

AMENDMENT TO H.R. 5735
OFFERED BY MS. MAXINE WATERS OF
CALIFORNIA

At the end of the bill, add the following new section:

1 **SEC. 5. REQUIREMENTS FOR TERMINATION OF TENANCY**
2 **AND ASSISTANCE FOR DRUG-RELATED CRIMI-**
3 **NAL ACTIVITY BY TENANTS OF FEDERALLY**
4 **ASSISTED HOUSING.**

5 (a) IN GENERAL.—Section 577 of the Quality Hous-
6 ing and Work Responsibility Act of 1998 (42 U.S.C.
7 13662) is amended to read as follows:

8 **“SEC. 577. REQUIREMENTS FOR TERMINATION OF TEN-**
9 **ANCY AND ASSISTANCE FOR DRUG-RELATED**
10 **CRIMINAL ACTIVITY BY TENANTS OF FEDER-**
11 **ALLY ASSISTED HOUSING.**

12 **“(a) TOTALITY OF THE CIRCUMSTANCES REVIEW.—**

13 **“(1) REQUIREMENT.—**In determining whether
14 to terminate tenancy or assistance to any household
15 based on drug-related criminal activity by a house-
16 hold member or any guest or other person under the
17 control of a household member, a public housing
18 agency or an owner shall conduct an individualized
19 review of the totality of the circumstances regarding

1 the criminal activity at issue, taking into consider-
2 ation the household's need for housing and the
3 health and safety of the community.

4 “(2) GUIDANCE; MITIGATING FACTORS.—The
5 Secretary shall issue guidance for public housing
6 agencies and owners regarding reviews required
7 under paragraph (1), which shall provide for tenants
8 to submit mitigating evidence and shall include con-
9 sideration of all mitigating factors presented, includ-
10 ing all of the factors specified in paragraph (3).

11 “(3) GUIDANCE; MITIGATING FACTORS.—The
12 Secretary shall issue guidance for public housing
13 agencies and owners regarding reviews required
14 under paragraph (1), which shall provide for tenants
15 to submit mitigating evidence and shall include con-
16 sideration of all mitigating factors presented, includ-
17 ing the following factors:

18 “(A) SEVERITY.—The severity of the of-
19 fense or offenses committed.

20 “(B) FREQUENCY.—The frequency of the
21 offense or offenses committed.

22 “(C) NATURE OF OFFENSE.—

23 “(i) DISABILITY-RELATED OF-
24 FENSES.—Whether the offense or of-
25 fenses—

1 “(I) were committed by a mem-
2 ber of the household who is an indi-
3 vidual with disabilities who is entitled
4 to a reasonable accommodation under
5 the Fair Housing Act or section 504
6 of the Rehabilitation Act of 1974; or

7 “(II) are related to a symptom of
8 a disability of the member of the
9 household who committed the offense
10 or offenses.

11 “(ii) PROXIMITY TO ASSISTED HOUS-
12 ING.—Whether the offense or offenses oc-
13 curred on or near the federally assisted
14 housing in which the household resides.

15 “(iii) EMPLOYMENT; EDUCATION; VO-
16 CATION.—The employment, educational, or
17 vocational status of the member of the
18 household who committed the offense or
19 offenses.

20 “(iv) COMMUNITY AND FAMILIES
21 TIES.—The nature and extent of commu-
22 nity and family ties of the member of the
23 household who committed the offense or
24 offenses.

1 “(b) PROHIBITION OF EVICTIONS BASED ON INCON-
2 CLUSIVE EVIDENCE.—A public housing agency or owner
3 may not deny admission to federally assisted housing or
4 to the program based solely on—

5 “(1) an arrest for an offense for which the ap-
6 plicant was not subsequently convicted;

7 “(2) any juvenile adjudication or conviction;

8 “(3) a conviction that has been expunged,
9 sealed, or subject to similar judicial relief under
10 State law the purpose of which is to remove the col-
11 lateral consequences of a criminal conviction; or

12 “(4) non-criminal citations, such as traffic and
13 municipal citations.

14 “(c) OPTION TO REMOVE CULPABLE HOUSEHOLD
15 MEMBER.—

16 “(1) IN GENERAL.—In the case of any drug-re-
17 lated criminal activity warranting termination of
18 tenancy or assistance, the public housing agency or
19 owner shall, before proceeding with eviction or ter-
20 mination proceedings against the entire tenant
21 household, provide the tenant with the option of re-
22 moving from the household the member that is cul-
23 pable for the activity that warrants the termination
24 in order for the remainder of the household to con-
25 tinue to reside in the assisted unit, and may only

1 proceed with eviction proceedings if the tenant re-
2 fuses to exercise such option.

3 “(2) AVAILABILITY OF REMEDIES.—Paragraph
4 (1) shall not supersede any protections or remedies
5 available under the Violence Against Women Act of
6 1994 (42 U.S.C. 13925 et seq.).”.

7 (b) EFFECTIVE DATE.—Section 577 of the Quality
8 Housing and Work Responsibility Act of 1998, as amend-
9 ed by subsection (a) of this section, shall take effect and
10 apply on the date of the enactment of this Act.

