN PREPAYMENT AND
2 REFINANCING.—The Secretary shall not accept an offer
3 to prepay the loan for any project under section 202 of
4 the Housing Act of 1959 unless the Secretary has—

5 “(1) determined that the owner of the project
6 has notified the tenants of the owner’s request for
7 approval of a prepayment;

8 “(2) determined that the owner of the project
9 has provided the tenants with an opportunity to
10 comment on the owner’s request for approval of a
11 prepayment, including a description of any antici-
12 pated rehabilitation or other use of the proceeds
13 from the transaction, and its impacts on project
14 rents, tenant contributions, or the affordability re-
15 strictions for the project; and

16 “(3) taken such comments into consideration.

17 “(i) DEFINITION OF PRIVATE NONPROFIT ORGANI-
18 ZATION.—For purposes of this section, the term ‘private
19 nonprofit organization’ has the meaning given such term
20 in section 202(k) of the Housing Act of 1959 (12 U.S.C.
21 1701q(k)).”.

1 **Subtitle C—Assisted Living**
2 **Facilities**

3 **SEC. 731. DEFINITION OF ASSISTED LIVING FACILITY.**

4 Section 202b(g) of the Housing Act of 1959 (12
5 U.S.C. 1701q–2(g)) is amended by striking paragraph (1)
6 and inserting the following new paragraph:

7 “(1) the term ‘assisted living facility’ means a
8 facility that—

9 “(A) is owned by a private nonprofit orga-
10 nization; and

11 “(B)(i) is licensed and regulated by a
12 State (or if there is no State law providing for
13 such licensing and regulation by the State, by
14 the municipality or other political subdivision in
15 which the facility is located); or

16 “(ii)(I) makes available, directly or
17 through licensed or certified third party service
18 providers, to residents at the resident’s request
19 or choice supportive services to assist the resi-
20 dents in carrying out the activities of daily liv-
21 ing, as described in section 232(b)(6)(B) of the
22 National Housing Act (12 U.S.C.
23 1715w(b)(6)(B)); and

24 “(II) provides separate dwelling units for
25 residents, each of which may contain a full

1 kitchen and bathroom and which includes com-
2 mon rooms and other facilities appropriate for
3 the provision of supportive services to the resi-
4 dents of the facility; and”.

5 **SEC. 732. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL**
6 **ASSISTANCE.**

7 Clause (iii) of section 8(o)(18)(B) of the United
8 States Housing Act of 1937 (42 U.S.C.
9 1437f(o)(18)(B)(iii)) is amended by inserting before the
10 period at the end the following: “, except that a family
11 may be required at the time the family initially receives
12 such assistance to pay rent in an amount exceeding 40
13 percent of the monthly adjusted income of the family by
14 such an amount or percentage that is reasonable given the
15 services and amenities provided and as the Secretary
16 deems appropriate.”.

17 **Subtitle D—National Senior**
18 **Housing Clearinghouse**

19 **SEC. 741. NATIONAL SENIOR HOUSING CLEARINGHOUSE.**

20 (a) ESTABLISHMENT.—Not later than 12 months
21 after the date of enactment of this Act, the Secretary of
22 Housing and Urban Development (in this section referred
23 to as the “Secretary”) shall establish and operate a clear-
24 inghouse to serve as a national repository to receive, col-
25 lect, process, assemble, and disseminate information re-

1 garding the availability and quality of multifamily develop-
2 ments for elderly tenants, including—

3 (1) the availability of—

4 (A) supportive housing for the elderly pur-
5 suant to section 202 of the Housing Act of
6 1959 (12 U.S.C. 1701q), including any housing
7 unit assisted with a project rental assistance
8 contract under such section;

9 (B) properties and units eligible for assist-
10 ance under section 8 of the United States
11 Housing Act of 1937 (42 U.S.C. 1437f);

12 (C) properties eligible for the low-income
13 housing tax credit under section 42 of the In-
14 ternal Revenue Code of 1986;

15 (D) units in assisted living facilities in-
16 sured pursuant to section 221(d)(4) of the Na-
17 tional Housing Act (12 U.S.C. 1715l(d)(4));

18 (E) units in any multifamily project that
19 has been converted into an assisted living facil-
20 ity for elderly persons pursuant to section 202b
21 of the Housing Act of 1959 (12 U.S.C. 1701q-
22 2); and

23 (F) any other federally assisted or sub-
24 sidized housing for the elderly;

1 (2) the number of available units in each prop-
2 erty, project, or facility described in paragraph (1);

3 (3) the number of bedrooms in each available
4 unit in each property, project, or facility described in
5 paragraph (1);

6 (4) the estimated cost to a potential tenant to
7 rent or reside in each available unit in each prop-
8 erty, project, or facility described in paragraph (1);

9 (5) the presence of a waiting list for entry into
10 any available unit in each property, project, or facil-
11 ity described in paragraph (1);

12 (6) the number of persons on the waiting list
13 for entry into any available unit in each property,
14 project, or facility described in paragraph (1);

15 (7) the amenities available in each available
16 unit in each property, project, or facility described in
17 paragraph (1), including—

18 (A) the services provided by such property,
19 project, or facility;

20 (B) the size and availability of common
21 space within each property, project, or facility;

22 (C) the availability of organized activities
23 for individuals residing in such property,
24 project, or facility; and

1 (D) any other additional amenities avail-
2 able to individuals residing in such property,
3 project, or facility;

4 (8) the level of care (personal, physical, or nurs-
5 ing) available to individuals residing in any property,
6 project, or facility described in paragraph (1);

7 (9) whether there is a service coordinator in
8 any property, project, or facility described in para-
9 graph (1); and

10 (10) any other criteria determined appropriate
11 by the Secretary.

12 (b) COLLECTION AND UPDATING OF INFORMA-
13 TION.—

14 (1) INITIAL COLLECTION.—Not later than 180
15 days after the date of enactment of this Act, the
16 Secretary shall conduct an annual survey requesting
17 information from each owner of a property, project,
18 or facility described in subsection (a)(1) regarding
19 the provisions described in paragraphs (2) through
20 (11) of such subsection.

21 (2) RESPONSE TIME.—Not later than 60 days
22 after receiving the request described under para-
23 graph (1), the owner of each such property, project,
24 or facility shall submit such information to the Sec-
25 retary.

1 (3) PUBLIC AVAILABILITY.—Not later than 120
2 days after the Secretary receives the submission of
3 any information required under paragraph (2), the
4 Secretary shall make such information publicly avail-
5 able through the clearinghouse.

6 (4) UPDATES.—The Secretary shall conduct a
7 biennial survey of each owner of a property, project,
8 or facility described in subsection (a)(1) for the pur-
9 pose of updating or modifying information provided
10 in the initial collection of information under para-
11 graph (1). Not later than 30 days after receiving
12 such a request, the owner of each such property,
13 project, or facility shall submit such updates or
14 modifications to the Secretary. Not later than 60
15 days after receiving such updates or modifications,
16 the Secretary shall inform the clearinghouse of such
17 updated or modified information.

18 (c) FUNCTIONS.—The clearinghouse established
19 under subsection (a) shall—

20 (1) respond to inquiries from State and local
21 governments, other organizations, and individuals re-
22 questing information regarding the availability of
23 housing in multifamily developments for elderly ten-
24 ants;

1 (2) make such information publicly available via
2 the Internet website of the Department of Housing
3 and Urban Development, which shall include—

4 (A) access via electronic mail; and

5 (B) an easily searchable, sortable,
6 downloadable, and accessible index that itemizes
7 the availability of housing in multifamily devel-
8 opments for elderly tenants by State, county,
9 and zip code;

10 (3) establish a toll-free number to provide the
11 public with specific information regarding the avail-
12 ability of housing in multifamily developments for el-
13 derly tenants; and

14 (4) perform any other duty that the Secretary
15 determines necessary to achieve the purposes of this
16 section.

17 (d) RELATIONSHIP WITH OTHER DATABASES.—In
18 carrying out this section, the Secretary may make the
19 clearinghouse a part of any other multifamily housing
20 database that the Secretary maintains or is otherwise re-
21 quired to establish pursuant to this Act or any other provi-
22 sion of law.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as necessary
25 to carry out this section.

1 **TITLE VIII—RURAL HOUSING**
2 **PRESERVATION**

3 **SECTION 801. SHORT TITLE.**

4 This title may be cited as the “Rural Housing Preser-
5 vation Act of 2010”.

6 **SEC. 802. PRESERVATION OF MULTIFAMILY HOUSING.**

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

10 **“SEC. 544. PRESERVATION OF MULTIFAMILY HOUSING AND**
11 **PROTECTION OF TENANTS.**

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

19 “(b) **APPLICATIONS TO PARTICIPATE.**—

20 “(1) **IN GENERAL.**—The Secretary shall accept
21 applications from owners of eligible projects to par-
22 ticipate in the preservation program under this sec-
23 tion.

24 “(2) **PRIORITY.**—In selecting among applica-
25 tions of eligible projects to participate in the preser-

1 vation program, the Secretary may give priority to
2 applications for such projects that are located on
3 tribal trust lands or other Indian areas, in colonias
4 (as such term is defined in section 916(e) of the
5 Cranston-Gonzalez National Affordable Housing Act
6 (42 U.S.C. 5306 note), or in other small, poor, low-
7 income communities.

8 “(c) LONG-TERM VIABILITY PLAN.—

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

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

16 “(A) PHYSICAL NEEDS ASSESSMENT.—A
17 physical needs assessment of the project that
18 identifies and projects, for the following 30
19 years—

20 “(i) all necessary repairs, improve-
21 ments, maintenance, and management
22 standards for the project, and when they
23 will be made, in order to meet the require-
24 ments of this title; and

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

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

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

7 “(ii) includes the loan restructuring
8 elements, rent adjustments, management
9 and operational efficiencies, and other fi-
10 nancial adjustments to the project that are
11 necessary to cover operating expenses for
12 the project and maintain an adequate fi-
13 nancial reserve for the future maintenance
14 and capital needs of the project;

15 “(iii) provides the project owner with
16 a long-term rate of return on equity of the
17 project owner, as determined by the Sec-
18 retary, commensurate to comparable rural
19 multifamily housing projects for which a
20 tax credit is provided under section 42 of
21 the Internal Revenue Code of 1986 (26
22 U.S.C. 42), and provides that any return
23 in excess of such rate of return shall be
24 made available to the Secretary only for
25 use under section 514, 515, or 516;

1 “(iv) meets the physical needs for the
2 project determined under the physical
3 needs assessment;

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

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

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

19 “(4) PRESERVATION DETERMINATION.—Based
20 on the long-term viability plan for an eligible project,
21 the Secretary shall determine whether to offer the
22 project owner a financial restructuring plan under
23 subsection (d) and the financial incentives to be in-
24 cluded in any such plan offered.

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

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

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

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

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

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

22 “(d) FINANCIAL RESTRUCTURING PLAN; PRESERVA-
23 TION INCENTIVES.—Based on the long-term viability plan
24 for an eligible project, the Secretary may offer a project
25 owner a financial restructuring plan for the project. Such

1 a plan may include one or more of the following preserva-
2 tion incentives:

3 “(1) Reduction or elimination of interest on the
4 loan or loans for the project made under section
5 514, 515, or 516.

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

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

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

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

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

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

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

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

22 “(e) LONG-TERM USE AGREEMENT.—

23 “(1) IN GENERAL.—If the owner of an eligible
24 project agrees to the terms of a financial restruc-
25 turing plan for the project providing preservation

1 benefits under subsection (d), in exchange for such
2 benefits, the Secretary and the project owner shall
3 enter into a long-term use agreement under this sub-
4 section for the project.

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

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

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

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

14 “(I) 30 years, or

15 “(II) the remaining term of any
16 loans under this title for the project,
17 whichever ends later;

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

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

22 “(C) provisions terminating the agreement
23 if any material preservation incentives for the
24 project to be provided under the agreement are
25 no longer available and the Secretary deter-

1 mines that such unavailability is not the fault
2 of the owner;

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

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

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

9 “(G) provisions providing for rural preser-
10 vation voucher assistance under section 542(c)
11 for low-income households residing in the
12 project who are eligible for such vouchers; and

13 “(H) such other terms as the Secretary de-
14 termines are necessary to implement the pur-
15 poses of this section.

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

20 “(1) MAXIMUM HOUSEHOLD CONTRIBUTION TO
21 RENT AND UTILITIES.—The maximum household
22 contribution to monthly rent and utilities for any eli-
23 gible household may not exceed 30 percent of the
24 adjusted income of the eligible household.

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

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

13 “(g) EARNED INCOME DISREGARD FOR RESI-
14 DENTS.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of law, the amount of the contribution to-
17 ward rent for a dwelling unit payable, by any house-
18 hold described in paragraph (3), for occupancy in a
19 project funded with a loan under section 514, 515,
20 or 516 may not be increased as a result of the in-
21 creased income due to employment during the 12-
22 month period beginning on the date on which the
23 employment is commenced.

24 “(2) PHASE-IN OF RENT INCREASES.—Upon
25 the expiration of the 12-month period referred to in

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

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

12 “(A)(i) is an eligible household who resides
13 in an eligible project; or

14 “(ii) is provided rural preservation voucher
15 assistance pursuant to section 542(e); and

16 “(B)(i) whose income increases as a result
17 of employment of a member of the household
18 who was previously unemployed for 1 or more
19 years;

20 “(ii) whose earned income increases during
21 the participation of a household member in any
22 family self-sufficiency or other job training pro-
23 gram; or

24 “(iii) who is or was, within 6 months, as-
25 sisted under any State program for temporary

1 assistance for needy families funded under part
2 A of title IV of the Social Security Act (42
3 U.S.C. 601 et seq.) and whose earned income
4 increases.

5 “(h) INELIGIBILITY.—

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

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

13 “(A) the project owner has a history of
14 poor management or maintenance of multi-
15 family housing properties;

16 “(B) the project owner is in default on a
17 loan made available under the section 514, 515,
18 or 516 housing program;

19 “(C) the Secretary is unable to enter into
20 a long-term use agreement for the project that
21 is the subject of the application with the project
22 owner within a reasonable time;

23 “(D) the project owner is suspended or
24 debarred from participating in Federal con-
25 tracts or programs; or

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

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

6 “(1) ELIGIBLE HOUSEHOLD.—The term ‘eligi-
7 ble household’ means a household that, under sec-
8 tion 514, 515, or 516, is eligible to reside in a
9 project funded with a loan made by the Secretary
10 under such section.

11 “(2) ELIGIBLE PROJECT.—The term ‘eligible
12 project’ means a housing project funded with a loan
13 made at any time by the Secretary under section
14 514, 515, or 516, the principal obligation of which
15 has not been fully repaid.

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

20 “(4) PRESERVED PROJECT.—The term ‘pre-
21 served project’ means an eligible project for which
22 the Secretary and owner have entered into agree-
23 ment on a financial restructuring plan for the
24 project and into a long-term use agreement for the
25 project, under this section.

1 “(j) ANNUAL REPORT.—The Secretary shall submit
2 a report to the Congress annually regarding the compli-
3 ance of owners of eligible projects participating in the
4 preservation program under this section with the require-
5 ments of such program, which shall identify and describe
6 any significant failures to comply.

7 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated for each of fiscal years
9 2011 through 2015 such sums as may be necessary to
10 carry out the preservation program under this section.”.

11 **SEC. 803. RURAL PRESERVATION AND RURAL TENANT PRO-**
12 **TECTION VOUCHERS.**

13 Section 542 of the Housing Act of 1949 (42 U.S.C.
14 1490r) is amended by adding at the end the following new
15 subsections:

16 “(c) RURAL PRESERVATION ASSISTANCE.—In the
17 case of a housing project subject to a loan made under
18 section 514, 515, or 516 that is a preserved project (as
19 such term is defined in section 544(i)), the Secretary shall,
20 to the extent that amounts for assistance under this sub-
21 section are provided in advance in appropriation Acts,
22 make available to each eligible household (as such term
23 is defined in section 544(i)) that is not already assisted
24 under the rental assistance program under section 521 or
25 the program for rental assistance under section 8 of the

1 United States Housing Act of 1937 (42 U.S.C. 1437f),
2 and is residing in the project upon the date that a long-
3 term use agreement is entered into pursuant to section
4 544(e) between the project owner and the Secretary,
5 voucher assistance under this subsection or rental assist-
6 ance under section 521 upon such date, as follows:

7 “(1) The amount of assistance provided shall be
8 sufficient to allow such household to remain in the
9 project after it is preserved.

10 “(2) The percentage of adjusted income paid by
11 the eligible household for rent and utilities for the
12 assisted dwelling shall not exceed 30 percent of ad-
13 justed income of the eligible household.

14 “(3) The assistance shall be available to the eli-
15 gible household only during the period in which the
16 eligible household resides in the preserved project
17 and the long-term use agreement remains in effect.

18 “(4) Upon termination of the participation of
19 the eligible household in the assistance program, the
20 assistance shall remain attached to the preserved
21 project and shall be available for use by another eli-
22 gible household residing in the preserved project.

23 “(d) RURAL TENANT PROTECTION VOUCHERS FOR
24 PREPAYMENTS AND FORECLOSURES.—

1 “(1) IN GENERAL.—In the case of a housing
2 project subject to a loan made under section 514,
3 515, or 516 that is prepaid or foreclosed upon, the
4 Secretary shall, to the extent that amounts for as-
5 sistance under this subsection are provided in ad-
6 vance in appropriation Acts, make available to each
7 eligible household (as such term is defined in section
8 544(i)) that is not assisted under the rental assist-
9 ance program under section 521 or the program for
10 rental assistance under section 8 of the United
11 States Housing Act of 1937 (42 U.S.C. 1437f), and
12 is residing in a dwelling unit in the project upon the
13 date that the Secretary approves the prepayment or
14 submits notice of foreclosure to the project owner, as
15 applicable, voucher assistance upon such date, as fol-
16 lows:

17 “(A) RELOCATION VOUCHERS.—In the
18 case of any such eligible household who must
19 relocate from a project for which the loan is
20 being prepaid or foreclosed upon, voucher as-
21 sistance under this subsection shall be subject
22 to the terms of section 8(o) of the United
23 States Housing Act of 1937 (42 U.S.C.
24 1437(o)), except that—

1 “(i) the percentage of adjusted income
2 paid by the eligible household for rent and
3 utilities for the assisted dwelling unit shall
4 not at any time exceed 30 percent of the
5 adjusted income of the eligible household;
6 and

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

20 “(B) ENHANCED VOUCHERS.—In the case
21 of any such eligible household who remains in
22 a project for which the loan is prepaid or fore-
23 closed upon, voucher assistance under this sub-
24 section shall be subject to the terms of section

1 8(t) of the United State Housing Act of 1937
2 (42 U.S.C. 1437f(t)), except that—

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

8 “(ii) the owner of the project may not
9 refuse to lease, to an eligible household for
10 whom voucher assistance under this sub-
11 paragraph is made available, any available
12 appropriately sized rental dwelling unit in
13 the project;

14 “(iii) voucher assistance under this
15 subparagraph may be used only for dwell-
16 ing units in housing that is decent, safe,
17 and sanitary; and

18 “(iv) upon termination of participa-
19 tion of such eligible family in the enhanced
20 voucher program, the voucher shall convert
21 to a relocation voucher under subpara-
22 graph (A) of this paragraph, and shall be
23 available with respect to such project only
24 to provide assistance in accordance with
25 the provisions of such subparagraph.

1 “(e) ADMINISTRATION.—The Secretary may contract
2 with a public housing agency or a private or nonprofit or-
3 ganization to administer vouchers authorized under sub-
4 sections (c) and (d).

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

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

14 “(h) APPLICABILITY OF SECTION 8 PROGRAM.—Ex-
15 cept as specifically provided otherwise in this section, to
16 the maximum extent practicable, the Secretary shall ad-
17 minister voucher assistance under subsections (c) and (d)
18 in accordance with, but not subject to, regulations and ad-
19 ministrative guidance for housing vouchers administered
20 by the Secretary of Housing and Urban Development
21 under section 8(o) of such Act.

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

1 **SEC. 804. TENANT PARTICIPATION.**

2 Title V of the Housing Act of 1949 is amended by
3 inserting after section 517 (42 U.S.C. 1487) the following
4 new section:

5 **“SEC. 518. TENANT PARTICIPATION.**

6 “The Secretary shall extend to tenants in multifamily
7 housing projects financed under sections 514, 515, 516
8 and 538 all of the rights that are specified in section 202
9 of the Housing and Community Development Amend-
10 ments of 1978 (12 U.S.C. 1715z–1b) with respect to ten-
11 ants of multifamily housing projects (as such term is de-
12 fined in subsection (a) of such section).”.

13 **SEC. 805. PRIORITY FOR FINANCING.**

14 Subsection (j) of section 515 of the Housing Act of
15 1949 (42 U.S.C. 1485(j)) is amended—

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

17 (2) by adding at the end the following new
18 paragraph:

19 “(2) The Secretary may give priority, in entering into
20 contracts under this section involving financing for new
21 construction of a project, for projects located in eligible
22 rural areas having a need for affordable low-income rental
23 housing due to prepayment of loans made or insured
24 under this section.”.

1 **SEC. 806. CONFORMING AMENDMENT.**

2 Section 537(b)(1) of the Housing Act of 1949 (42
3 U.S.C. 1490p–1(b)(1)) is amended by inserting before the
4 semicolon the following: “and to administer the preserva-
5 tion program under section 544”.

6 **SEC. 807. REGULATIONS.**

7 The Secretary of Agriculture shall issue proposed
8 regulations to carry out the amendments made by this title
9 not later than the expiration of the 90-day period begin-
10 ning upon the date of the enactment of this Act, and shall
11 issue final regulations to carry out the amendments made
12 by this title not later than the expiration of the 180-day
13 period beginning upon such date of enactment.