

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

To [to be provided].

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To [to be provided].

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 “Tenant Empowerment
5 Act of 2019”.

6 **SEC. 2. MAINTENANCE OF HOUSING.**

7 (a) PROJECT-BASED ASSISTANCE.—Section 8(d) of
8 the United States Housing Act of 1937 (42 U.S.C.
9 1437f(d)) is amended by adding at the end the following
10 new paragraphs:

1 “(7) ENFORCEMENT OF HOUSING STANDARDS
2 RELATED TO PHYSICAL CONDITION OF PROPERTY.—
3 If the Secretary determines, upon any inspection or
4 management review for any multifamily housing
5 project covered by a housing assistance payments
6 contract under this section, that there are serious
7 violations of housing standards applicable to such
8 project that are not corrected after reasonable no-
9 tice, or any other substantial or repeated violations
10 of other program requirements, including residents’
11 right to organize, the Secretary may take one or
12 more of the following actions in addition to other
13 remedies allowed under the contract:

14 “(A) Withhold all or part of the housing
15 assistance payments due under the contract.

16 “(B) Withhold any rent increases other-
17 wise due.

18 “(C) Assume possession and management
19 of the project and take any actions necessary to
20 correct the violations, including using such
21 withheld payments to effectuate repairs or to
22 reimburse others who make repairs.

23 “(D) Use such withheld payments to pay
24 for utilities and other services that are the re-

1 sponsibility of the owner under the lease or ap-
2 plicable law.

3 “(8) ESCROW OF TENANT RENTS.—If the Sec-
4 retary determines, pursuant to paragraph (7), that
5 there are serious violations of housing standards ap-
6 plicable to any multifamily housing project covered
7 by a housing assistance payments contract under
8 this section, any tenants in assisted units in the
9 project may withhold the tenant contribution toward
10 rent and pay such amount, when due, into an escrow
11 fund, or use such withheld payments to effectuate
12 repairs, in accordance with procedures established by
13 the Secretary. If a tenant withholds the tenant con-
14 tribution toward rent in accordance with this para-
15 graph, the Secretary shall withhold all or part of the
16 housing assistance payments due under the contract
17 for the unit until the violation is remedied. An owner
18 of a project shall not evict tenants for nonpayment
19 of rent for exercising rights under this paragraph.

20 “(9) PROTECTION OF TENANTS.—An owner of
21 a multifamily housing project covered by a housing
22 assistance payments contract under this subsection
23 may not terminate the tenancy of any tenant be-
24 cause of the withholding or abatement of assistance
25 pursuant to this subsection. During the period that

1 assistance is abated pursuant to this subsection, the
2 tenant may terminate the tenancy by notifying the
3 owner.

4 “(10) INSPECTIONS UPON REQUEST OR PETI-
5 TION.—In addition to periodic inspections by the
6 Secretary, the Secretary shall conduct an inspection
7 or management review of any multifamily housing
8 project covered by a housing assistance payments
9 contract under this section when requested by the
10 local government in which the project is located or
11 by a petition signed by not less than 25 percent of
12 the tenants of the occupied units in the project.”.

13 (b) PHA PROJECT-BASED ASSISTANCE.—Paragraph
14 (13) of section 8(o) of the United States Housing Act of
15 1937 (42 U.S.C. 1437f(o)(13)) is amended by adding at
16 the end the following new subparagraph:

17 “(N) MAINTENANCE OF HOUSING.—Para-
18 graphs (7) through (10) of subsection (d) of
19 this section shall apply with respect to a multi-
20 family housing project covered by a housing as-
21 sistance payments contract under this para-
22 graph, except that in applying such para-
23 graphs—

1 “(i) the term ‘public housing agency’
2 shall be substituted for the term ‘Sec-
3 retary’; and

4 “(ii) the term ‘contract under this
5 paragraph’ shall be substituted for the
6 term ‘contract under this section’.”.

7 **SEC. 3. RESIDENT ENFORCEMENT OF PROJECT OWNER**
8 **AGREEMENTS WITH HUD AND USDA.**

9 (a) IN GENERAL.—In each covered agreement, as
10 such term is defined in subsection (c), any resident, or
11 resident association, of an affected project shall be per-
12 mitted to petition the appropriate Secretary requesting en-
13 forcement of alleged violations of the covered agreement.

14 (b) JUDICIAL RELIEF.—If the appropriate Secretary,
15 or the designee of the appropriate Secretary, fails to issue
16 a determination regarding an enforcement request, or if
17 the determination fails to provide the enforcement action
18 requested within 90 days after receipt of the petition, the
19 resident, or resident or tenant association, may seek ap-
20 propriate judicial relief in connection with the alleged vio-
21 lation and enforcement of a covered agreement in any
22 forum of competent jurisdiction. In the case of any alleged
23 violation that threatens the health or safety of tenants,
24 the time period for making such a determination shall not
25 exceed 15 days.

1 (c) DEFINITIONS.—For purposes of this section, the
2 following definitions shall apply:

3 (1) APPROPRIATE SECRETARY.—The term “ap-
4 propriate Secretary” means, with respect to a cov-
5 ered agreement, the Secretary identified in para-
6 graph (2).

7 (2) COVERED AGREEMENT.—The term “covered
8 agreement” means any—

9 (A) a contract between the Secretary of
10 Housing and Urban Development, a contract
11 administrator, or any public housing agency
12 and an owner for project-based housing assist-
13 ance payments under section 8 of the United
14 States Housing Act of 1937 (42 U.S.C. 1437f);

15 (B) agreement under the Multifamily As-
16 sisted Housing Reform and Affordability Act of
17 1997 (42 U.S.C. 1437f note) for—

18 (i) Mark-to-Market Restructuring
19 Commitments, section 8 rental assistance
20 for a project involving any action under
21 section 517(b) or section 519 of such Act;
22 or

23 (ii) Rehabilitation Escrow Deposit
24 Agreements for Mark-to-Market;

1 (C) contract for mortgage insurance exe-
2 cuted by the Secretary of Housing and Urban
3 Development and any owner or purchaser of a
4 multifamily housing project;

5 (D) agreement with the Secretary of Agri-
6 culture in connection with a loan for rural rent-
7 al housing under section 515 of the Housing
8 Act of 1949 (42 U.S. C. 1485); or

9 (E) other Regulatory Agreements, Compli-
10 ance Agreements, Use Agreements, or similar
11 contracts between the appropriate Secretary
12 and the owner that establish housing quality re-
13 quirements or affordability restrictions.

14 (d) REGULATIONS.—Within 180 days after the date
15 of the enactment of this Act, the each appropriate Sec-
16 retary shall issue regulations providing procedures for—

17 (1) receiving tenant petitions to enforce the
18 terms of a covered agreement;

19 (2) evaluating alleged violations of a covered
20 agreement; and

21 (3) providing notice to residents and resident
22 associations.

23 (e) PROTECTION OF OTHER TENANT RIGHTS.—This
24 section may not be construed to limit or replace the rights

1 of residents to raise grievances, appeal decisions, or make
2 other claims provided under any other provision of law.

3 **SEC. 4. RESIDENT ACCESS TO BUILDING INFORMATION.**

4 (a) ACCESS TO INFORMATION.—Upon a written re-
5 quest by a legitimate residents association established with
6 respect to a multifamily housing property to which section
7 202 of the Housing and Community Development Amend-
8 ments of 1978 (12 U.S.C. § 1715z-1b) applies, by or
9 through its duly appointed designee or representative, the
10 Secretary of Housing and Urban Development shall make
11 available to such association, designee, or representative,
12 for the property represented by the association—

13 (1) information identifying the legal entities
14 that own or manage the subject property, including
15 identification of general partners and other prin-
16 cipals;

17 (2) an annual operating statement of profit and
18 loss of the ownership and management entities iden-
19 tified in paragraph (1), and their other current or
20 former properties assisted by the Department, in-
21 cluding the history and current status of mortgage
22 assignments, defaults, foreclosures, or departmental
23 sanctions;

24 (3) any subsidy contracts and regulatory agree-
25 ments, use agreements, or other contracts referred

1 to in section 3(c)(2) of this Act between the owner-
2 ship entities and the Department of Housing and
3 Urban Development, including correspondence be-
4 tween such ownership entities and the Department
5 for the subject property;

6 (4) any management reviews, physical inspec-
7 tion reports, and capital needs assessments of the
8 subject property or entities identified in paragraph
9 (1) that are conducted by the Department or a con-
10 tractor of the Department; and

11 (5) an annual statement, prepared by the De-
12 partment or a contract administrator for the subject
13 property, of the balances of, and expenditures from,
14 any replacement reserves and other escrow funds for
15 the property.

16 (b) PROTECTION OF PERSONAL INFORMATION.—
17 Subsection (a) shall not be construed to require disclosure
18 of Social Security numbers, personal tax returns, or any
19 other personal financial information of or concerning indi-
20 viduals who have an interest in the ownership or manage-
21 ment entities referred to in subsection (a). In complying
22 with the requirements of subsection (a), the Secretary
23 shall not disclose, and shall redact, any information that
24 identifies, or may be used to identify, a resident of the
25 multifamily housing property.

1 **SEC. 5. FUNDING FOR TENANT AND OTHER PARTICIPATION**
2 **AND CAPACITY BUILDING.**

3 Paragraph (3) of section 514(f) of the Multifamily
4 Assisted Housing Reform and Affordability Act of 1997
5 (42 U.S.C. 1437f note) is amended—

6 (1) in subparagraph (A)—

7 (A) in the first sentence—

8 (i) by striking “not more than” and
9 inserting “not less than”;

10 (ii) by striking “of low-income housing
11 for which project-based rental assistance is
12 provided at below market rent levels and
13 may not be renewed” and inserting the fol-
14 lowing: “and improvement of low-income
15 housing for which project-based rental as-
16 sistance, subsidized loans, enhanced vouch-
17 ers under section 8(t), or project-based
18 vouchers under section 8(o) are provided
19 or proposed”; and

20 (iii) in the second parenthetical
21 clause, by inserting before the closing pa-
22 renthesis the following: “, and
23 predevelopment assistance to enable such
24 transfers”; and

25 (B) by inserting after the period at the end
26 the following: “For outreach and training of

1 tenants and technical assistance, the Secretary
2 shall implement a grant program utilizing per-
3 formance-based outcome measures for eligible
4 costs incurred. Recipients providing capacity
5 building or technical assistance services to ten-
6 ant groups shall be qualified nonprofit State-
7 wide, countywide, area-wide, or city-wide orga-
8 nizations with demonstrated experience includ-
9 ing at least a two-year recent track record of
10 organizing and providing assistance to tenants,
11 and independence from the owner, a prospective
12 purchaser, or their managing agents. The Sec-
13 retary may provide assistance and training to
14 grantees in administrative and fiscal manage-
15 ment to ensure compliance with applicable Fed-
16 eral requirements. The Secretary shall expedite
17 the provision of funding for the fiscal year in
18 which the date of the enactment of this Act oc-
19 curs and by entering into an interagency agree-
20 ment for not less than \$1,000,000 with the
21 Corporation for National and Community Serv-
22 ice to conduct a tenant outreach and training
23 program to eligible housing under this sub-
24 section. The Secretary shall also make available
25 flexible grants to qualified nonprofit organiza-

1 tions that do not own eligible multifamily prop-
2 erties, for tenant outreach in underserved areas,
3 and to experienced national or regional non-
4 profit organizations to provide specialized train-
5 ing or support to grantees assisted under this
6 section. Notwithstanding any other provision of
7 law, funds authorized under this paragraph for
8 any fiscal year shall be available for obligation
9 in subsequent fiscal years. The Secretary shall
10 require each recipient of amounts made avail-
11 able pursuant to this subparagraph to submit
12 to the Secretary reports, on a quarterly basis,
13 detailing the use of such funds and including
14 such information as the Secretary shall re-
15 quire.”

16 **SEC. 6. TENANT PARTICIPATION IN PHYSICAL INSPECTION**
17 **AND MANAGEMENT REVIEW PROCESSES.**

18 In implementing any inspection requirements for en-
19 suring decent, safe, and sanitary conditions and any Man-
20 agement and Occupancy Reviews in multifamily housing
21 receiving project-based assistance under a program admin-
22 istered by the Secretary of Housing and Urban Develop-
23 ment, the Secretary shall—

24 (1) encourage tenant participation—

1 (A) by requiring that the owner shall post
2 notice of any Department of Housing and
3 Urban Development (in this section referred to
4 as “HUD”) inspection, including information
5 about the inspection process, contact informa-
6 tion, and appeals to HUD, both before and
7 after the inspection, in common areas of the
8 property;

9 (B) by requiring that, after any inspection,
10 the owner shall post the property score in com-
11 mon areas of the property and ensure that the
12 full HUD inspection report (but not including
13 any personally identifiable information for own-
14 ers or residents) and related correspondence is
15 made available for inspection by tenants and
16 their representatives at the property where they
17 reside;

18 (C) by allowing any legitimate tenant orga-
19 nization’s designated tenant representative to
20 accompany and meet with the inspector during
21 the on-site inspection, upon request of the ten-
22 ant organization, provided that the tenant orga-
23 nization representative may not enter individual
24 apartments without the invitation and consent
25 of the occupying tenant;

1 (D) by including in any HUD physical in-
2 spection up to five additional units suggested by
3 tenants or any legitimate tenant organization;

4 (E) by providing notice, comment, and ap-
5 peal rights for tenants and any legitimate ten-
6 ant organization parallel to the notice, com-
7 ment, and appeal rights provided to owners;
8 and

9 (F) by conducting a full or partial Man-
10 agement and Occupancy Review upon the writ-
11 ten request by at least 25 percent of residents
12 or by any legitimate tenant association at the
13 property, for the issues identified by residents;

14 (2) require inspectors to notate in their report
15 potential environmental hazards and unseen health
16 and safety conditions described by residents, man-
17 agement staff, or local agencies, or as observed by
18 the inspector;

19 (3) require HUD to provide for independent
20 testing of potential environmental hazards identified
21 by HUD inspectors;

22 (4) require the Secretary to develop a remedial
23 plan if environmental hazards or health and safety
24 conditions are documented and to monitor the imple-
25 mentation of the remedial plan;

1 (5) require HUD contract inspectors to review
2 records and consult with local code enforcement
3 agencies regarding physical conditions of a property
4 prior to inspections, if the locality's databases are
5 accessible;

6 (6) review work order records in the manage-
7 ment office of the property to assess for response
8 time and tenant satisfaction; and

9 (7) require the Secretary to inspect for compli-
10 ance with any findings of exigent health and safety
11 violations resulting from HUD inspections.

12 **SEC. 7. DUTY TO MAINTAIN HOUSING ASSISTANCE PAY-**
13 **MENTS DURING FORECLOSURE.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law, in managing and disposing of any multifamily
16 property that is owned or has a mortgage held by the Sec-
17 retary of Housing and Urban Development, and during
18 the process of foreclosure on any property with a contract
19 for rental assistance payments under section 8 of the
20 United States Housing Act of 1937 or any other program
21 administered by the Secretary, the Secretary shall main-
22 tain any rental assistance payments under section 8 of the
23 United States Housing Act of 1937, and any other pro-
24 grams, that are attached to any dwelling units in the prop-
25 erty.

1 (b) OTHER RENTAL ASSISTANCE.— To the extent
2 the Secretary determines, in consultation with the tenants
3 and the local government, that such a multifamily prop-
4 erty owned or having a mortgage held by the Secretary
5 is not feasible for continued rental assistance payments
6 under such section 8 or other programs, based on consid-
7 eration of (1) the costs of rehabilitating and operating the
8 property and all available Federal, State, and local re-
9 sources, including rent adjustments under section 524 of
10 the Multifamily Assisted Housing Reform and Afford-
11 ability Act of 1997 (42 U.S.C. 1437f note), and (2) envi-
12 ronmental conditions that cannot be remedied in a cost-
13 effective fashion, the Secretary may, in consultation with
14 the tenants of that property, contract for project-based
15 rental assistance payments with an owner or owners of
16 other existing housing properties, or provide other rental
17 assistance.

18 (c) PROJECT-BASED CONTRACTS.— The Secretary
19 shall take appropriate steps to ensure that project-based
20 contracts remain in effect prior to foreclosure, subject to
21 the exercise of contractual abatement remedies to assist
22 relocation of tenants for imminent major threats to health
23 and safety after written notice to and informed consent
24 of the affected tenants and use of other available remedies,
25 such as partial abatements or receivership.

1 (d) RENT LEVELS.—After disposition of any multi-
2 family property described under this section, the contract
3 and allowable rent levels on such properties shall be sub-
4 ject to the requirements under section 524 of the Multi-
5 family Assisted Housing Reform and Affordability Act of
6 1997.