

111TH CONGRESS  
1ST SESSION

# S. 2836

To improve the Operating Fund for public housing of the Department of Housing and Urban Development, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2009

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

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## A BILL

To improve the Operating Fund for public housing of the Department of Housing and Urban Development, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Asset Management Im-  
5 provement Act of 2009”.

6 **SEC. 2. REVISIONS TO ASSET MANAGEMENT RULES AND**  
7 **RELATED FEES.**

8 (a) **MANAGEMENT AND RELATED FEES.**—The Sec-  
9 retary of Housing and Urban Development shall not im-

1 pose any restriction or limitation on the amount of man-  
2 agement and related fees with respect to a public housing  
3 project if the fee is determined to be reasonable by the  
4 public housing agency, unless such restriction or limitation  
5 imposed by the Secretary on such fees—

6           (1) is determined pursuant to a negotiated rule-  
7 making which is convened by the Secretary no ear-  
8 lier than April 1, 2010, and in accordance with sub-  
9 chapter III of chapter 5 of title 5, United States  
10 Code, with representatives from interested parties;  
11 and

12           (2) is effective only on or after January 1,  
13 2012.

14 The Secretary may not consider a public housing agency  
15 as failing to comply with the asset management require-  
16 ments of subpart H of part 990 of title 24 of the Code  
17 of Federal Regulations, or any successor or amended regu-  
18 lation containing asset management requirements, or de-  
19 termine that an agency fails to comply with such require-  
20 ments, because of or as a result of the agency determining  
21 its fees in accordance with this subsection.

22           (b) INCREASE OF THRESHOLD FOR EXEMPTION  
23 FROM ASSET MANAGEMENT REQUIREMENTS.—

24           (1) INCREASE.—Any public housing agency  
25 that owns or operates fewer than 500 public housing

1 units under title I of the United States Housing Act  
2 of 1937 may elect to be exempt from any asset man-  
3 agement requirement imposed by the Secretary of  
4 Housing and Urban Development.

5 (2) DETERMINATION OF OPERATING FUND AL-  
6 LOCATION.—If a public housing agency elects pursu-  
7 ant to paragraph (1) to be exempt from asset man-  
8 agement requirements, the agency may, at its op-  
9 tion, retain the same number of separate public  
10 housing projects, for purposes of determining its op-  
11 erating fund allocation, as the agency had identified  
12 and the Secretary of Housing and Urban Develop-  
13 ment had approved before the agency’s election to be  
14 so exempt.

15 **SEC. 3. PROHIBITION ON RESTRICTION OF FUNGIBILITY OF**  
16 **CAPITAL FUND AMOUNTS.**

17 The Secretary of Housing and Urban Development  
18 shall not impose any requirement, regulation, or guideline  
19 relating to asset management that restricts or limits in  
20 any way the use by public housing agencies of amounts  
21 for Capital Fund assistance under section 9(d) of such  
22 Act, pursuant to paragraph (1) or (2) of section 9(g) of  
23 the United States Housing Act of 1937 (42 U.S.C.  
24 1437g(g)), for costs of any central office of a public hous-  
25 ing agency.

1 **SEC. 4. TENANT PARTICIPATION.**

2 (a) **RULE OF CONSTRUCTION.**—Neither the require-  
3 ments of this Act, nor any other requirement, regulation,  
4 guideline, or other policy or action of the Department of  
5 Housing and Urban Development relating to public hous-  
6 ing asset management may be construed to repeal or waive  
7 any provision of part 964 of title 24 of the Code of Federal  
8 Regulations, regarding tenant participation and tenant op-  
9 portunities in public housing. The Secretary of Housing  
10 and Urban Development shall ensure that public housing  
11 agencies encourage the reasonable efforts of resident ten-  
12 ant organizations to represent their members or the rea-  
13 sonable efforts of tenants to organize.

14 (b) **PHAS IN RECEIVERSHIP.**—In the case of any  
15 public housing agency in receivership, the Secretary of  
16 Housing and Urban Development or any receiver may not  
17 abrogate, waive, repeal, or modify any provision of part  
18 964 of title 24 of the Code of Federal Regulations or any  
19 provision of a formalized housing agreement entered into  
20 pursuant to such part 964 (including pursuant to section  
21 964.11, 964.14, 964.18(a)(6), or 964.135 of such part)  
22 before the commencement of such receivership by a resi-  
23 dent or tenant organization and the public housing agen-  
24 cy.

25 (c) **GUIDANCE.**—Guidance issued by the Secretary of  
26 Housing and Urban Development shall encourage partici-

1 pation by residents in the implementation of asset man-  
2 agement and the development of local policies for such  
3 purposes.

