

117TH CONGRESS
1ST SESSION

H. R. 4237

To protect and empower residents of certain federally assisted rental housing,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2021

Ms. PRESSLEY (for herself, Ms. WATERS, and Ms. TLAIB) introduced the
following bill; which was referred to the Committee on Financial Services

A BILL

To protect and empower residents of certain federally
assisted rental 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 “Tenant Empowerment
5 Act of 2021”.

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-

sponsibility of the owner under the lease or applicable law.

“(8) ESCROW OF TENANT RENTS.—

“(A) WITHHOLDING OF RENT.—If the Secretary determines, pursuant to paragraph (7), that there are serious violations of housing standards applicable to any multifamily housing project covered by a housing assistance payments contract under this section, including a failed physical inspection score, an unsatisfactory management and occupancy review score, or a notice of violation of right to organize regulations under subpart B of part 245 of title 24, Code of Federal Regulations, any tenants in assisted units in the project may withhold the tenant contribution toward rent and pay such amount, when due, into an escrow fund in accordance with procedures established by the Secretary. If a tenant withholds the tenant contribution toward rent in accordance with this paragraph, the Secretary shall withhold all or part of the housing assistance payments due under the contract for the unit until the violations are remedied. If an owner has completed a purchase of multifamily housing found in vio-

1 lation under this paragraph and commenced a
2 repair program to remediate these violations,
3 tenants exercising this right may negotiate a
4 staged release of funds held in escrow upon
5 reaching measurable benchmarks as established
6 by the Secretary, including consultation with
7 the tenants of the property and any legitimate
8 tenants' association, as defined in subpart B of
9 part 245 of title 24, Code of Federal Regula-
10 tions.

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

22 “(C) PROHIBITION.—An owner of a
23 project shall not evict tenants for nonpayment
24 of rent for exercising rights under this para-
25 graph.

1 “(D) RULE OF CONSTRUCTION.—Nothing
2 in this paragraph shall be construed to limit or
3 pre-empt any stronger protections which may
4 exist under State or local law.

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

14 “(10) INSPECTIONS UPON REQUEST OR PETI-
15 TION.—In addition to periodic inspections by the
16 Secretary, the Secretary shall conduct an inspection
17 or management review of any multifamily housing
18 project covered by a housing assistance payments
19 contract under this section when requested by the
20 local government in which the project is located or
21 by a petition signed by not less than 25 percent of
22 the tenants of the occupied units in the project.”.

23 (b) PHA PROJECT-BASED ASSISTANCE.—Paragraph
24 (13) of section 8(o) of the United States Housing Act of

1 1937 (42 U.S.C. 1437f(o)(13)) is amended by adding at
 2 the end the following new subparagraph:

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

10 “(i) the term ‘public housing agency’
 11 shall be substituted for the term ‘Sec-
 12 retary’; and

13 “(ii) the term ‘contract under this
 14 paragraph’ shall be substituted for the
 15 term ‘contract under this section’.”.

16 **SEC. 3. RESIDENT ENFORCEMENT OF PROJECT OWNER**
 17 **AGREEMENTS WITH HUD AND USDA.**

18 (a) IN GENERAL.—In each covered agreement, as
 19 such term is defined in subsection (c), any resident, or
 20 resident association, of an affected project shall be per-
 21 mitted to petition the appropriate Secretary requesting en-
 22 forcement of alleged serious violations of housing stand-
 23 ards that are not corrected after reasonable notice, or any
 24 other substantial or repeated violations of other program
 25 requirements, including the right of residents to organize.

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

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

15 (1) APPROPRIATE SECRETARY.—The term “ap-
16 propriate Secretary” means, with respect to a cov-
17 ered agreement, the Secretary identified in para-
18 graph (2).

19 (2) COVERED AGREEMENT.—The term “covered
20 agreement” means any—

21 (A) a contract between the Secretary of
22 Housing and Urban Development, a contract
23 administrator, or any public housing agency
24 and an owner for project-based housing assist-

1 ance payments under section 8 of the United
2 States Housing Act of 1937 (42 U.S.C. 1437f);

3 (B) agreement under the Multifamily As-
4 sisted Housing Reform and Affordability Act of
5 1997 (42 U.S.C. 1437f note) for—

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

11 (ii) Rehabilitation Escrow Deposit
12 Agreements for Mark-to-Market;

13 (C) contract for mortgage insurance exe-
14 cuted by the Secretary of Housing and Urban
15 Development and any owner or purchaser of a
16 multifamily housing project;

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

21 (E) other Regulatory Agreements, Compli-
22 ance Agreements, Use Agreements, or similar
23 contracts between the appropriate Secretary
24 and the owner that establish housing quality re-
25 quirements or affordability restrictions.

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

4 (1) receiving tenant petitions to enforce the
5 terms of a covered agreement;

6 (2) evaluating alleged violations of a covered
7 agreement; and

8 (3) providing notice to residents and resident
9 associations.

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

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

15 (a) ACCESS TO INFORMATION.—Upon a written re-
16 quest by a legitimate residents association established with
17 respect to a multifamily housing property to which section
18 202 of the Housing and Community Development Amend-
19 ments of 1978 (12 U.S.C. 1715z-1b) applies, by or
20 through its duly appointed designee or representative, the
21 Secretary of Housing and Urban Development shall make
22 available to such association, designee, or representative,
23 for the property represented by the association—

24 (1) information identifying the legal entities
25 that own or manage the subject property, including

1 identification of general partners and other prin-
2 cipals;

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

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

17 (4) any management reviews, physical inspec-
18 tion reports, and capital needs assessments of the
19 subject property or entities identified in paragraph
20 (1) that are conducted by the Department or a con-
21 tractor of the Department; and

22 (5) an annual statement, prepared by the De-
23 partment or a contract administrator for the subject
24 property, of the balances of, and expenditures from,

1 any replacement reserves and other escrow funds for
 2 the property.

3 (b) PROTECTION OF PERSONAL INFORMATION.—

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

14 **SEC. 5. FUNDING FOR TENANT AND OTHER PARTICIPATION**
 15 **AND CAPACITY BUILDING.**

16 Paragraph (3) of section 514(f) of the Multifamily
 17 Assisted Housing Reform and Affordability Act of 1997
 18 (42 U.S.C. 1437f note) is amended—

19 (1) in subparagraph (A)—

20 (A) in the first sentence—

21 (i) by striking “not more than” and
 22 inserting “not less than”;

23 (ii) by striking “of low-income housing
 24 for which project-based rental assistance is
 25 provided at below market rent levels and

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

12 (iii) in the second parenthetical
13 clause, by inserting before the closing pa-
14 renthesis the following: “, and
15 predevelopment assistance to enable such
16 transfers”; and

17 (B) by inserting after the period at the end
18 the following: “For outreach and training of
19 tenants and technical assistance, the Secretary
20 shall implement a grant program utilizing per-
21 formance-based outcome measures for eligible
22 costs incurred. Recipients providing capacity
23 building or technical assistance services to ten-
24 ant groups shall be qualified nonprofit State-
25 wide, countywide, area-wide, or city-wide orga-

1 nizations with demonstrated experience includ-
2 ing at least a two-year recent track record of
3 organizing and providing assistance to tenants,
4 and independence from the owner, a prospective
5 purchaser, or their managing agents. The Sec-
6 retary may provide assistance and training to
7 grantees in administrative and fiscal manage-
8 ment to ensure compliance with applicable Fed-
9 eral requirements. The Secretary shall expedite
10 the provision of funding for the fiscal year in
11 which the date of the enactment of this Act oc-
12 curs and by entering into an interagency agree-
13 ment for not less than \$1,000,000 with the
14 Corporation for National and Community Serv-
15 ice to conduct a tenant outreach and training
16 program to eligible housing under this sub-
17 section. The Secretary shall also make available
18 flexible grants to qualified nonprofit organiza-
19 tions that do not own eligible multifamily prop-
20 erties, for tenant outreach in underserved areas,
21 and to experienced national or regional non-
22 profit organizations to provide specialized train-
23 ing or support to grantees assisted under this
24 section. Notwithstanding any other provision of
25 law, funds authorized under this paragraph for

1 any fiscal year shall be available for obligation
2 in subsequent fiscal years. The Secretary shall
3 require each recipient of amounts made avail-
4 able pursuant to this subparagraph to submit
5 to the Secretary reports, on a quarterly basis,
6 detailing the use of such funds and including
7 such information as the Secretary shall re-
8 quire.”

9 **SEC. 6. TENANT PARTICIPATION IN PHYSICAL INSPECTION**
10 **AND MANAGEMENT REVIEW PROCESSES.**

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

17 (1) encourage tenant participation—

18 (A) by requiring that the owner shall post
19 notice of any Department of Housing and
20 Urban Development (in this section referred to
21 as “HUD”) inspection, including information
22 about the inspection process, contact informa-
23 tion, and appeals to HUD, both before and
24 after the inspection, in common areas of the
25 property;

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

10 (C) by allowing any legitimate tenant orga-
11 nization, prior to an inspection, to submit a re-
12 port regarding the property to the inspector
13 and to HUD;

14 (D) by notifying and allowing any legiti-
15 mate tenant organization, upon request, to meet
16 with and to designate a representative to ac-
17 company the inspector during the on-site in-
18 spection of common areas, including grounds,
19 hallways, lobbies, community, mail and laundry
20 rooms, and other common spaces accessible to
21 residents;

22 (E) by including in any HUD physical in-
23 spection up to five additional units suggested by
24 tenants or any legitimate tenant organization;

1 (F) by providing notice, comment, and ap-
2 peal rights for tenants and any legitimate ten-
3 ant organization parallel to the notice, com-
4 ment, and appeal rights provided to owners;
5 and

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

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

16 (3) require HUD to provide for independent
17 testing of potential environmental hazards identified
18 by HUD inspectors;

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

23 (5) require HUD contract inspectors to review
24 records and consult with local code enforcement
25 agencies regarding physical conditions of a property

1 prior to inspections, if the locality's databases are
2 accessible;

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

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

9 **SEC. 7. DUTY TO MAINTAIN HOUSING ASSISTANCE PAY-**
10 **MENTS DURING FORECLOSURE.**

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

23 (b) OTHER RENTAL ASSISTANCE.— To the extent
24 the Secretary determines, in consultation with the tenants
25 and the local government, that such a multifamily prop-

erty owned or having a mortgage held by the Secretary is not feasible for continued rental assistance payments under such section 8 or other programs, based on consideration of (1) the costs of rehabilitating and operating the property and all available Federal, State, and local resources, including rent adjustments under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), and (2) environmental conditions that cannot be remedied in a cost-effective fashion, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance.

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

(d) RENT LEVELS.—After disposition of any multifamily property described under this section, the contract and allowable rent levels on such properties shall be sub-

1 ject to the requirements under section 524 of the Multi-
2 family Assisted Housing Reform and Affordability Act of
3 1997.

4 **SEC. 8. CLARIFICATION OF TENANT PARTICIPATION IN**
5 **MULTIFAMILY PROJECTS.**

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

○