

[DISCUSSION DRAFT]

117TH 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 2020”.

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.—

4 “(A) WITHHOLDING OF RENT.—If the Sec-
5 retary determines, pursuant to paragraph (7),
6 that there are serious violations of housing
7 standards applicable to any multifamily housing
8 project covered by a housing assistance pay-
9 ments contract under this section, including a
10 failed physical inspection score, an unsatisfac-
11 tory management and occupancy review score,
12 or a notice of violation of right to organize reg-
13 ulations under subpart B of part 245 of title
14 24, Code of Federal Regulations, any tenants in
15 assisted units in the project may withhold the
16 tenant contribution toward rent and pay such
17 amount, when due, into an escrow fund in ac-
18 cordance with procedures established by the
19 Secretary. If a tenant withholds the tenant con-
20 tribution toward rent in accordance with this
21 paragraph, the Secretary shall withhold all or
22 part of the housing assistance payments due
23 under the contract for the unit until the viola-
24 tions are remedied. An owner of a project shall
25 not evict tenants for nonpayment of rent for ex-

1 ercising rights under this paragraph. If an
2 owner has completed a purchase of multifamily
3 housing found in violation under this paragraph
4 and commenced a repair program to remediate
5 these violations, tenants exercising this right
6 may negotiate a staged release of funds held in
7 escrow upon reaching measurable benchmarks
8 as established by the Secretary, including con-
9 sultation with the tenants of the property and
10 any legitimate tenants' association, as defined
11 in subpart B of part 245 of title 24, Code of
12 Federal Regulations.

13 “(B) REPAIR AND DEDUCT.—Any tenant
14 of a multifamily housing project covered by a
15 housing assistance payments contract under
16 this section may make payments from the ten-
17 ant’s contribution toward rent, not to exceed
18 the monthly gross rent for the unit, to effec-
19 tuate the cost of repairs or mitigation to bring
20 their unit into compliance with housing quality
21 standards, and to deduct the documented cost
22 from their rent, in accordance with procedures
23 established by the Secretary.

24 “(C) PROHIBITION.—An owner of a
25 project shall not evict tenants for nonpayment

1 of rent for exercising rights under this para-
2 graph.

3 “(D) RULE OF CONSTRUCTION.—Nothing
4 in this paragraph shall be construed to limit or
5 pre-empt any stronger protections which may
6 exist under state or local law. An owner of a
7 project shall not evict tenants for nonpayment
8 of rent for exercising rights under this para-
9 graph.

10 “(9) PROTECTION OF TENANTS.—An owner of
11 a multifamily housing project covered by a housing
12 assistance payments contract under this subsection
13 may not terminate the tenancy of any tenant be-
14 cause of the withholding or abatement of assistance
15 pursuant to this subsection. During the period that
16 assistance is abated pursuant to this subsection, the
17 tenant may terminate the tenancy by notifying the
18 owner.

19 “(10) INSPECTIONS UPON REQUEST OR PETI-
20 TION.—In addition to periodic inspections by the
21 Secretary, the Secretary shall conduct an inspection
22 or management review of any multifamily housing
23 project covered by a housing assistance payments
24 contract under this section when requested by the
25 local government in which the project is located or

1 by a petition signed by not less than 25 percent of
2 the tenants of the occupied units in the project.”.

3 (b) PHA PROJECT-BASED ASSISTANCE.—Paragraph
4 (13) of section 8(o) of the United States Housing Act of
5 1937 (42 U.S.C. 1437f(o)(13)) is amended by adding at
6 the end the following new subparagraph:

7 “(N) MAINTENANCE OF HOUSING.—Para-
8 graphs (7) through (10) of subsection (d) of
9 this section shall apply with respect to a multi-
10 family housing project covered by a housing as-
11 sistance payments contract under this para-
12 graph, except that in applying such para-
13 graphs—

14 “(i) the term ‘public housing agency’
15 shall be substituted for the term ‘Sec-
16 retary’; and

17 “(ii) the term ‘contract under this
18 paragraph’ shall be substituted for the
19 term ‘contract under this section’.”.

20 **SEC. 3. RESIDENT ENFORCEMENT OF PROJECT OWNER**
21 **AGREEMENTS WITH HUD AND USDA.**

22 (a) IN GENERAL.—In each covered agreement, as
23 such term is defined in subsection (c), any resident, or
24 resident association, of an affected project shall be per-
25 mitted to petition the appropriate Secretary requesting en-

1 enforcement of alleged serious violations of housing stand-
2 ards that are not corrected after reasonable notice, or any
3 other substantial or repeated violations of other program
4 requirements, including the right of residents to organize.

5 (b) JUDICIAL RELIEF.—If the appropriate Secretary,
6 or the designee of the appropriate Secretary, fails to issue
7 a determination regarding an enforcement request made
8 pursuant to subsection (a), or if the determination fails
9 to provide the enforcement action requested within 90
10 days after receipt of the petition, the resident, or resident
11 or tenant association, may seek appropriate judicial relief
12 in connection with the alleged violation and enforcement
13 of the covered agreement in any forum of competent juris-
14 diction. In the case of any alleged violation that threatens
15 the health or safety of tenants, the time period for making
16 such a determination shall not exceed 15 days.

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

19 (1) APPROPRIATE SECRETARY.—The term “ap-
20 propriate Secretary” means, with respect to a cov-
21 ered agreement, the Secretary identified in para-
22 graph (2).

23 (2) COVERED AGREEMENT.—The term “covered
24 agreement” means any—

1 (A) a contract between the Secretary of
2 Housing and Urban Development, a contract
3 administrator, or any public housing agency
4 and an owner for project-based housing assist-
5 ance payments under section 8 of the United
6 States Housing Act of 1937 (42 U.S.C. 1437f);

7 (B) agreement under the Multifamily As-
8 sisted Housing Reform and Affordability Act of
9 1997 (42 U.S.C. 1437f note) for—

10 (i) Mark-to-Market Restructuring
11 Commitments, section 8 rental assistance
12 for a project involving any action under
13 section 517(b) or section 519 of such Act;
14 or

15 (ii) Rehabilitation Escrow Deposit
16 Agreements for Mark-to-Market;

17 (C) contract for mortgage insurance exe-
18 cuted by the Secretary of Housing and Urban
19 Development and any owner or purchaser of a
20 multifamily housing project;

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

1 (E) other Regulatory Agreements, Compli-
2 ance Agreements, Use Agreements, or similar
3 contracts between the appropriate Secretary
4 and the owner that establish housing quality re-
5 quirements or affordability restrictions.

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

9 (1) receiving tenant petitions to enforce the
10 terms of a covered agreement;

11 (2) evaluating alleged violations of a covered
12 agreement; and

13 (3) providing notice to residents and resident
14 associations.

15 (e) PROTECTION OF OTHER TENANT RIGHTS.—This
16 section shall not be construed to limit or replace the rights
17 of residents to raise grievances, appeal decisions, or make
18 other claims provided under any other provision of law.

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

20 (a) ACCESS TO INFORMATION.—Upon a written re-
21 quest by a legitimate residents association established with
22 respect to a multifamily housing property to which section
23 202 of the Housing and Community Development Amend-
24 ments of 1978 (12 U.S.C. § 1715z-1b) applies, by or
25 through its duly appointed designee or representative, the

1 Secretary of Housing and Urban Development shall make
2 available to such association, designee, or representative,
3 for the property represented by the association—

4 (1) information identifying the legal entities
5 that own or manage the subject property, including
6 identification of general partners and other prin-
7 cipals;

8 (2) an annual operating statement of profit and
9 loss of the ownership and management entities iden-
10 tified in paragraph (1), and their other current or
11 former properties assisted by the Department, in-
12 cluding the history and current status of mortgage
13 assignments, defaults, foreclosures, or departmental
14 sanctions;

15 (3) any subsidy contracts and regulatory agree-
16 ments, use agreements, or other contracts referred
17 to in section 3(c)(2) of this Act between the owner-
18 ship entities and the Department of Housing and
19 Urban Development, including correspondence be-
20 tween such ownership entities and the Department
21 for the subject property;

22 (4) any management reviews, physical inspec-
23 tion reports, and capital needs assessments of the
24 subject property or entities identified in paragraph

1 (1) that are conducted by the Department or a con-
2 tractor of the Department; and

3 (5) an annual statement, prepared by the De-
4 partment or a contract administrator for the subject
5 property, of the balances of, and expenditures from,
6 any replacement reserves and other escrow funds for
7 the property.

8 (b) PROTECTION OF PERSONAL INFORMATION.—

9 Subsection (a) shall not be construed to require disclosure
10 of Social Security numbers, personal tax returns, or any
11 other personal financial information of or concerning indi-
12 viduals who have an interest in the ownership or manage-
13 ment entities referred to in subsection (a), including sala-
14 ries or wages of employees of such entities. In complying
15 with the requirements of subsection (a), the Secretary
16 shall not disclose, and shall redact, any information that
17 identifies, or may be used to identify, a resident of the
18 multifamily housing property.

19 **SEC. 5. FUNDING FOR TENANT AND OTHER PARTICIPATION**
20 **AND CAPACITY BUILDING.**

21 Paragraph (3) of section 514(f) of the Multifamily
22 Assisted Housing Reform and Affordability Act of 1997
23 (42 U.S.C. 1437f note) is amended—

24 (1) in subparagraph (A)—

25 (A) in the first sentence—

1 (i) by striking “not more than” and
2 inserting “not less than”;

3 (ii) by striking “of low-income housing
4 for which project-based rental assistance is
5 provided at below market rent levels and
6 may not be renewed, (including transfer of
7 developments to tenant groups, nonprofit
8 organizations, and public entities), for ten-
9 ant services” and inserting the following:
10 “and improvement of low-income housing
11 for which project-based rental assistance,
12 public housing subsidies, low-income hous-
13 ing tax credits, Federal or State subsidized
14 loans, enhanced vouchers under section
15 8(t), or project-based vouchers under sec-
16 tion 8(o) are provided or proposed”; and

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

22 (B) by inserting after the period at the end
23 the following: “For outreach and training of
24 tenants and technical assistance, the Secretary
25 shall implement a grant program utilizing per-

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

1 and to experienced national or regional non-
2 profit organizations to provide specialized train-
3 ing or support to grantees assisted under this
4 section. Notwithstanding any other provision of
5 law, funds authorized under this paragraph for
6 any fiscal year shall be available for obligation
7 in subsequent fiscal years. The Secretary shall
8 require each recipient of amounts made avail-
9 able pursuant to this subparagraph to submit
10 to the Secretary reports, on a quarterly basis,
11 detailing the use of such funds and including
12 such information as the Secretary shall re-
13 quire.”

14 **SEC. 6. TENANT PARTICIPATION IN PHYSICAL INSPECTION**
15 **AND MANAGEMENT REVIEW PROCESSES.**

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

22 (1) encourage tenant participation—

23 (A) by requiring that the owner shall post
24 notice of any Department of Housing and
25 Urban Development (in this section referred to

1 as “HUD”) inspection, including information
2 about the inspection process, contact informa-
3 tion, and appeals to HUD, both before and
4 after the inspection, in common areas of the
5 property;

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

15 (C) by allowing any legitimate tenant orga-
16 nization, prior to an inspection, to submit a re-
17 port regarding the property to the inspector
18 and to HUD;

19 (D) by notifying and allowing any legiti-
20 mate tenant organization, upon request, to meet
21 with and to designate a representative to ac-
22 company the inspector during the on-site in-
23 spection of common areas, including grounds,
24 hallways, lobbies, community, mail and laundry

1 rooms, and other common spaces accessible to
2 residents;

3 (E) by including in any HUD physical in-
4 spection up to five additional units suggested by
5 tenants or any legitimate tenant organization;

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

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

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

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

24 (4) require the Secretary to develop a remedial
25 plan if environmental hazards or health and safety

1 conditions are documented and to monitor the imple-
2 mentation of the remedial plan;

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

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

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

14 **SEC. 7. DUTY TO MAINTAIN HOUSING ASSISTANCE PAY-**
15 **MENTS DURING FORECLOSURE.**

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

1 grams, that are attached to any dwelling units in the prop-
2 erty.

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

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

1 of the affected tenants and use of other available remedies,
2 such as partial abatements or receivership.

3 (d) RENT LEVELS.—After disposition of any multi-
4 family property described under this section, the contract
5 and allowable rent levels on such properties shall be sub-
6 ject to the requirements under section 524 of the Multi-
7 family Assisted Housing Reform and Affordability Act of
8 1997.

9 **SEC. 8. CLARIFICATION OF TENANT PARTICIPATION IN**
10 **MULTIFAMILY PROJECTS.**

11 The last sentence of section 202(a) of the Housing
12 and Community Development Amendments of 1978 (12
13 U.S.C. 1715z–1b(a)) is amended by inserting after “(42
14 U.S.C. 1437f),” the following: “including a project as-
15 sisted under section 8(o)(13) (42 U.S.C. 1437f(o)(13)),”.