

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To [NOTE: To be supplied.]

IN THE HOUSE OF REPRESENTATIVES

Mr. TORRES of New York introduced the following bill; which was referred to the Committee on _____

A BILL

To [NOTE: To be supplied.]

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 Act of 2021”.

6 **SEC. 2. AFFORDABLE HOUSING PRESERVATION PROGRAM.**

7 Title I of the United States Housing Act of 1937 (42
8 U.S.C. 1437 et seq.) is amended by adding at the end
9 the following new section:

1 **“SEC. 39. AFFORDABLE HOUSING PRESERVATION PRO-**
2 **GRAM; FIRST COMPONENT.**

3 “(a) CONVERSION OF ASSISTANCE.—To provide as-
4 sistance to preserve and improve public housing and cer-
5 tain other multifamily housing through the voluntary con-
6 version of properties with assistance under section 9 of
7 this Act, or the moderate rehabilitation program under
8 section 8(e)(2) of this Act, to properties with assistance
9 under a project-based subsidy contract under section 8 of
10 this Act, which shall be eligible for renewal under section
11 524 of the Multifamily Assisted Housing Reform and Af-
12 fordability Act of 1997 or assistance under section
13 8(o)(13) of this Act, the Secretary may carry out a pro-
14 gram under this title (in this section referred to as the
15 ‘Program’) to transfer amounts provided through con-
16 tracts under section 8(e)(2) or for the Public Housing
17 Capital Fund and the Public Housing Operating Fund
18 under subsections (d) and (e), respectively, of section 9
19 of this Act for use for tenant-based rental assistance or
20 project-based rental assistance under section 8 of this Act.

21 “(b) INITIAL LONG-TERM CONTRACT.—The initial
22 long-term contract under which assistance converted pur-
23 suant to subsection (a) is made available may allow for
24 rental adjustments only by an operating cost factor estab-
25 lished by the Secretary, and shall be subject to the avail-
26 ability of appropriations for each year of such term.

1 “(c) TERM OF PROGRAM.—The Secretary may re-
2 ceive project applications under the Program until Sep-
3 tember 30, 2025.

4 “(d) BUDGET COMPLIANCE.—Any increase in costs
5 for tenant-based rental assistance or project-based rental
6 assistance associated with such conversion under the Pro-
7 gram in excess of amounts made available to carry out
8 such program shall be equal to amounts transferred from
9 the Public Housing Capital Fund and the Public Housing
10 Operating Fund or from any other account of the Depart-
11 ment of Housing and Urban Development from which it
12 was transferred.

13 “(e) SCOPE OF PROGRAM.—Not more than 455,000
14 dwelling units receiving assistance under section 9 or sec-
15 tion 8(e)(2) of United States Housing Act of 1937 may
16 be converted under the Program.

17 “(f) TENANT PROTECTIONS.—

18 “(1) PUBLIC HOUSING TENANTS.—In the case
19 of properties with assistance to be converted under
20 this section from assistance under section 9:

21 “(A) NOTIFICATION OF CONVERSION.—Be-
22 fore an application for participation in the Pro-
23 gram is submitted, the public housing agency
24 shall—

1 “(i) provide written notification to le-
2 gitimate resident organizations of the in-
3 tent of the agency to pursue a conversion;

4 “(ii) written notification to residents
5 of the projects for which conversion is pro-
6 posed that informs the residents of the in-
7 tent of the agency to pursue a conversion
8 and of their rights in connection with a
9 proposed conversion, including whether or
10 not any relocation is anticipated.

11 Written notices under this subparagraph shall
12 be provided in any and all languages spoken by
13 2 percent or more of residents of housing as-
14 sisted by the public housing agency and shall
15 comply with the requirements and guidelines
16 under the Plain Writing Act of 2010 (5 U.S.C.
17 301 note).

18 “(B) MINIMUM RIGHTS.—Tenants shall, at
19 a minimum, maintain the same rights under
20 such conversion as those provided under sec-
21 tions 6 and 9 of this Act and implementing reg-
22 ulations, including eligibility for tenant-based
23 rental assistance in the form of a choice mobil-
24 ity voucher after one year, contingent on avail-
25 ability and limits established by the Secretary,

1 with housing mobility counseling provided to
2 maximize housing choice.

3 “(2) PUBLIC HOUSING AND MODERATE REHA-
4 BILITATION TENANTS.—Tenants of properties with
5 assistance converted from assistance under section 9
6 or section 8(e)(2) shall—

7 “(A) have the right to establish and oper-
8 ate a resident organization for the purpose of
9 addressing issues related to their living environ-
10 ment, which includes the terms and conditions
11 of their tenancy; and

12 “(B) be provided \$25 per occupied unit an-
13 nually for resident participation.

14 “(g) COMPETITION.—

15 “(1) IN GENERAL.—The Secretary shall select
16 properties from applications for conversion as part
17 of the Program a competitive process.

18 “(2) CRITERIA FOR SELECTION.—In estab-
19 lishing criteria for such competition, the Secretary
20 shall seek to demonstrate the feasibility of this con-
21 version model to recapitalize and operate public
22 housing properties—

23 “(A) in different markets and geographic
24 areas;

1 “(B) within portfolios managed by public
2 housing agencies of varying sizes; and

3 “(C) by leveraging other sources of fund-
4 ing to recapitalize properties.

5 “(3) PRIORITY.—In such competition, priority
6 shall be given to applications that involve substantial
7 rehabilitation that—

8 “(A)(i) involves the improvement of a
9 property to decent, safe, and sanitary condition,
10 including removing lead and other health haz-
11 ards, in accordance with the Secretary’s stand-
12 ards for properties with assistance under sec-
13 tion 9 of this Act from a condition below such
14 standards;

15 “(ii) may vary in degree from gutting and
16 extensive reconstruction to the cure of substan-
17 tial accumulation of deferred maintenance, ex-
18 cept that cosmetic improvements alone, includ-
19 ing painting, decorating, and minor repairs,
20 shall not qualify as substantial rehabilitation
21 under this paragraph; and

22 “(iii) may also include renovation, alter-
23 ation, or remodeling for the conversion or adap-
24 tation of structurally sound property to the de-
25 sign and condition required for use under this

1 section or the repair or replacement of major
2 building systems or components in danger of
3 failure; or

4 “(B) increases accessibility for people with
5 mobility impairments or brings older buildings
6 into compliance with laws pertaining to physical
7 accessibility, including the Americans With Dis-
8 abilities Act 1990 (42 U.S.C. 12101 et seq.)
9 and section 504 of the Rehabilitation Act of
10 1973 (29 U.S.C. 794).

11 “(h) OPPORTUNITY TO COMMENT; AVAILABILITY OF
12 INFORMATION.—

13 “(1) PUBLIC COMMENT.—The Secretary shall
14 provide an opportunity for public comment on draft
15 eligibility and selection criteria and procedures that
16 shall apply to the selection of properties that will
17 participate in the Program.

18 “(2) RESIDENT COMMENT.—The Secretary
19 shall provide an opportunity for comment from resi-
20 dents of properties to be proposed for participation
21 in the Program to the owners or public housing
22 agencies responsible for such properties.

23 “(3) MEETINGS.—The Secretary shall require
24 all public housing agencies to hold substantive meet-
25 ings with residents in a place accessible to residents

1 to solicit public comment, including holding at least
2 two meetings at each of the following stages of con-
3 version:

4 “(A) Prior to submitting an application.

5 “(B) After the Secretary issues a commit-
6 ment to enter into a housing assistance pay-
7 ment contract not later than 60 days before the
8 submission of a financing plan.

9 “(C) After the Secretary issues a conver-
10 sion commitment under the Program and not
11 later than 60 days before the closing under the
12 program.

13 “(D) Within 60 days of closing.

14 “(E) On a calendar quarterly basis during
15 rehabilitation or construction.

16 “(F) When residents become eligible for
17 choice mobility vouchers.

18 “(4) AVAILABILITY OF INFORMATION.—The
19 Secretary shall make immediately available to resi-
20 dents free of charge, on its website and upon re-
21 quest, key documents regarding the conversion
22 under this section for a property, including—

23 “(A) the application for participation in
24 the Program;

1 “(B) the commitment to enter into a hous-
2 ing assistance payments contract;

3 “(C) the front-end civil rights review;

4 “(D) the relocation plan; and

5 “(E) the conversion commitment.

6 “(i) SECTION 3 APPLICABILITY.—The Secretary shall
7 require that section 3 of the Housing and Urban Develop-
8 ment Act of 1968 (12 U.S.C. 1701u) shall apply to all
9 properties converted from assistance under the Program.

10 “(j) WAIVER; ALTERNATIVE REQUIREMENTS.—

11 “(1) AUTHORITY.—The Secretary may waive or
12 specify alternative requirements for (except for re-
13 quirements related to fair housing, nondiscrimina-
14 tion, labor standards, and the environment) any pro-
15 vision of section 8(o)(13) or any provision that gov-
16 erns the use of assistance from which a property is
17 converted under the Program or funds made avail-
18 able under for the Public Housing Capital Fund, the
19 Public Housing Operating Fund, and project-based
20 rental assistance, under this Act or any prior Act or
21 any Act enacted during the period of conversion of
22 assistance under program for properties with assist-
23 ance converted under the program, upon a finding
24 by the Secretary that any such waivers or alternative

1 requirements are necessary for the effective conver-
2 sion of assistance under the program.

3 “(2) PUBLICATION.—The Secretary shall pub-
4 lish by notice in the Federal Register any waivers or
5 alternative requirements pursuant to paragraph (1)
6 not later than 10 days before the effective date of
7 such notice.

8 “(k) IMPLEMENTATION.—The Secretary may imple-
9 ment the Program only after the issuance of a rules to
10 carry out this section. The Secretary shall issue a pro-
11 posed rule to carry out this section not later than the expi-
12 ration of the 120-day period beginning on the date of the
13 enactment of this section and a final rule to carry out this
14 section not later than the expiration of the 240-day period
15 beginning on the date of the enactment of this section.

16 “(l) TENANT PROTECTIONS.—

17 “(1) IN GENERAL.—Notwithstanding sections 3
18 and 16 of this Act, the conversion of assistance
19 under the Program shall not be the basis for re-
20 screening or termination of assistance or eviction of
21 any tenant family in a property participating in the
22 program, and such a family shall not be considered
23 a new admission for any purpose, including compli-
24 ance with income targeting requirements, nor shall
25 any tenant family be considered to have left the

1 housing program solely due to the conversion, in-
2 cluding compliance with Enterprise Income
3 Verification: 13b.

4 “(2) REPORTING OF VIOLATION.—The Sec-
5 retary shall establish a mechanism by which resi-
6 dents of properties participating in the Program
7 may register complaints regarding violations of ten-
8 ant protection provisions under the Program and to
9 track the number, and resolution, of complaints re-
10 ceived.

11 “(m) RELOCATION PLAN.— Notwithstanding all resi-
12 dent rights afforded by the Uniform Relocation Assistance
13 and Real Property Acquisition Policies Act of 1970 (42
14 U.S.C. 4601 et seq) and its implementing regulations, in
15 the case of any conversion under which relocation is antici-
16 pated, whether temporary or permanent, before any con-
17 version takes place the public housing agency, in consulta-
18 tion with residents , shall develop and submit to the Sec-
19 retary a written relocation plan that identifies replacement
20 dwelling units for all residents who will be relocated in
21 connection with the conversion.

22 “(n) INAPPLICABILITY OF REPLACEMENT REQUIRE-
23 MENTS.—In the case of a property with assistance con-
24 verted under the Program from assistance under section
25 9 of this Act—

1 “(1) section 18 of this Act shall not apply to a
2 property converting under the program for all or
3 substantially all of its units;

4 “(2) the Secretary shall require ownership or
5 control of assisted units by a public or nonprofit en-
6 tity except as determined by the Secretary to be nec-
7 essary pursuant to foreclosure, bankruptcy, or termi-
8 nation and transfer of assistance for material viola-
9 tions or substantial default, in which case the pri-
10 ority for ownership or control shall be provided to a
11 capable public or nonprofit entity, then a capable en-
12 tity, as determined by the Secretary, shall require
13 long-term renewable use and affordability restric-
14 tions for assisted units, and may allow ownership to
15 be transferred to a for-profit entity to facilitate the
16 use of tax credits only if the public housing agency
17 or a nonprofit entity preserves an interest in the
18 property in a manner approved by the Secretary,
19 and upon expiration of the initial contract and each
20 renewal contract, the Secretary shall offer and the
21 owner of the property shall accept renewal of the
22 contract subject to the terms and conditions applica-
23 ble at the time of renewal and the availability of ap-
24 propriations each year of such renewal;

1 “(3) a public, nonprofit or other entity that re-
2 tains ownership, control, or interest in the property
3 being converted shall be subject to public trans-
4 parency laws; and

5 “(4) the Secretary may permit transfer of as-
6 sistance at or after conversion under the program to
7 replacement units subject to the requirements in this
8 subsection, but shall not authorize the reduction in
9 the number of assisted units.

10 “(o) REQUIREMENTS.—The Secretary may establish
11 the requirements for converted assistance under the Pro-
12 gram through contracts, use agreements, regulations, or
13 other means.

14 “(p) REMOVAL OF HAP CONTRACT.—In the case of
15 a property with assistance converted under the Program
16 from assistance under section 9 of this Act, the use agree-
17 ment shall require—

18 “(1) that in the event of breach of, noncompli-
19 ance with, or insufficiency of appropriations for the
20 housing assistance payments contract, the Secretary
21 shall take such affirmative steps as may be nec-
22 essary to attempt to preserve the housing assistance
23 payments contract, which may include establishment
24 and implementation of a remediation plan; and

1 “(2) that the housing assistance payments con-
2 tract may be removed due to substantial breach of,
3 noncompliance with, or insufficiency of appropria-
4 tions for the housing assistance payments contract,
5 and, in the case of such a removal, for all units pre-
6 viously covered under such contract, tenants shall
7 have incomes at or below 50 percent of the area
8 mean income at the time of admission and rents
9 may not exceed 30 percent of 50 percent of the area
10 median income for an appropriate-size unit for the
11 remainder of the term of the use agreement under
12 the program.

13 “(q) MODEL LEASE.—The Secretary shall develop
14 and require use of a model lease for use at all conversions
15 of assistance under the Program.

16 “(r) FINDINGS; REPORTS.—

17 “(1) FINDINGS.—The Secretary shall assess
18 and publish findings regarding—

19 “(A) the impact of the conversion of assist-
20 ance under the Program on the preservation
21 and improvement of public housing, including
22 the extent of substantial rehabilitation, im-
23 provements, and repairs made;

24 “(B) the amount of private sector
25 leveraging as a result of such conversion;

1 “(C) the effect of such conversion on ten-
2 ants; and

3 “(D) the number of tenant complaints re-
4 ceived pursuant to subsection (1)(2).

5 “(2) ANNUAL REPORTS TO CONGRESS.—The
6 Secretary shall report to the Congress on an annual
7 basis on the impact of the Program, including—

8 “(A) the number and percentage of ten-
9 ants who have exercised their right to remain at
10 the converted property;

11 “(B) the number and percentage of ten-
12 ants who are eligible to and have exercised their
13 choice mobility rights;

14 “(C) the number and percentage of units
15 that have transferred assistance and the census
16 tracts from which and to which the properties
17 have transferred;

18 “(D) the number of conversions under in-
19 vestigation by the Secretary;

20 “(E) all post-conversion findings of non-
21 compliance by the Secretary and amount of any
22 formal settlements;

23 “(F) certifications that the requirements of
24 section 3 of the Housing and Urban Develop-

1 ment Act of 1968 (12 U.S.C. 1701u) have been
2 met in converted properties; and

3 “(G) public and private funds leveraged
4 and their sources.

5 “(3) QUARTERLY REPORTS TO CONGRESS.—

6 The Secretary shall report to the Congress on a cal-
7 endar quarterly basis on the address and location of
8 all residents of properties with assistance converted
9 under the Program, redacted as necessary, including
10 households that cannot be located or are no longer
11 assisted by the Department of Housing and Urban
12 Development.

13 **“SEC. 40. AFFORDABLE HOUSING PRESERVATION PRO-**
14 **GRAM; SECOND COMPONENT.**

15 “(a) CONVERSION OF ASSISTANCE.—Owners of prop-
16 erties assisted under section 101 of the Housing and
17 Urban Development Act of 1965, section 236(f)(2) of the
18 National Housing Act, or section 8(e)(2) of the United
19 States Housing Act of 1937, for which an event after Oc-
20 tober 1, 2006 has caused or results in the termination of
21 rental assistance or affordability restrictions and the
22 issuance of tenant protection vouchers under section 8(o)
23 of this Act, or with a project rental assistance contract
24 under section 202(c)(2) of the Housing Act of 1959, shall
25 be eligible, subject to requirements established by the Sec-

1 retary, including the subordination, restructuring, or both,
2 of any capital advance documentation, including any note,
3 mortgage, use agreement, or other agreement evidencing
4 or securing a capital advance previously provided by the
5 Secretary under section 202(c)(1) of the Housing Act of
6 1959 as necessary to facilitate the conversion of assistance
7 while maintaining the affordability period and designation
8 of the property as serving elderly persons, and, tenant con-
9 sultation procedures, for conversion of assistance available
10 for such vouchers or assistance contracts to assistance
11 under a long-term project-based subsidy contract under
12 section 8 of this Act or, subject to agreement of the ad-
13 ministering public housing agency, to assistance under
14 section 8(o)(13) of this Act.

15 “(b) SECTION 8 CONTRACTS.—A long-term section 8
16 contract provided in connection with a conversion of as-
17 sistance under this section shall—

18 “(1) have a term of not less than 20 years;

19 “(2) provide for rent adjustments only by an
20 operating cost factor established by the Secretary;

21 “(3) be eligible for renewal under section 524
22 of the Multifamily Assisted Housing Reform and Af-
23 fordability Act of 1997 (42 U.S.C. 1437f note).

24 “(c) PHA PROJECT-BASED ASSISTANCE.—In the
25 case of assistance under section 8(o)(13) of this Act pro-

1 vided in connection with a conversion of assistance under
2 this section—

3 “(1) the limitation under subsection (B) of sec-
4 tion 8(o)(13) (relating to percentage limitation) shall
5 not apply; and

6 “(2) the Secretary of Housing and Urban De-
7 velopment may waive or alter the provisions of sub-
8 paragraphs (C) and (D) of section 8(o)(13) (relating
9 to public housing agency plans and income-mixing
10 requirements).

11 “(d) RENTS IN HIGH-COST AREAS.—Contracts pro-
12 vided under this section for properties converting assist-
13 ance from section 101 of the Housing and Urban Develop-
14 ment Act of 1965 or section 236(f)(2) of the National
15 Housing Act that are located in high-cost areas shall have
16 initial rents set at comparable market rents for the market
17 area.

18 “(e) TENANT PROTECTIONS.—Conversions of assist-
19 ance under this section shall not be the basis for re-screen-
20 ing or termination of assistance or eviction of any tenant
21 family in a property participating in the demonstration
22 and such a family shall not be considered a new admission
23 for any purpose, including compliance with income tar-
24 geting, nor shall any tenant family be considered to have

1 left the housing program solely due to the conversion, in-
2 cluding compliance with enterprise income verification.

3 “(f) ELIGIBILITY FOR TENANT-MOBILITY VOUCH-
4 ERS.—Tenants of such properties with assistance con-
5 verted under this section shall be eligible for tenant-based
6 rental assistance in the form of a choice mobility voucher
7 after one year, contingent on availability and limits set
8 by the Secretary, with housing mobility counseling pro-
9 vided to maximize housing choice.

10 “(g) FUNDING.—

11 “(1) AVAILABILITY OF RENTAL ASSISTANCE
12 AMOUNTS.—Amounts made available to the Sec-
13 retary for rental housing assistance during the pe-
14 riod of conversion under this section, except for con-
15 version of section 202 project rental assistance con-
16 tracts, shall be available for project-based subsidy
17 contracts entered into pursuant to this section.

18 “(2) RECAPTURED AMOUNTS.—Amounts, in-
19 cluding contract authority, recaptured from con-
20 tracts following a conversion under this section, ex-
21 cept for conversion of rental assistance contracts
22 under section 202 of the Housing Act of 1959, are
23 hereby rescinded and an amount of additional new
24 budget authority equivalent to the amount rescinded

1 is [hereby appropriated?], to remain available until
2 expended for such conversions.

3 “(3) TRANSFER AUTHORITY.—

4 “(A) RENTAL HOUSING ASSISTANCE .—

5 The Secretary may transfer amounts made
6 available to the Secretary for rental housing as-
7 sistance, amounts made available to the Sec-
8 retary for tenant-based housing assistance for
9 tenant protection vouchers and specifically asso-
10 ciated with any such conversions, and amounts
11 made available under paragraph (2) as needed
12 for project-based rental assistance to facilitate
13 conversion under this section, except for conver-
14 sion of project rental assistance contracts under
15 section 202 of the Housing Act of 1959, and
16 any increase in cost for project-based rental as-
17 sistance associated with such conversion shall
18 be equal to amounts so transferred.

19 “(B) HOUSING FOR THE ELDERLY.—The
20 Secretary may transfer amounts made available
21 for housing for the elderly for use for project-
22 based rental assistance or for tenant-based
23 rental assistance to facilitate conversion under
24 this section of any project rental assistance con-
25 tract under section 202 of the Housing Act of

1 1959, and any increase in cost for project-based
2 rental assistance or tenant-based rental assist-
3 ance associated with such conversion shall be
4 equal to amounts so transferred.

5 “(4) GAO STUDY.—With respect to the pre-
6 ceding provisions of this subsection, the Comptroller
7 General of the United States shall conduct a study
8 of the long-term impact of the fiscal year 2022
9 through 2023 conversion of tenant protection vouch-
10 ers to assistance under section 8(o)(13) of this Act
11 on the ratio of tenant-based vouchers to project-
12 based vouchers.

13 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
14 is authorized to be appropriated to the Secretary such
15 sums as may be necessary to carry out this section, includ-
16 ing—

17 “(1) for providing technical assistance to public
18 housing agencies and property owners to establish
19 and improve capacity for asset management for con-
20 versions under this section;

21 “(2) to hire and support staff of the Depart-
22 ment of Housing and Urban Development who are
23 trained and responsible for monitoring compliance
24 with all resident participation provisions and reloca-
25 tion requirements; and

1 “(3) to authorize rental adjustments if above
2 the operating cost adjustment factor.”.

3 **SEC. 3. REPEAL OF RENTAL ASSISTANCE DEMONSTRATION**
4 **PROGRAM.**

5 (a) REPEAL.—Title II of the Transportation, Hous-
6 ing and Urban Development, and Related Agencies Appro-
7 priations Act, 2012 (division C of Public Law 112–55; 125
8 Stat. 673) is amended by striking the heading relating to
9 “Rental Assistance Demonstration”.

10 (b) SAVINGS CLAUSE.—Notwithstanding the repeal
11 under subsection (a), the provision repealed, as in effect
12 on the day before the date of the enactment of this Act,
13 shall apply to properties for which conversion of assistance
14 under such provision has been commenced before such
15 date of enactment and the Secretary may by notice issued
16 after such date of enactment provide for the implementa-
17 tion of such provision.