

117TH CONGRESS  
1ST SESSION

# H. R. 2851

To require the Secretary of Housing and Urban Development to carry out a demonstration program to evaluate the effectiveness of the Department assisting nonprofit organizations to develop, acquire, rehabilitate, convert, or preserve affordable housing that is governed by the residents of such housing, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2021

Ms. OMAR (for herself and Mrs. CAROLYN B. MALONEY of New York) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To require the Secretary of Housing and Urban Development to carry out a demonstration program to evaluate the effectiveness of the Department assisting nonprofit organizations to develop, acquire, rehabilitate, convert, or preserve affordable housing that is governed by the residents of such housing, 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 “Affordable Housing  
5 Preservation Act of 2021”.

1 **SEC. 2. RESIDENT-CONTROLLED HOUSING DEMONSTRATION PROGRAM.**  
2

3 (a) PURPOSE.—The purposes of this section are—

4 (1) to establish a demonstration program to  
5 evaluate the effectiveness of assisting nonprofit orga-  
6 nizations, that may have nonprofit, for-profit, gov-  
7 ernment, or intergovernmental partners, to acquire,  
8 rehabilitate, construct, convert, or preserve limited-  
9 or zero-equity resident-controlled corporations, in-  
10 cluding manufactured home communities, as afford-  
11 able housing that is governed by a majority of the  
12 residents of such housing;

13 (2) to provide alternative homeownership oppor-  
14 tunities to those in the private market, which in-  
15 crease access to homeownership for households at  
16 lower income levels;

17 (3) to prevent displacement of existing residents  
18 through converting to limited- or zero-equity resi-  
19 dent-controlled corporations or through preserving  
20 existing limited- or zero-equity resident-controlled  
21 corporations;

22 (4) to create or preserve mixed-income housing  
23 corporations to advance economic and racial diver-  
24 sity and inclusion; and

25 (5) to evaluate the efficacy and promote the ex-  
26 pansion of limited- or zero-equity resident-controlled

1 corporations throughout the Nation that are  
2 stewarded and monitored by nonprofit organizations  
3 to ensure compliance, sustainability of corporations,  
4 resident governance, and that the affordability of the  
5 resident-controlled housing lasts over time to serve  
6 current and future income-eligible households.

7 (b) ELIGIBLE ENTITIES.—

8 (1) IN GENERAL.—Eligibility to participate in  
9 the program under this section and for financial as-  
10 sistance under such program shall be limited to only  
11 nonprofit organizations that—

12 (A) have such experience as the Secretary  
13 shall require in developing, preserving, man-  
14 aging, financing, or monitoring limited- or zero-  
15 equity resident-controlled corporations; and

16 (B) have submitted to the Secretary such  
17 information and assurances as the Secretary  
18 shall require to ensure that the organization  
19 will comply with the purposes and requirements  
20 of this section and will use assistance to ad-  
21 dress the local needs of communities.

22 (2) PARTNERSHIPS.—Eligible entities may  
23 partner with, and seek consultation from, for-profit,  
24 nonprofit, public, or quasi-governmental entities on  
25 projects under the program.

1 (c) FINANCIAL ASSISTANCE.—

2 (1) MORTGAGE INSURANCE.—Under the pro-  
3 gram under this section, the Secretary of Housing  
4 and Urban Development may insure, pursuant to  
5 section 213, 223(f), or 232 of the National Housing  
6 Act (12 U.S.C. 1715e, 1715n(f), 1715w), a mort-  
7 gage for the development, acquisition, rehabilitation,  
8 or preservation of eligible housing held by an eligible  
9 entity, except that the Secretary may for purposes of  
10 the demonstration program under this section waive,  
11 or specify alternative requirements for, any provision  
12 of any statute or regulation that the Secretary ad-  
13 ministers in connection with the mortgage insurance  
14 programs under such sections if the Secretary deter-  
15 mines that such waiver or alternative requirement  
16 advances the demonstration program.

17 (2) GRANTS.—Under the program under this  
18 section, the Secretary may provide a grant to an eli-  
19 gible entity participating in the program for use for  
20 the following purposes:

21 (A) PRE-DEVELOPMENT AND OTHER  
22 COSTS.—For up-front and pre-development  
23 costs, including fees and expenses to obtain fi-  
24 nancing, or for other costs during development,

1 such as capital required before shares to resi-  
2 dents are sold.

3 (B) STEWARD MONITORING FEE RE-  
4 SERVE.—For pre-funding a monitoring fee re-  
5 serve under the program that is paid by the  
6 limited- or zero-equity resident-controlled cor-  
7 porations to the nonprofit organization to fund  
8 costs of compliance monitoring, which shall be  
9 held in reserve in an amount sufficient to cover  
10 at least three years of such monitoring costs.

11 (C) TECHNICAL ASSISTANCE.—For non-  
12 profit organizations to provide technical assist-  
13 ance and training to—

14 (i) nonprofit organizations developing  
15 the capacity to develop, convert, or pre-  
16 serve limited- or zero-equity resident-con-  
17 trolled corporations; and

18 (ii) limited- or zero-equity resident-  
19 controlled corporations that are forming or  
20 already established.

21 (D) GAP FUNDING.—For covering gap  
22 funding to ensure limited- or zero-equity resi-  
23 dent-controlled corporations are affordable to  
24 below the targeted income level.

1                   (E) INTERMEDIARY FINANCING.—For  
2                   community development financial institutions  
3                   that are certified by the Secretary of the Treas-  
4                   ury, have demonstrated expertise in financing  
5                   limited- or zero-equity resident-controlled cor-  
6                   porations, and are qualified to finance, provide  
7                   training and technical assistance, and ensure  
8                   compliance with the program under this section,  
9                   for providing below market-rate loans and re-  
10                  coverable grants to projects under the program.

11               (d) APPLICABILITY OF CDBG PROGRAM REQUIRE-  
12               MENTS.—

13               (1) IN GENERAL.—Except as provided in para-  
14               graph (2), any housing developed, acquired, con-  
15               verted, or preserve with assistance under subsection  
16               (c) shall comply with the requirements applicable  
17               under the community development block grant pro-  
18               gram under title I of the Housing and Community  
19               Development Act of 1974 (42 U.S.C. 5301 et seq.)  
20               to housing that is assisted under such title.

21               (2) WAIVERS.—In administering the program  
22               under this section, the Secretary may waive, or  
23               specify alternative requirements for, any provision of  
24               the community development block grant program  
25               (except for requirements related to fair housing,

1       nondiscrimination, labor standards, and the environ-  
2       ment), if the Secretary finds that good cause exists  
3       for the waiver or alternative requirement and such  
4       waiver or alternative requirement would not be in-  
5       consistent with the overall purpose of this section.

6       (e) GOVERNANCE.—Except in cases of noncompliance  
7       with any requirements under the demonstration program  
8       under this section, any housing developed, acquired, con-  
9       structed, or preserved with assistance under subsection (c)  
10      shall be governed by a board of directors elected by the  
11      members of the limited- or zero-equity resident-controlled  
12      corporation with voting structured equitably among all  
13      members and as the eligible entity shall establish.

14      (f) ROLE OF ELIGIBLE ENTITY.—During a period  
15      not shorter than 30 years that begins upon initial occu-  
16      pancy of any housing developed, acquired, constructed,  
17      converted, or preserved under the program under this sec-  
18      tion, the eligible entity that developed, acquired, con-  
19      structed, or preserved such housing, or its consulting part-  
20      ner, shall take such actions as the Secretary shall re-  
21      quire—

22              (1) to ensure compliance with this section and  
23      the regulations issued under this section;

1           (2) to assist with elections of board of directors  
2           of the limited- or zero-equity resident-controlled cor-  
3           poration;

4           (3) to assist in preparing annual budgets for  
5           the housing and other financial planning;

6           (4) to establish a regulatory process for unit or  
7           share sales and resales to ensure compliance; and

8           (5) to perform such other functions as the Sec-  
9           retary shall provide.

10          (g) SALE.—A limited- or zero-equity resident-con-  
11       trolled corporation may sell corporate shares in housing  
12       assisted under the program under this section to an eligi-  
13       ble household only for a purchase price that ensures dwell-  
14       ing units in the housing will remain affordable for at least  
15       30 years to households having incomes that are less than  
16       the maximum income eligibility.

17          (h) APPLICATIONS; PRIORITY.—

18               (1) APPLICATIONS.—To apply to participate in  
19       the program under this section, an eligible entity  
20       shall submit to the Secretary an application at such  
21       time, in such manner, and containing such informa-  
22       tion as the Secretary may require.

23               (2) PRIORITY.—In selecting eligible entities to  
24       participate in the program under this section and re-  
25       ceive financial assistance under such program, the



1 Secretary give priority based on the extent to which  
2 an eligible entity—

3 (A) will promote mixed-income develop-  
4 ment to prevent the displacement of existing  
5 residents or enable renters to become share-  
6 holders or members of the limited-equity or  
7 zero-equity resident-controlled housing corpora-  
8 tion;

9 (B) will maximize the number of shares or  
10 membership in the limited-equity or zero-equity  
11 resident-controlled housing corporation that are  
12 affordable to households whose initial incomes  
13 do not exceed 80 percent of the median income  
14 of the area in which the housing is located;

15 (C) demonstrates that the entity and any  
16 partners, if applicable, have the capacity to de-  
17 velop, preserve, manage, finance, and monitor  
18 limited- or zero-equity resident-controlled hous-  
19 ing corporations; and

20 (D) demonstrates the feasibility of the  
21 projects to be assisted under the program given  
22 local market conditions.

23 (i) RESTRICTIONS ON SCREENING.—

24 (1) PROHIBITION.—A household applying to  
25 purchase a share or membership in a limited- or

1 zero-equity resident-controlled housing corporation,  
2 which conveys a right to occupy a specific dwelling  
3 unit assisted under the program under this section,  
4 may not be denied such purchase or admission based  
5 on veteran status of any member of the household  
6 or any status as any other protected class under the  
7 Fair Housing Act.

8 (2) CONSIDERATION OF CRIMINAL AND EVIC-  
9 TION HISTORY.—A resident-controlled housing cor-  
10 poration shall not unreasonably exclude applicants  
11 having a criminal history or eviction history from oc-  
12 cupancy in dwelling units assisted under the pro-  
13 gram under this section.

14 (j) REPORTING.—The Secretary shall submit a report  
15 annually to the Congress regarding the activities con-  
16 ducted and the populations being served under the dem-  
17 onstration program under this section, disaggregated by  
18 race/ethnicity and income, and shall make each such re-  
19 port publicly available on a website of the Department.

20 (k) EVALUATIONS.—

21 (1) IN GENERAL.—The Secretary shall conduct  
22 evaluations of the demonstration program under this  
23 section and report to the Congress regarding such  
24 evaluations, as follows:

1 (A) INTERIM.—Not later than the expira-  
2 tion of the 4-year period beginning on the date  
3 of the enactment of this Act, the Secretary shall  
4 complete an interim evaluation of the program  
5 and submit a report regarding such evaluation  
6 to the Congress.

7 (B) FINAL.—Not later than the expiration  
8 of the 8-year period beginning on the date of  
9 the enactment of this Act, the Secretary shall  
10 complete a final evaluation of the program and  
11 submit a report regarding such evaluation to  
12 the Congress.

13 (2) REQUIREMENTS.—Each evaluation con-  
14 ducted pursuant to this subsection shall be con-  
15 ducted in a robust manner and involve rigorous re-  
16 search, shall identify the populations served by the  
17 demonstration, and shall assess the effects of the  
18 demonstration on such populations, including how  
19 affordable housing was maintained in moderate- to  
20 low-income areas. The final evaluation under para-  
21 graph (1)(B) shall include an independent analysis  
22 and recommendations by the Department of Hous-  
23 ing and Urban Development regarding whether the  
24 program could and should be expanded and estab-  
25 lished as a permanent program and, if so, shall iden-

1       tify any actions, including statutory and administra-  
2       tive actions, necessary to do so.

3           (3) PUBLIC AVAILABILITY.—The Secretary  
4       shall make each report required under paragraph (1)  
5       publicly available on a website of the Department.

6       (l) IMPLEMENTATION.—The Secretary shall, by no-  
7       tice, implement the demonstration program under this sec-  
8       tion, including its terms, procedures, requirements, and  
9       conditions, subject only to the availability of appropria-  
10      tions pursuant to subsection (n).

11      (m) DEFINITIONS.—For purposes of this section, the  
12      following definitions shall apply:

13           (1) ELIGIBLE ENTITY.—The term “eligible enti-  
14       ty” means an entity eligible under subsection (b) for  
15       participation in the demonstration program under  
16       this section.

17           (2) ELIGIBLE HOUSING.—The term “eligible  
18       housing” means housing that complies with the re-  
19       quirements under subsection (d).

20           (3) LIMITED- OR ZERO-EQUITY RESIDENT-CON-  
21       TROLLED CORPORATION.—The term “limited- or  
22       zero-equity resident-controlled corporation” means a  
23       cooperative-like corporation, association, or con-  
24       sumer cooperative that, in a manner acceptable to  
25       the Secretary, restricts the initial and resale price of

1 the shares of stock or membership interests in the  
2 resident entity, which may include a manufactured  
3 home community, so that the shares or interests re-  
4 main fixed or resale-restricted to remain affordable  
5 to families of designated incomes. The corporation  
6 may or may not own the land or improvements.

7 (4) MANUFACTURED HOME COMMUNITY.—The  
8 term ‘manufactured home community’ means a com-  
9 munity comprised primarily of manufactured homes  
10 (as such term is defined in section 603 of the Na-  
11 tional Manufactured Housing Construction and  
12 Safety Standards Act of 1974 (42 U.S.C. 5402))  
13 that are used primarily for residential purposes.

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

16 (n) AUTHORIZATION OF APPROPRIATIONS FOR  
17 GRANTS.—There is authorized to be appropriated  
18 \$200,000,000 for fiscal year 2022 for grants under sub-  
19 section (c)(2), which shall remain available through the  
20 end of fiscal year 2025.

21 (o) REGULATIONS.—The Secretary may issue any  
22 regulations necessary to carry out the program under this  
23 section.

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