

116TH CONGRESS
1ST SESSION

S. 3088

To provide assistance to public housing agencies that have failing properties in their inventories in order to protect the health and safety of public housing residents, to allow consortia to enter into single annual contributions contracts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2019

Ms. DUCKWORTH (for herself, Mr. DURBIN, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide assistance to public housing agencies that have failing properties in their inventories in order to protect the health and safety of public housing residents, to allow consortia to enter into single annual contributions contracts, 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 “Averting Crises in
5 Housing Assistance Act” or the “ACHA Act”.

1 **SEC. 2. OVERSIGHT OF FAILING PROPERTIES.**

2 Section 6 of the United States Housing Act of 1937
3 (42 U.S.C. 1437d) is amended by adding at the end the
4 following:

5 “(u) OVERSIGHT OF FAILING PROPERTIES.—

6 “(1) DEFINITIONS.—In this subsection:

7 “(A) APPLICABLE PUBLIC HOUSING AGEN-
8 CY.—The term ‘applicable public housing agen-
9 cy’ means a public housing agency that has a
10 public housing inventory that includes a failing
11 property.

12 “(B) EARLY INTERVENTION MECHA-
13 NISM.—The term ‘early intervention mecha-
14 nism’ means the early intervention mechanism
15 developed by the Secretary under paragraph
16 (2)(A).

17 “(C) FAILING PROPERTY.—The term ‘fail-
18 ing property’ means any facility—

19 “(i) with a uniform physical condition
20 score that is less than 60;

21 “(ii) that has a failure that would dis-
22 qualify the facility under the physical con-
23 dition standards described in section 5.703
24 of title 24, Code of Federal Regulations, or
25 any successor regulation; or

1 “(iii) for which not less than 25 per-
 2 cent of the residents of the facility or a
 3 resident advisory board established under
 4 section 5A(e) has submitted to Secretary a
 5 complaint described paragraph (2)(D).

6 “(D) GOOD CONDITION.—The term ‘good
 7 condition’, with respect to a property in the
 8 public housing inventory of a public housing
 9 agency, means a condition that does not have
 10 any of the criteria described in clause (i), (ii),
 11 or (iii) of subparagraph (C).

12 “(E) PERFORMANCE INDICATORS.—The
 13 term ‘performance indicators’ means the indica-
 14 tors described in subsection (j)(1).

15 “(2) ESTABLISHMENT OF EARLY INTERVEN-
 16 TION MECHANISM.—

17 “(A) IN GENERAL.—Not later than 60
 18 days after the date of enactment of this sub-
 19 section, the Secretary shall establish an early
 20 intervention mechanism under which the Sec-
 21 retary shall—

22 “(i) identify properties in the public
 23 housing inventory of public housing agen-
 24 cies that are not in good condition; and

1 “(ii) partner with public housing
2 agencies to which properties identified
3 under clause (i) belong to assist those pub-
4 lic housing agencies in—

5 “(I) preserving to the greatest
6 extent possible, the public housing
7 stock of each public housing agency as
8 public housing; and

9 “(II) rehabilitating the public
10 housing stock of each public housing
11 agency in a manner that qualifies the
12 public housing agency, with respect to
13 each property described in clause (i),
14 as meeting a satisfactory standard of
15 performance under the performance
16 indicators.

17 “(B) IDENTIFICATION OF FAILING PROP-
18 erties.—

19 “(i) IDENTIFICATION.—Not later than
20 60 days after the date on which the Sec-
21 retary establishes the early intervention
22 mechanism, and every year thereafter, the
23 Secretary shall, under the early interven-
24 tion mechanism—

1 “(I) identify each property of
2 each public housing agency that is not
3 in good condition; and

4 “(II) designate each property
5 identified under subclause (I) as a
6 failing property.

7 “(ii) APPEAL AND PETITION.—Not
8 later than 60 days after the date on which
9 the Secretary establishes the early inter-
10 vention mechanism, the Secretary shall es-
11 tablish procedures for an applicable public
12 housing agency to—

13 “(I) appeal a designation made
14 under clause (i)(II);

15 “(II) petition for removal of a
16 designation made under clause (i)(II);
17 and

18 “(III) appeal any refusal to re-
19 move a designation made under clause
20 (i)(II).

21 “(iii) PUBLICATION.—The Secretary
22 shall—

23 “(I) publish a list of each failing
24 property on the internet website of the

1 Department of Housing and Urban
2 Development;

3 “(II) update the list described in
4 subclause (I) not less frequently than
5 every 60 days; and

6 “(III) require each applicable
7 public housing agency to post a notice
8 on the internet website of the public
9 housing agency, if applicable, and in
10 each common area and at each en-
11 trance of each failing property of the
12 public housing agency to alert resi-
13 dents of any such designation.

14 “(C) AGREEMENT AND NOTIFICATION.—
15 Not later than 90 days after the date on which
16 the Secretary designates a property as a failing
17 property, or, if an applicable public housing
18 agency makes an appeal or a petition under
19 subparagraph (B)(ii) and that appeal or peti-
20 tion is denied, not later than 90 days after the
21 date on which the appeal or petition is denied,
22 the Secretary shall—

23 “(i) enter into an agreement with the
24 public housing agency to which the failing
25 property belongs—

1 “(I) under which the public hous-
2 ing agency shall establish an action
3 plan to restore the failing property to
4 good condition; and

5 “(II) that provides—

6 “(aa) a timeline for pre-
7 serving the failing property in a
8 manner consistent with sub-
9 clauses (I) and (II) of subpara-
10 graph (A)(ii); and

11 “(bb) a deadline by which
12 the failing property shall be re-
13 quired to be restored in a manner
14 that qualifies the applicable pub-
15 lic housing agency the public
16 housing inventory of which in-
17 cludes the failing property, with
18 respect to the failing property, as
19 meeting a satisfactory standard
20 of performance under the per-
21 formance indicators;

22 “(ii) notify the residents of the failing
23 property of the timeline and deadline de-
24 scribed in clause (i) by requiring the public
25 housing agency to post a notice of the

1 timeline and deadline on the internet
2 website of the public housing agency, if ap-
3 plicable, and in each common area and at
4 each entrance of the failing property; and

5 “(iii) provide technical assistance and
6 other resources to the public housing agen-
7 cy, including assistance and resources
8 that—

9 “(I) prioritize preserving the fail-
10 ing property as public housing if it is
11 financially feasible to bring the prop-
12 erty into good condition;

13 “(II) minimize, to the greatest
14 extent possible, the dislocation of ten-
15 ants who wish to remain in the failing
16 property;

17 “(III) provide housing vouchers
18 to tenants who wish to relocate during
19 the rehabilitation of the failing prop-
20 erty, and pay for any associated mov-
21 ing costs;

22 “(IV) permit a tenant who relo-
23 cated under subclause (III) to return
24 to the failing property after the prop-
25 erty has been restored to good condi-

tion, and pay for any associated moving costs; and

“(V) restore the failing property in a manner that qualifies the public housing agency, with respect to the failing property, as meeting a satisfactory standard of performance under the performance indicators and in accordance with the agreement entered into under clause (i).

“(D) COMPLAINT PROCESS.—The Secretary shall establish a process by which residents of public housing or a resident advisory board established under section 5A(e) may submit to the Secretary a complaint that provides that the public housing—

“(i) is in a failing condition; and

“(ii) does not meet the physical condition standards described in section 5.703 of title 24, Code of Federal Regulations, or any successor regulation.

“(3) PRIVATE CAUSE OF ACTION.—

“(A) IN GENERAL.—If the Secretary and an applicable public housing agency fail to restore a failing property included in the public

1 housing inventory of the applicable public hous-
2 ing agency to good condition by the date that
3 is 1 year after the date on which the public
4 housing agency establishes an action plan relat-
5 ing to the failed property under paragraph
6 (2)(C), or, if an applicable public housing agen-
7 cy makes an appeal or a petition under para-
8 graph (2)(B) and that appeal or petition is de-
9 nied, not later than 1 year after the date on
10 which that appeal or petition is denied, a resi-
11 dent of the failing property may maintain an
12 action against the Secretary in an appropriate
13 district court of the United States.

14 “(B) RELIEF.—Upon proof that the Sec-
15 retary and an applicable public housing agency
16 have failed to restore a failing property to good
17 condition by a preponderance of the evidence in
18 an action under subparagraph (A), the court
19 may award appropriate relief to the resident of
20 the failing property who brought the action, in-
21 cluding—

22 “(i) injunctive relief to require the
23 Secretary to restore the failing property to
24 good condition;

25 “(ii) compensatory damages;

1 “(iii) the costs of suit; and
 2 “(iv) reasonable fees for any attorney
 3 and expert witness of the resident.

4 “(4) AUTHORIZATION OF APPROPRIATIONS.—
 5 There is authorized to be appropriated to the Cap-
 6 ital Fund under section 9(d) of the United States
 7 Housing Act of 1937 (42 U.S.C. 1437g(d))
 8 \$70,000,000,000 to carry out this subsection.”.

9 **SEC. 3. RECEIVERSHIP PROCESS.**

10 (a) AMENDMENT TO THE UNITED STATES HOUSING
 11 ACT OF 1937.—Section 6(j)(3) of the United States
 12 Housing Act of 1937 (42 U.S.C. 1437d(j)(3)) is amended
 13 by adding at the end the following:

14 “(I) CONSULTATION WITH PUBLIC HOUSING RESI-
 15 DENTS.—

16 “(i) IN GENERAL.—If the Secretary (or an ad-
 17 ministrative receiver appointed by the Secretary)
 18 takes possession of a public housing agency (includ-
 19 ing all or part of any project or program of the
 20 agency), or if a receiver is appointed by a court, in
 21 carrying out the duties of the Secretary or receiver
 22 under this paragraph, the Secretary or receiver shall
 23 consult with the public housing residents of the pub-
 24 lic housing agency.

1 “(ii) REQUIREMENTS.—The consultation con-
2 ducted under clause (i) shall include—

3 “(I) providing notice to the residents of the
4 receivership, including the contact information
5 for an individual or entity that residents may
6 contact for maintenance requests and other
7 property management responsibilities and file
8 complaints;

9 “(II) holding 1 informational meeting for
10 the residents before the Secretary takes posses-
11 sion of the public housing agency or another re-
12 ceiver is appointed; and

13 “(III) holding in-person meetings with the
14 residents on not less frequently than a monthly
15 basis regarding the receivership.

16 “(J) PURPOSE OF RECEIVERSHIP PROCESS.—The
17 purpose of the receivership process under this paragraph
18 is to—

19 “(i) preserve, without demolition or disposition,
20 the public housing of each public housing agency;

21 “(ii) preserve the health and safety of public
22 housing residents of the public housing agency; and

23 “(iii) minimize, to the greatest extent possible,
24 the dislocation of tenants who wish to remain in
25 their dwelling units.”.

1 (b) GUIDANCE.—Not later than 1 year after the date
 2 of enactment of this Act, the Secretary of Housing and
 3 Urban Development shall revise any relevant regulation,
 4 policy, or guideline of the Department of Housing and
 5 Urban Development to conform with the amendment made
 6 by subsection (a).

7 **SEC. 4. ABILITY OF CONSORTIA TO ENTER INTO SINGLE AN-**
 8 **NUAL CONTRIBUTIONS CONTRACTS.**

9 (a) IN GENERAL.—Section 13(a) of the United
 10 States Housing Act of 1937 (42 U.S.C. 1437k(a)) is
 11 amended by adding at the end the following:

12 “(4) SINGLE ANNUAL CONTRIBUTIONS CON-
 13 TRACTS.—

14 “(A) IN GENERAL.—On and after the date
 15 on which the Secretary promulgates regulations
 16 under subparagraph (B), subject to the ap-
 17 proval of the Secretary, each consortium de-
 18 scribed in paragraph (1) may enter into a single
 19 annual contributions contract under which the
 20 consortium—

21 “(i) shall be a separate legal entity
 22 from each public housing agency partici-
 23 pating in the consortium; and

24 “(ii) shall be deemed a single public
 25 housing agency for purposes of this Act.

1 “(B) REGULATIONS.—Not later than 1
2 year after the date of enactment of the Averting
3 Crises in Housing Assistance Act, the Secretary
4 shall promulgate regulations relating to require-
5 ments for any consortium described in para-
6 graph (1) desiring to enter into a single annual
7 contributions contract under subparagraph (A)
8 of this paragraph, including requirements relat-
9 ing to obtaining the approval of the Secretary
10 to enter into such a single annual contributions
11 contract under that subparagraph.”.

12 (b) CLERICAL AMENDMENT.—Section 3(b)(6)(B)(i)
13 of the United States Housing Act of 1937 (42 U.S.C.
14 1437a(b)(6)(B)(i)) is amended by striking “consortia”
15 and inserting “consortium”.

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