

103^D CONGRESS
2^D SESSION

H. R. 4432

To provide relief from regulatory requirements inhibiting the effectiveness and productivity of public housing agencies.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1994

Mr. BEREUTER introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

A BILL

To provide relief from regulatory requirements inhibiting the effectiveness and productivity of public housing agencies.

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 “Public Housing
5 Regulatory Relief Act”.

6 **SEC. 2. AUTHORITY TO WAIVE PUBLIC HOUSING PROGRAM**

7 **REQUIREMENTS.**

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

1 **“SEC. 27. WAIVER OF PUBLIC HOUSING PROGRAM RE-**
2 **QUIREMENTS.**

3 “(a) **AUTHORITY.**—Upon the written request of a
4 public housing agency or resident management corpora-
5 tion, the Secretary may authorize the agency or corpora-
6 tion to establish policies for the operation, maintenance,
7 management, and development (including modernization)
8 of one or more public housing projects and, in connection
9 with granting such authority and except as provided in
10 subsection (b), may waive or modify (with respect to the
11 project or projects)—

12 “(1) the requirements of this Act applicable to
13 public housing; and

14 “(2) any requirements applicable to the project
15 or projects under other provisions of law that the
16 Secretary determines are not consistent with the
17 policies proposed for the project or projects.

18 “(b) **LIMITATION.**—The Secretary may not waive or
19 modify—

20 “(1) any provision of this Act or any other pro-
21 vision of law that limits occupancy of public housing
22 dwelling units to low-income families;

23 “(2) under section 18 of this Act that requires
24 replacement of dwelling units in the case of demoli-
25 tion or disposition of public housing (except that the
26 limitation on the use of tenant-based assistance to

1 applications proposing demolition or disposition of
2 200 or more units may be waived);

3 “(3) any provision of the Uniform Relocation
4 Assistance and Real Property Acquisition Policies
5 Act of 1970;

6 “(4) any provision of law that relates to equal
7 opportunity, nondiscrimination, or the environment;
8 or

9 “(5) any provision of this Act or any other pro-
10 vision of law that relates to labor standards.

11 “(c) REQUEST FOR WAIVER.—A request under sub-
12 section (a) shall—

13 “(1) specify the provision or provisions of law
14 to be waived or modified and the waivers or modi-
15 fications proposed;

16 “(2) identify the public housing projects for
17 which the waivers or modifications are requested;

18 “(3) describe the policies to be effective for the
19 projects for which the waivers or modifications are
20 requested; and

21 “(4) describe the costs to the public housing
22 agency or resident management corporation, and to
23 the Federal Government, of the waivers or modifica-
24 tions requested and the change of policies proposed.

1 “(d) MINIMUM CRITERIA FOR APPROVAL.—The Sec-
2 retary may approve a request under subsection (a) only
3 if the Secretary determines that the request—

4 “(1) would not, over the term of such authority,
5 result in the Federal Government incurring more
6 costs than the Government would otherwise incur if
7 the request were not approved;

8 “(2) is consistent with the overall purposes of
9 the public housing program;

10 “(3) is consistent with the Fair Housing Act,
11 title VI of the Civil Rights Act of 1964, section 504
12 of the Rehabilitation Act of 1973, the Age Discrimi-
13 nation Act of 1975, and the National Environmental
14 Policy Act of 1969; and

15 “(4) such other requirements as the Secretary
16 may establish to carry out the purposes of this
17 section.

18 “(e) TIMING.—Any authority granted to a public
19 housing agency pursuant to subsection (a), including any
20 waiver or modification pursuant to this section of any re-
21 quirement, shall be effective only for the period established
22 by the Secretary in granting the waiver or modification,
23 which may not exceed 4 years. Upon such expiration and
24 pursuant to a written request, the Secretary may renew
25 such authority for a public housing agency or resident

1 management corporation, subject to the requirements of
2 this section.

3 “(f) APPLICABILITY OF STATE AND LOCAL LAWS.—
4 The provisions of any applicable State and local laws shall
5 apply to any public housing agency, resident management
6 corporation, and public housing project with respect to
7 which authority is granted under subsection (a).

8 “(g) REPORTS.—The Secretary shall require each
9 public housing agency and resident management corpora-
10 tion for which a request under subsection (a) is approved
11 to submit a report to the Secretary annually for each year
12 during the term for which the authority granted under
13 subsection (a) is effective. The report shall describe the
14 activities, operations, and policies of the agency or cor-
15 poration during the year for which the report is submitted.

16 “(h) DEFINITION.—For purposes of this section, the
17 term ‘resident management corporation’ means a resident
18 management corporation established in accordance with
19 the requirements of the Secretary under section 20.’’.

20 **SEC. 3. PHA RETENTION OF SAVINGS REALIZED THROUGH**
21 **EFFICIENT MANAGEMENT.**

22 Section 6(e) of the United States Housing Act of
23 1937 (42 U.S.C. 1437d(e)) is amended to read as follows:

24 “(e) TREATMENT OF SAVINGS.—Each contract for
25 contributions shall provide that whenever in any year the

1 receipts of a public housing agency in connection with a
2 low-income housing project exceed its expenditures (in-
3 cluding debt service, operation, maintenance, establish-
4 ment of reserves, and other costs and charges) and the
5 Secretary determines that such excess resulted from in-
6 creased efficiency in the operation of the agency—

7 “(1) an amount equal to one-half of such excess
8 shall be applied, or set aside for application, to pur-
9 poses which, in the determination of the Secretary,
10 will effect a reduction in the amount of subsequent
11 annual contributions; and

12 “(2) an amount equal to one-half of such excess
13 shall be applied to operating reserve established for
14 the project and shall not be considered in subse-
15 quent years in calculating the operating subsidies
16 provided under section 9 to the public housing agen-
17 cy, except to the extent proposed by the agency in
18 its operating budget.”.

19 **SEC. 4. AVAILABILITY OF PUBLIC HOUSING MODERNIZA-**
20 **TION FUNDS DURING TERM OF PLAN.**

21 Section 14 of the United States Housing Act of 1937
22 (42 U.S.C. 1437l) is amended—

23 (1) in subsection (d)(3)(A), by striking “within
24 each 12-month period covered by such plan”;

1 (2) in subsection (e)(1)(D), by striking “at
2 least a schedule” and inserting “a listing”;

3 (3) in subsection (e)(3)(B), by adding at the
4 end the following new sentence: “This section may
5 not be construed to require a public housing agency
6 to amend its comprehensive plan under paragraph
7 (1) to be able to (A) use assistance amounts for pur-
8 poses consistent with the plan but not according to
9 the schedule of actions to be taken under the plan,
10 or (B) use assistance amounts provided to an agency
11 for a fiscal year in another fiscal year covered by the
12 plan for purposes consistent with the plan, notwith-
13 standing the annual statement of activities by the
14 agency under subparagraph (A).”;

15 (4) in subsection (f)(1)(A), by striking “speci-
16 fied for such year in” and inserting “anticipated to
17 be conducted during such year under”;

18 (5) in subsection (g), by striking “to meet the
19 objectives for the preceding year” and inserting
20 “during the preceding year to meet the objectives”;
21 and

22 (6) in subsection (o), by striking “for the pur-
23 poses” and all that follows through “appropriate”
24 and inserting the following: “in any year covered by
25 the plan for the agency under subsection (d)(4) or

1 (e)(1)(D), as appropriate, that was approved by the
2 Secretary and for any purpose specified under or
3 consistent with such plan, notwithstanding the
4 schedule included in such plan pursuant to sub-
5 section (d)(3)(A) or (e)(1)(D), as appropriate”.

6 **SEC. 5. RECAPTURE OF PUBLIC HOUSING MODERNIZATION**
7 **FUNDS.**

8 Section 14(g) of the United States Housing Act of
9 1937 (42 U.S.C. 1437(l)(g)) is amended—

10 (1) by inserting “(1)” after “(g)”; and

11 (2) by adding at the end the following new
12 paragraph:

13 “(2) The Secretary may establish a system for recap-
14 turing and redistributing amounts provided to public
15 housing agencies under this subsection, which shall—

16 “(A) provide for the recapture of such amounts
17 only from an agency that, in the determination of
18 the Secretary pursuant to a review under subsection
19 (e)(4)(B) or an audit under subsection (e)(4)(C),
20 has not made reasonable progress in carrying out
21 modernization projects approved by the Secretary
22 under the comprehensive plan for the agency under
23 subsection (d)(4) or (e);

24 “(B) provide for the redistribution of such re-
25 captured amounts for use by other public housing

1 agencies that, in the determination of the Secretary,
2 need such amounts to carry out the comprehensive
3 plans for such agencies and are capable of using
4 such amounts in a timely manner;

5 “(C) provide for redistribution to the agencies
6 referred to in subparagraph (B) based on an alloca-
7 tion system that takes into consideration the for-
8 mula established pursuant to subsection (k)(2)(A);
9 and

10 “(D) establish an annual schedule for redis-
11 tribution of amounts recaptured.”.

12 **SEC. 6. AUTHORITY FOR PHA’S TO BORROW AGAINST FU-**
13 **TURE PUBLIC HOUSING MODERNIZATION**
14 **FUNDS.**

15 Section 14 of the United States Housing Act of 1937
16 (42 U.S.C. 1437l) is amended by adding at the end the
17 following new subsection:

18 “(q) **AUTHORITY TO BORROW AGAINST FUTURE AS-**
19 **SISTANCE.—**

20 “(1) **IN GENERAL.—**A public housing agency
21 may, with the approval of the Secretary, enter into
22 an agreement to pay any assistance for which the
23 agency may become eligible under this section to en-
24 sure the repayment of notes or other obligations is-
25 sued by the agency for the purpose of financing de-

1 velopment, rehabilitation, or modernization of public
2 housing.

3 “(2) TERMS.—Notes or other obligations for
4 which assistance under this section is pledged shall
5 be in such form and denominations, have such matu-
6 rities not exceeding 30 years, and be subject to such
7 other conditions as the Secretary may prescribe. The
8 Secretary may not deny a guarantee under this sub-
9 section on the basis of the proposed repayment pe-
10 riod for the obligation, unless the period exceeds 30
11 years or the Secretary determines that the period
12 causes the obligation to constitute an unacceptable
13 financial risk.

14 “(3) LIMITATION ON AMOUNT OF OUTSTANDING
15 OBLIGATIONS.—Assistance under this section may
16 not be pledged for the repayment of any obligation
17 if the total outstanding principal of all obligations
18 for which such assistance is pledged would thereby
19 exceed an amount equal to 5 times the amount of
20 assistance provided under this section during the
21 most recently completed fiscal year to the agency is-
22 suing the obligation.

23 “(4) REPAYMENT.—Notwithstanding any other
24 provision of this section, assistance provided to an
25 agency under this section may be used in the pay-

1 (B) a system of procurement that operates
2 in the manner described under subparagraph
3 (A), except that under such system the Sec-
4 retary would annually review the procurement
5 policies and actions of each public housing
6 agency for the preceding year and would have
7 the authority to establish limitations on pro-
8 curement policies and activities determined by
9 the Secretary to have instituted inappropriate
10 procurement policies or engaged in inappropri-
11 ate procurement activities;

12 (2) determine the advantages and disadvan-
13 tages of procurement pursuant to the existing pro-
14 curement system for public housing agencies and the
15 systems referred to in subparagraphs (A) and (B) of
16 paragraph (1); and

17 (3) determine the effect of the requirements
18 under section 12 of the United States Housing Act
19 of 1937 (relating to labor standards) on the afford-
20 ability of dwelling units in public housing.

21 (b) REPORT.—The Secretary of Housing and Urban
22 Development shall submit a report to the Congress de-
23 scribing the study, the findings of the study, and any rec-
24 ommendations resulting from the study, not later than the

- 1 expiration of the 2-year period beginning on the date of
- 2 the enactment of this Act.

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