

111TH CONGRESS  
1ST SESSION

# S. 1676

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

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2009

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

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Affordable Housing  
5 Preservation and Revitalization Act of 2009”.

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

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

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

8 “(1) IN GENERAL.—The Secretary of Housing  
9 and Urban Development shall ensure that funds in  
10 the residual receipts account of an eligible multi-  
11 family housing property are transferred, at the time  
12 of a qualified sale or exchange, to a preservation en-  
13 tity.

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

22 “(3) USE OF FUNDS.—A preservation entity  
23 that acquires an eligible multifamily housing prop-  
24 erty through a qualified sale shall, subject to the ap-  
25 proval of the housing agency, use the funds in the

1 residual receipts account transferred to it, or for its  
2 benefit—

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

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, but in any 1 year such payments may not  
10 exceed 10 percent of the balance of the residual  
11 receipts account of the property at the end of  
12 the prior fiscal year;

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

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

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

23 “(A) AFFORDABILITY AND USE RESTRIC-  
24 TIONS.—The term ‘affordability and use restric-  
25 tions’ means the affordability and use restric-

1 tions in connection with project-based housing  
2 assistance payments made under this section.

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

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

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

16 provided that, such extended use period shall  
17 terminate in the event that the Secretary of  
18 Housing and Urban Development is unable to  
19 provide Section 8 assistance on terms at least  
20 as advantageous to the preservation entity as  
21 exist at the time of the acquisition of such eligi-  
22 ble multifamily housing property.

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

1           “(i) is receiving project-based housing  
2           assistance payments under this section;  
3           and

4           “(ii) was financed pursuant to part  
5           883 of title 24, Code of Federal Regula-  
6           tions, on or after February 29, 1980.

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

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

14               “(i) that is—

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

21                   “(II) a limited partnership or  
22                   limited liability company where the  
23                   sole general partner or sole managing  
24                   member of such ownership entity is a  
25                   nonprofit corporation under State law

1 which is exempt from Federal income  
2 taxation pursuant to paragraphs (3)  
3 or (4) of section 501(c) of the Inter-  
4 nal Revenue Code of 1986; and

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

9 “(F) QUALIFIED SALE.—

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

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

18 “(II) legally enforceable.

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

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

1                   “(II) recorded as a restrictive  
2                   covenant on the property pursuant to  
3                   State law.

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

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

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

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

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