

112TH CONGRESS
2D SESSION

S. 3538

To reform laws relating to small public housing agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2012

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

A BILL

To reform laws relating to small public housing agencies, 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 “Small Public Housing
5 Agency Opportunity Act of 2012”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Although small public housing agencies are
9 numerous, they administer only a small fraction of

1 the financial resources provided under the Federal
2 housing programs.

3 (2) The oversight of small public housing agen-
4 cies by the Department of Housing and Urban De-
5 velopment is disproportionate to the financial risk
6 the operations of these agencies pose to the Federal
7 Government.

8 (3) Small public housing agencies perform bet-
9 ter than larger agencies, as public housing agency
10 performance is presently measured by the Federal
11 Government.

12 (4) The Department of Housing and Urban De-
13 velopment should deploy its administrative oversight
14 resources in a manner that reflects relative risk to
15 the Federal Government.

16 (5) Regulatory and administrative burdens that
17 may be reasonable for larger public housing agencies
18 may not be so for smaller public housing agencies
19 with more limited resources.

20 (6) Eliminating unnecessary or unreasonable
21 regulatory and administrative burdens will improve
22 the effectiveness of small public housing agencies as
23 providers of housing assistance to low income fami-
24 lies.

1 (7) Small public housing agencies and their
2 residents would benefit from, and small public hous-
3 ing agencies should be afforded, maximum flexibility
4 in the use of their resources.

5 (8) Congress and the Department of Housing
6 and Urban Development should reduce administra-
7 tive and regulatory burdens on small public housing
8 agencies.

9 (9) Public housing revitalization funding has
10 been largely unavailable to small public housing
11 agencies.

12 (10) Congress should establish a program of as-
13 sistance to enable public housing revitalization ac-
14 tivities by small public housing agencies.

15 (11) Small public housing agencies and their
16 residents would benefit from conversion of their pub-
17 lic housing projects to projects assisted with project-
18 based section 8 rental assistance.

19 (b) PURPOSES.—The purposes of this Act are—

20 (1) to assure the long-term viability and effec-
21 tiveness of the small public housing agencies and the
22 housing assistance programs they operate;

23 (2) to ensure that small public housing agencies
24 are not subject to unnecessary Federal regulatory
25 control and administrative requirements;

1 (3) to afford flexibility to small public housing
2 agencies in the use of their resources;

3 (4) to adjust Federal oversight requirements for
4 small public housing agencies to better reflect finan-
5 cial risk to the Federal Government and the relative
6 resources of such agencies;

7 (5) to explore innovative approaches to simpli-
8 fying determination of income and tenant rents; and

9 (6) to ensure that small public housing agencies
10 have access to the resources necessary for the mod-
11 ernization and revitalization of their public housing
12 stock.

13 **SEC. 3. SMALL PUBLIC HOUSING AGENCIES.**

14 (a) IN GENERAL.—Title I of the United States Hous-
15 ing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by
16 adding at the end the following:

17 **“SEC. 37. SMALL PUBLIC HOUSING AGENCIES.**

18 “(a) DEFINITIONS.—In this section, the following
19 definitions shall apply:

20 “(1) HOUSING VOUCHER PROGRAM.—The term
21 ‘housing voucher program’ means a program for ten-
22 ant-based assistance under section 8.

23 “(2) SMALL PUBLIC HOUSING AGENCY.—

24 “(A) IN GENERAL.—The term ‘small pub-
25 lic housing agency’ means a public housing

1 agency for which the sum of the number of
2 public housing dwelling units administered by
3 the agency and the number of vouchers under
4 section 8(o) administered by the agency is 550
5 or fewer.

6 “(B) TRANSITION.—A public housing
7 agency that qualifies as an eligible small public
8 housing agency but subsequently fails to meet
9 the qualification criterion in subsection (a) shall
10 remain an eligible small public housing agency
11 for 3 additional years to provide for a transition
12 to noneligible status in order to avoid interrup-
13 tion in the plans and projects undertaken by
14 the agency.

15 “(3) TROUBLED SMALL PUBLIC HOUSING AGEN-
16 CY.—The term ‘troubled small public housing agen-
17 cy’ means a small public housing agency designated
18 by the Secretary as a troubled small public housing
19 agency under subsection (c)(4).

20 “(b) APPLICABILITY.—Except as otherwise provided
21 in this section, a small public housing agency shall be sub-
22 ject to the same requirements as a public housing agency.

23 “(c) PROGRAM INSPECTIONS AND EVALUATIONS.—

24 “(1) PUBLIC HOUSING PROJECTS.—

25 “(A) PHYSICAL INSPECTIONS.—

1 “(i) FREQUENCY.—

2 “(I) INSPECTION BY THE SEC-
3 RETARY.—The Secretary shall carry
4 out an inspection of the physical con-
5 dition of a small public housing agen-
6 cy’s public housing projects not more
7 frequently than once every 3 years,
8 unless the agency has been designated
9 by the Secretary as troubled small
10 public housing agency based on defi-
11 ciencies in the physical condition of its
12 public housing projects.

13 “(II) INSPECTION BY AGEN-
14 CIES.—A small public housing agency
15 shall not be subject to section 6(f)(3),
16 and the Secretary may not otherwise
17 require the small public housing agen-
18 cy to inspect its public housing units.

19 “(ii) STANDARDS.—The Secretary
20 shall apply to small public housing agen-
21 cies the same standards for the acceptable
22 condition of public housing projects that
23 apply to projects assisted under section 8.

24 “(B) FINANCIAL CONDITION.—The Sec-
25 retary shall determine the financial condition of

1 a small public housing agency's public housing
2 program solely on the basis of the ratio of cur-
3 rent assets to current liabilities. A ratio of at
4 least 1 shall result in a determination that the
5 financial condition of a small public housing
6 agency is acceptable.

7 “(C) MANAGEMENT CONDITION.—

8 “(i) DETERMINATION.—

9 “(I) IN GENERAL.—Except as
10 provided in clause (ii), the Secretary
11 shall determine the management con-
12 dition of a small public housing agen-
13 cy's public housing program solely on
14 the basis of the ratio of vacant unit
15 months to eligible unit months.

16 “(II) RATIO.—Except as pro-
17 vided in subclause (III), a ratio of not
18 more than 10 percent shall result in a
19 determination that the management
20 condition of a small public housing
21 agency is acceptable.

22 “(III) EXCEPTION.—In deter-
23 mining the management condition of a
24 program or project of a small public
25 housing agency with an extremely low

1 number of public housing units, the
2 Secretary may apply a ratio or stand-
3 ard that is different than the standard
4 under this subparagraph.

5 “(ii) CHANGING MARKET CONDI-
6 TIONS.—In determining the management
7 condition of a small public housing agen-
8 cy’s public housing program, the Secretary
9 shall take into consideration a demonstra-
10 tion by the small public housing agency
11 that its inability to lease an adequate num-
12 ber of units is a result of changes in mar-
13 ket conditions.

14 “(2) HOUSING VOUCHER PROGRAM.—

15 “(A) PHYSICAL INSPECTION OF ASSISTED
16 UNITS.—A small public housing agency admin-
17 istering assistance under section 8(o) shall
18 make periodic physical inspections of each as-
19 sisted dwelling unit not less frequently than
20 once every 3 years, to determine whether the
21 unit is maintained in accordance with the re-
22 quirements under section 8(o)(8)(A).

23 “(B) MANAGEMENT ASSESSMENT.—The
24 Secretary shall evaluate the management of a
25 voucher program of a small public housing

1 agency solely on the basis of the lease-up rate
2 or the budget utilization rate of the small public
3 housing agency. A lease-up rate or budget utili-
4 zation rate of at least 90 percent shall result in
5 a determination that the management of the
6 voucher program is acceptable.

7 “(3) HIGH-PERFORMING AGENCIES.—The Sec-
8 retary shall designate a small public housing agency
9 as a high-performing agency if the Secretary deter-
10 mines that the small public housing agency exceeds
11 the criteria for acceptability established under para-
12 graphs (1) and (2) by an extent established by the
13 Secretary, by rule.

14 “(4) TROUBLED SMALL PUBLIC HOUSING AGEN-
15 CIES.—

16 “(A) PUBLIC HOUSING PROGRAM.—Not-
17 withstanding any other provision of law, the
18 Secretary may designate a small public housing
19 agency as a troubled small public housing agen-
20 cy with respect to the public housing program
21 of the small public housing agency only if the
22 Secretary determines that the agency—

23 “(i) has failed—

24 “(I) to maintain its public hous-
25 ing units in a satisfactory physical

1 condition, based upon an inspection
2 conducted by the Secretary; and

3 “(II) to correct deficiencies be-
4 fore the date that is 90 days after the
5 date on which the Secretary verifies
6 the inspection results;

7 “(ii) does not have at the end of its
8 fiscal year an acceptable ratio of current
9 assets to current liabilities, as determined
10 under paragraph (1)(B);

11 “(iii) has failed to maintain an accept-
12 able average ratio of vacant unit months to
13 eligible unit months during any calendar
14 year, as determined under paragraph
15 (1)(C), and that the failure is not the re-
16 sult of changes in market conditions; or

17 “(iv) has failed to account for its reve-
18 nues and expenses, misappropriated Fed-
19 eral funds, or otherwise failed to comply
20 with applicable Federal law.

21 “(B) HOUSING VOUCHER PROGRAM.—Not-
22 withstanding any other provision of law, the
23 Secretary may designate a small public housing
24 agency as a troubled small public housing agen-
25 cy with respect to the housing voucher program

1 of the small public housing agency only if the
2 Secretary determines that the agency—

3 “(i) has failed to comply with the in-
4 spection requirements under paragraph
5 (2)(A);

6 “(ii) during the calendar year has
7 failed to maintain an acceptable lease-up
8 rate or budget utilization rate, as deter-
9 mined under paragraph (2)(B); or

10 “(iii) has failed to account for its rev-
11 enues and expenses, misappropriated Fed-
12 eral funds, or otherwise failed to comply
13 with applicable Federal law.

14 “(C) APPEALS.—

15 “(i) ESTABLISHMENT.—The Secretary
16 shall establish an appeals process under
17 which a small public housing agency may
18 dispute a determination of deficiency.

19 “(ii) OFFICIAL.—The appeals process
20 established under clause (i) shall provide
21 for a decision by an official who has not
22 been involved, and is not subordinate to a
23 person who has been involved, in the origi-
24 nal determination of deficiency.

25 “(D) CORRECTIVE ACTION AGREEMENT.—

1 “(i) AGREEMENT REQUIRED.—Not
2 later than 60 days after the date on which
3 a small public housing agency is des-
4 ignated as a troubled public housing agen-
5 cy, the Secretary and the small public
6 housing agency shall enter in to a correc-
7 tive action agreement under which the
8 small public housing agency shall under-
9 take actions to correct the deficiencies
10 upon which the designation is based.

11 “(ii) TERMS OF AGREEMENT.—A cor-
12 rective action agreement entered into
13 under clause (i) shall—

14 “(I) have a term of 1 year, and
15 shall be renewable at the option of the
16 Secretary;

17 “(II) provide, where feasible, for
18 technical assistance to assist the pub-
19 lic housing agency in curing its defi-
20 ciencies;

21 “(III) provide for—

22 “(aa) reconsideration of the
23 designation of the small public
24 housing agency as a troubled
25 small public housing agency not

1 less frequently than annually;
2 and

3 “(bb) termination of the
4 agreement when the Secretary
5 determines that the small public
6 housing agency is no longer a
7 troubled small public housing
8 agency; and

9 “(IV) provide that in the event of
10 substantial noncompliance by the
11 small public housing agency under the
12 agreement, the Secretary may—

13 “(aa) contract with another
14 public housing agency or a pri-
15 vate entity to manage the public
16 housing of the troubled small
17 public housing agency;

18 “(bb) withhold funds other-
19 wise distributable to the troubled
20 small public housing agency;

21 “(cc) assume possession of,
22 and direct responsibility for,
23 managing the public housing of
24 the trouble small public housing
25 agency;

1 “(dd) petition for the ap-
2 pointment of a receiver, in ac-
3 cordance with section
4 6(j)(3)(A)(ii); and

5 “(ee) exercise any other
6 remedy available to the Secretary
7 in the event of default under the
8 public housing annual contribu-
9 tions contract entered into by the
10 small public housing agency
11 under section 5.

12 “(E) EMERGENCY ACTIONS.—Nothing in
13 this paragraph may be construed to prohibit the
14 Secretary from taking any emergency action
15 necessary to protect Federal financial resources
16 or the health or safety of residents of public
17 housing projects.

18 “(d) REDUCTION OF ADMINISTRATIVE BURDENS.—

19 “(1) REPORTS.—

20 “(A) COMPARABILITY WITH SECTION 8 RE-
21 QUIREMENTS.—Notwithstanding any other pro-
22 vision of law, and except as otherwise provided
23 in this section, the Secretary may not require a
24 small public housing agency to submit any re-
25 port, plan, or other information with respect to

1 the public housing units, projects, or programs
2 of the small public housing agency if the report,
3 plan, or other information is not required to be
4 submitted by the owner of a project assisted
5 under section 8 that is covered by a mortgage
6 insured by the Secretary.

7 “(B) EXCEPTION FOR DESIGNATED HOUS-
8 ING FOR ELDERLY AND DISABLED FAMILIES.—
9 A small public housing agency shall submit to
10 the Secretary the plan required by section 7 in
11 order to designate occupancy in public housing
12 units in accordance with section 7.

13 “(C) COMPLIANCE.—For purposes of de-
14 termining the benefits or funding available to a
15 small public housing agency, the small public
16 housing agency shall be deemed to be in compli-
17 ance with a requirement under Federal law to
18 submit a report, plan, or other information with
19 respect to the public housing units, projects, or
20 programs of the small public housing agency if
21 the small public housing agency submits the re-
22 ports, plans, or other information required
23 under subparagraphs (A) and (B).

24 “(2) COMMUNITY SERVICE.—

1 “(A) IN GENERAL.—Notwithstanding any
2 other provision of law, a small public housing
3 agency may elect to comply with the require-
4 ments under section 12(c)(3) through the use of
5 tenant certifications.

6 “(B) MONITORING OF COMPLIANCE.—The
7 Secretary may not impose any administrative
8 burden or requirement with respect to the mon-
9 itoring of compliance with section 12(c) on a
10 small public housing agency that has made an
11 election under subparagraph (A), except a re-
12 quirement to obtain tenant certifications and
13 make the tenant certifications available to the
14 Secretary. For purposes of this subparagraph,
15 the term ‘administrative burden or requirement’
16 includes a requirement to review or verify infor-
17 mation contained in a tenant certification.

18 “(C) DETERMINATION OF NONCOMPLI-
19 ANCE.—A small public housing agency may not
20 make an election under subparagraph (A) if the
21 Secretary determines that there is substantial
22 noncompliance by the tenants at the small pub-
23 lic housing agency with the requirements of sec-
24 tion 12(c).

1 “(3) ECONOMIC OPPORTUNITY.—Section 3 of
2 the Housing and Urban Development Act of 1968
3 (12 U.S.C. 1701u) shall apply to a small public
4 housing agency only to the extent that such section
5 3 applies to the owner of a project assisted under
6 section 8 of this Act.

7 “(4) ASSET MANAGEMENT.—At the request of a
8 small public housing agency or a public housing
9 agency that administers not more than 400 public
10 housing dwelling units, the Secretary shall exempt
11 the small public housing agency or public housing
12 agency from any asset management requirement
13 otherwise imposed by the Secretary on public hous-
14 ing agencies.

15 “(5) ENVIRONMENTAL REVIEWS.—

16 “(A) EXEMPTION.—Notwithstanding any
17 other provision of law, a small public housing
18 agency shall be exempt from any environmental
19 review requirements with respect to a develop-
20 ment or modernization project having a total
21 cost of not more than \$100,000.

22 “(B) STREAMLINED PROCEDURES.—The
23 Secretary shall, by rule, establish streamlined
24 procedures for environmental reviews of small
25 public housing agency development and mod-

1 ernization projects having a total cost of more
2 than \$100,000.

3 “(e) FUNGIBILITY.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of law and subject to paragraph (2), a
6 small public housing agency may—

7 “(A) combine funds provided to the small
8 public housing agency for voucher assistance
9 under section 8(o), from the Capital Fund, and
10 from the Operating Fund; and

11 “(B) use the funds combined under sub-
12 paragraph (A) for any activity authorized under
13 section 8(o) or subsection (d) or (e) of section
14 9.

15 “(2) LIMITATION.—In using funds combined
16 under paragraph (A), a small public housing agency
17 shall assist substantially the same number of low-in-
18 come families, with a comparable mix of families by
19 family size, as it did in the year preceding its quali-
20 fication as a small public housing agency, with ap-
21 propriate adjustments made by the Secretary on the
22 basis of any increase or decrease in the number of
23 vouchers or units assisted.

1 “(f) PROJECT-BASED VOUCHERS.—With respect to a
2 program carried out by a small public housing agency
3 under section 8(o)—

4 “(1) section 8(o)(13)(B) shall be applied by
5 substituting ‘50 percent’ for ‘20 percent’; and

6 “(2) section 8(o)(13)(C) shall not apply.

7 “(g) CONVERSION TO SECTION 8.—

8 “(1) IN GENERAL.—A small public housing
9 agency may, subject to the availability of appropria-
10 tions and approval by the Secretary, convert all or
11 a portion of the public housing units of the small
12 public housing agency to project-based voucher as-
13 sistance under section 8(o)(13) or to project-based
14 assistance under section 8.

15 “(2) PROJECT-BASED VOUCHER ASSISTANCE.—

16 “(A) INAPPLICABLE PROVISIONS.—Sub-
17 paragraphs (B), (C), and (D) of section
18 8(o)(13) shall not apply to public housing units
19 converted to project-based voucher assistance
20 under paragraph (1).

21 “(B) RENT CALCULATION FOR TAX-CREDIT
22 PROJECTS.—Rents for public housing units con-
23 verted to project-based voucher assistance
24 under paragraph (1) shall be established in ac-
25 cordance with section 8(o)(13)(H), without re-

1 gard to whether or not a project is located in
2 a qualified census tract.

3 “(3) PROJECT-BASED ASSISTANCE.—

4 “(A) INITIAL RENTS.—

5 “(i) ESTABLISHMENT.—Initial rents
6 for public housing units converted to sec-
7 tion 8 project-based assistance under para-
8 graph (1) shall be established, at the op-
9 tion of the small agency—

10 “(I) at the comparable rent for
11 unassisted units in the area; or

12 “(II) on a budget basis.

13 “(ii) BUDGET-BASED RENTS.—In ap-
14 proving a budget-based rent under clause
15 (i)(II), the Secretary shall take into ac-
16 count the need to provide for sufficient re-
17 placement reserves to offset a reduction or
18 elimination of capital subsidy funds for a
19 project and for debt service on loans to
20 fund capital improvements.

21 “(B) RENT ADJUSTMENTS.—The Sec-
22 retary shall annually adjust the rents estab-
23 lished under subparagraph (A) using an oper-
24 ating cost adjustment factor established by the
25 Secretary (which shall not result in a negative

1 adjustment) or, at the request of the owner, on
2 a budget basis.

3 “(C) TERM.—The term of any contract for
4 assistance payments pursuant to this paragraph
5 shall be the longer of 20 years or the remaining
6 period during which the project would have
7 been required to be operated as public housing
8 (as calculated immediately prior to the conver-
9 sion).

10 “(D) OTHER PROVISIONS.—Except as oth-
11 erwise provided in this subsection, a project
12 converted under paragraph (1) shall be subject
13 to the provisions of section 524 of the Multi-
14 family Assisted Housing Reform and Afford-
15 ability Act of 1997 (42 U.S.C. 1437f note).

16 “(4) RELEASE OF ENCUMBRANCES.—At the
17 time of conversion of a project under paragraph (1),
18 the Secretary shall release the project from any ap-
19 plicable annual contributions contract and release
20 and cancel of record all deeds of trust and other in-
21 struments encumbering the project in favor of the
22 Federal Government. Upon conversion, a project
23 shall no longer be subject to Federal laws and re-
24 quirements applicable solely to public housing
25 projects. Administrative oversight of public housing

1 units converted to section 8 project-based assistance
2 under paragraph (1) shall be transferred to the Of-
3 fice of Housing within the Department of Housing
4 and Urban Development.

5 “(5) TRANSFER OF FUNDS.—Upon conversion
6 of a project under paragraph (1), the Secretary shall
7 reprogram to the appropriate section 8 account—

8 “(A) an amount of public housing Oper-
9 ating Fund budget authority equal to that
10 which would otherwise be allocated to the con-
11 verted project; and

12 “(B) an amount of public housing Capital
13 Fund budget authority otherwise allocable to
14 the small public housing agency with respect to
15 the converted project.

16 “(h) REPLACEMENT HOUSING FACTOR FUNDS.—
17 During the first year of each 5-year period for which a
18 small public housing agency qualifies for the addition of
19 a replacement housing factor under section 905.10(i) of
20 title 24, Code of Federal Regulations, the Secretary shall
21 pay to the small public housing agency the portion of the
22 total amount that the Secretary plans to make available
23 to the small public housing agency from the Capital Fund
24 established under section 9(d) during that 5-year period

1 that is attributable to the addition of the replacement
2 housing factor.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

4 Section 5A of the United States Housing Act of 1937 (42
5 U.S.C. 1437c–1) is amended—

6 (1) in subsection (b), by striking paragraph (3);

7 (2) in subsection (e), by striking paragraph (4);

8 and

9 (3) in subsection (f), by striking paragraph (5).

10 **SEC. 4. RENT REFORM DEMONSTRATION PROJECT FOR**
11 **SMALL PUBLIC HOUSING AGENCIES.**

12 (a) DEFINITIONS.—In this section, the following defi-
13 nitions shall apply:

14 (1) EXTREMELY LOW-INCOME FAMILY.—The
15 term “extremely low income family” means a family
16 whose income does not exceed 30 percent of the me-
17 dian income for the area, as determined by the Sec-
18 retary with adjustments for smaller and larger fami-
19 lies, except the Secretary may establish income ceil-
20 ings higher or lower than 30 percent of the median
21 income for the area on the basis of the Secretary’s
22 findings that such variations are necessary because
23 of unusually high or low family incomes in the area.

24 (2) INCOME.—The term “income” shall have
25 the meaning given that term by section 3(b)(4) of

1 the United States Housing Act of 1937 (42 U.S.C.
2 1437a(b)(4)).

3 (3) LOW-INCOME FAMILY.—The term “low-in-
4 come family” means a family whose income does not
5 exceed 80 percent of the median income for the
6 area, as determined by the Secretary with adjust-
7 ments for smaller and larger families, except the
8 Secretary may establish income ceilings higher or
9 lower than 80 percent of the median incomes for the
10 area on the basis of the Secretary’s findings that
11 such variations are necessary because of unusually
12 high or low family incomes in the area.

13 (4) MEDIAN INCOME FOR THE AREA.—The
14 term “median income for the area” means the me-
15 dian income of all families in a geographic area, as
16 determined by the Secretary.

17 (5) SECRETARY.—The term “Secretary” means
18 the Secretary of Housing and Urban Development.

19 (6) SMALL PUBLIC HOUSING AGENCY.—The
20 term “small public housing agency” has the same
21 meaning as in section 37(a) of the United States
22 Housing Act of 1937, as added by this Act.

23 (7) VERY LOW-INCOME FAMILY.—The term
24 “very low-income family” means a family whose in-
25 come does not exceed 50 percent of the median in-

1 come for the area, as determined by the Secretary
2 with adjustments for smaller and larger families, ex-
3 cept the Secretary may establish income ceilings
4 higher or lower than 50 percent of the median in-
5 come for the area on the basis of the Secretary's
6 findings that such variations are necessary because
7 of unusually high or low family incomes in the area.

8 (b) IN GENERAL.—The Secretary shall carry out a
9 demonstration project to examine how various methods of
10 determining rent in public housing affect—

11 (1) the administrative burden on small public
12 housing agencies; and

13 (2) the residents of public housing.

14 (c) SCOPE OF DEMONSTRATION PROJECT.—

15 (1) REQUEST TO PARTICIPATE.—The Secretary
16 shall select small public housing agencies to partici-
17 pate in the demonstration project from among small
18 public housing agencies that request to participate in
19 the project.

20 (2) NUMBER.—The Secretary shall select not
21 more than 20 percent of the total number of small
22 public housing agencies to participate in the dem-
23 onstration project.

24 (3) REPRESENTATION.—The Secretary shall se-
25 lect small public housing agencies representing a

1 broad range of geographic areas and urban and
2 rural locations.

3 (d) RENT-SETTING MECHANISMS.—A small public
4 housing agency participating in the demonstration project
5 shall select 1 or more of the following methods for estab-
6 lishing a family's rent contribution for a dwelling unit in
7 public housing:

8 (1) TIERED SYSTEM.—

9 (A) INITIAL RENTS.—A tiered system
10 under which the amount of initial rent is as fol-
11 lows:

12 (i) For an extremely low-income fam-
13 ily, an amount equal to 30 percent of 10
14 percent of the median income for the area.

15 (ii) For a very low-income family, an
16 amount equal to 30 percent of 30 percent
17 of the median income for the area.

18 (iii) For a low-income family, an
19 amount equal to 30 percent of 50 percent
20 of the median income for the area.

21 (B) SUBSEQUENT RENTS.—The rent deter-
22 mined in accordance with subparagraph (A)
23 shall be adjusted annually by the small public
24 housing agency on the basis of changes in area

1 median incomes and shall apply to the contin-
2 ued occupancy of an assisted family.

3 (C) OVER-INCOME FAMILIES.—A family
4 assisted under a tiered system established
5 under subparagraph (A) whose income exceeds
6 80 percent of the median income for the area
7 shall pay a rent equal to the higher of 30 per-
8 cent of 80 percent of the median income for the
9 area or the market rent for the unit as deter-
10 mined by the small public housing agency.

11 (2) GROSS INCOME.—

12 (A) INITIAL RENTS.—A method under
13 which rent is established in an amount that var-
14 ies between 26 to 28 percent of a family's in-
15 come, based on family characteristics as deter-
16 mined by the small public housing agency.

17 (B) SUBSEQUENT RENTS.—The rent deter-
18 mined in accordance with subparagraph (A)
19 shall be adjusted annually between income re-
20 certifications on the basis of factors selected by
21 a small public housing agency that are most rel-
22 evant to the status of a resident.

23 (C) MINIMUM RENT.—In establishing rents
24 in accordance with subparagraph (A), a small

1 public housing agency may impose a minimum
2 rent.

3 (3) EXISTING RENT MECHANISMS.—A small
4 public housing agency may use 1 or more of the
5 above methods for determining rents in combination
6 with the method for establishing rents pursuant to
7 section 3 of the United States Housing Act of 1937
8 (42 U.S.C. 1437a).

9 (e) INCOME RECERTIFICATIONS.—Reviews of family
10 income under paragraphs (1), (2), and (3) of subsection
11 (d) shall be made at least once every 5 years, except a
12 family may request a recertification and adjustment in
13 rent at any time if the family income has changed by an
14 amount established by the small public housing agency.
15 In determining family income, the small public housing
16 agency may use the income of the family as determined
17 by the small public housing agency for the preceding year.

18 (f) HARDSHIP EXCEPTION.—A small public housing
19 agency shall adopt a hardship policy, comparable to the
20 policy contained in section 3(a)(3)(B) of the United States
21 Housing Act of 1937 (42 U.S.C. 1437a(a)(3)(B)), for use
22 in connection with a minimum rent imposed under sub-
23 section (d)(2)(C) and in connection with rents established
24 under paragraphs (1), (2), and (3) of subsection (d).

25 (g) REPORTS.—

1 (1) IN GENERAL.—Not later than 5 years after
2 the date of enactment of this Act, the Secretary
3 shall submit to Congress a report on the results of
4 the demonstration project carried out under this sec-
5 tion.

6 (2) RECOMMENDATIONS FOR ACTION.—The re-
7 port submitted under paragraph (1) shall contain
8 recommendations that Congress take 1 or more of
9 the following actions:

10 (A) Continue the demonstration project for
11 a specified period of time.

12 (B) Expand the number of participants in
13 the demonstration project.

14 (C) Apply the terms of the demonstration
15 project to all small public housing agencies.

16 (D) Change any of the terms of the dem-
17 onstration project.

18 (E) Terminate the demonstration project.

19 (3) RECOMMENDATIONS FOR PERMANENT LEG-
20 ISLATION.—The Secretary shall submit to Congress
21 recommendations for permanent legislation that im-
22 plements rent reform for small public housing agen-
23 cies—

24 (A) with the report required under para-
25 graph (1); or

1 (B) before the date on which the Secretary
2 submits the report required under paragraph
3 (1).

4 **SEC. 5. ENERGY CONSERVATION.**

5 Section 9(e)(2) of the United States Housing Act of
6 1937 (42 U.S.C. 1437g(e)(2)) is amended by adding at
7 the end the following:

8 “(D) FREEZE OF CONSUMPTION LEV-
9 ELS.—

10 “(i) IN GENERAL.—A small public
11 housing agency, as defined in section
12 37(a), may elect to be paid for its utility
13 and waste management costs under the
14 formula for a period, at the discretion of
15 the small public housing agency, of up to
16 20 years based on the small public housing
17 agency’s average annual consumption dur-
18 ing the 3-year period preceding the year in
19 which the election is made (hereafter re-
20 ferred to as ‘consumption base level’).

21 “(ii) INITIAL ADJUSTMENT IN CON-
22 SUMPTION BASE LEVEL.—The Secretary
23 shall make an initial one-time adjustment
24 in the consumption base level to account
25 for differences in the heating degree day

1 average over the most recent 20-year pe-
2 riod compared to the average in the con-
3 sumption base level.

4 “(iii) ADJUSTMENTS IN CONSUMPTION
5 BASE LEVEL.—The Secretary shall make
6 adjustments in the consumption base level
7 to account for an increase or reduction in
8 units, a change in fuel source, a change in
9 resident controlled electricity consumption,
10 or for other reasons.

11 “(iv) SAVINGS.—All cost savings re-
12 sulting from an election made pursuant to
13 this subparagraph shall accrue to the small
14 agency and may be used for any public
15 housing purpose at the discretion of the
16 small public housing agency.

17 “(v) THIRD PARTIES.—A small public
18 housing agency making an election under
19 this subparagraph may use, but shall not
20 be required to use, the services of a third
21 party in its energy conservation program.
22 The small public housing agency shall have
23 the sole discretion to determine the source,
24 and terms and conditions, of any financing
25 used for its program.”.

1 **SEC. 6. CONSORTIA.**

2 Not later than 180 days after the date of enactment
3 of this Act, the Secretary of Housing and Urban Develop-
4 ment shall develop and deploy all electronic information
5 systems necessary to accommodate full consolidated re-
6 porting by public housing agencies electing to operate in
7 consortia under section 13(a) of the United States Hous-
8 ing Act of 1937 (42 U.S.C. 1437k(a)).

9 **SEC. 7. EFFECTIVE DATE.**

10 This Act, and the amendments made by this Act,
11 shall take effect 60 days after the date of enactment of
12 this Act.

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