

**[DISCUSSION DRAFT]**111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R.** \_\_\_\_\_

To preserve and rehabilitate public housing in the United States, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

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

---

**A BILL**

To preserve and rehabilitate public housing in the United States, 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 “Public Housing Preser-  
5 vation and Rehabilitation Act of 2010”.

6 **SEC. 2. LEVERAGING OF OTHER ASSISTANCE.**

7 (a) CAPITAL FUND LOAN GUARANTEES.—Subsection  
8 (d) of section 9 of the United States Housing Act of 1937

1 (42 U.S.C. 1437g(d)) is amended by adding at the end  
2 the following new paragraph:

3 “(4) LOAN GUARANTEES.—

4 “(A) AUTHORITY.—The Secretary may,  
5 upon such terms and conditions as the Sec-  
6 retary may prescribe, guarantee and make com-  
7 mitments to guarantee notes or other obliga-  
8 tions issued by public housing agencies for the  
9 purposes of financing—

10 “(i) the rehabilitation of public hous-  
11 ing owned by the agency; or

12 “(ii) the modernization, through en-  
13 ergy efficiency improvements, of public  
14 housing units owned by the agency.

15 “(B) LIMITATION.—A guarantee under  
16 this paragraph may be used to assist a public  
17 housing agency in obtaining financing only if  
18 the housing agency provides evidence sufficient,  
19 in the determination of the Secretary, to dem-  
20 onstrate that—

21 “(i) it is not able to finance the im-  
22 provements without such a guarantee; or

23 “(ii) the use of such a guarantee will  
24 result in substantially lower financing costs  
25 or interest rate.

1           “(C) TERMS.—Notes or other obligations  
2           guaranteed pursuant to this section shall be in  
3           such form and denominations, have such matu-  
4           rities, and be subject to such conditions as may  
5           be prescribed by regulations issued by the Sec-  
6           retary. The term of such loan guarantee shall  
7           not exceed 20 years.

8           “(D) USE OF CAPITAL FUNDS.—Funds al-  
9           located to an issuer pursuant to section 9(d)  
10          may be used for payment of principal and inter-  
11          est due (including such servicing, underwriting,  
12          or other costs as may be specified in regulations  
13          of the Secretary) on notes or other obligations  
14          guaranteed pursuant to this paragraph.

15          “(E) REPAYMENT.—

16                 “(i) CONTRACT; PLEDGE.—To ensure  
17                 the repayment of notes or other obligations  
18                 guaranteed under this paragraph and  
19                 charges incurred under this paragraph and  
20                 as a condition for receiving such guaran-  
21                 tees, the Secretary shall require the issuer  
22                 of any such note or obligation to—

23                         “(I) enter into a contract, in a  
24                         form acceptable to the Secretary, for

1 repayment of notes or other obliga-  
2 tions so guaranteed; and

3 “(II) pledge any grant or alloca-  
4 tion for which the issuer is or may be-  
5 come eligible under this Act for the  
6 repayment of notes or other obliga-  
7 tions so guaranteed.

8 “(ii) CREDITING OF GRANTS.—The  
9 Secretary may, notwithstanding any other  
10 provision of this Act, apply grants pledged  
11 pursuant to clause (i)(II) of this subpara-  
12 graph to any repayments due the United  
13 States as a result of such guarantees.

14 “(F) FULL FAITH AND CREDIT.—The full  
15 faith and credit of the United States is pledged  
16 to the payment of all guarantees made under  
17 this paragraph. Any such guarantee made by  
18 the Secretary shall be conclusive evidence of the  
19 eligibility of the obligations for such guarantee  
20 with respect to principal and interest, and the  
21 validity of any such guarantee so made shall be  
22 incontestable in the hands of a holder of the  
23 guaranteed obligations.

24 “(G) AMOUNT.—Subject only to the ab-  
25 sence of qualified requests for guarantees and

1 to the availability of amounts to cover the costs  
2 (as such term is defined in section 502 of the  
3 Federal Credit Reform Act of 1990 (2 U.S.C.  
4 661a) as are provided in advance in appropria-  
5 tion Acts, the Secretary shall enter into com-  
6 mitments to guarantee notes and obligations  
7 under this paragraph having an aggregate prin-  
8 cipal amount of \$500,000,000 each for fiscal  
9 years 2011, 2012, and 2013.”.

10 (b) UTILITY AND WASTE MANAGEMENT COST SAV-  
11 INGS.—Subparagraph (C) of section 9(e)(2) of the United  
12 States Housing Act of 1937 (42 U.S.C. 1437g(e)(2)(C))  
13 is amended—

14 (1) by striking the subparagraph designation  
15 and heading and all that follows through “Contracts  
16 described in clause (i)” in clause (ii) and inserting  
17 the following:

18 “(C) TREATMENT OF UTILITY AND WASTE  
19 MANAGEMENT COST SAVINGS.—

20 “(i) IN GENERAL.—The treatment of  
21 utility and waste management costs under  
22 the formula shall provide that a public  
23 housing agency shall receive the full finan-  
24 cial benefit from any reduction in the cost  
25 of utilities or waste management resulting

1 from energy conservation improvements in  
2 one or more of its public housing projects,  
3 subject to the following:

4 “(I) THIRD PARTY CON-  
5 TRACTS.—In the case of energy con-  
6 servation improvements in public  
7 housing undertaken pursuant to a  
8 contract with a third party, such con-  
9 tracts”;

10 (2) in clauses (iii) and (iv), by striking “clause  
11 (i)” each place such term appears and inserting  
12 “subclause (I)”;

13 (3) in clause (iv), by striking “the date of the  
14 enactment of this clause” and inserting “December  
15 26, 2007,”;

16 (4) by redesignating clauses (iii) and (iv) as  
17 subclauses (II) and (III), respectively, and realigning  
18 such subclauses, as so redesignated, so as to be in-  
19 dented 8 ems from the left margin; and

20 (5) by adding at the end the following new  
21 clauses:

22 “(ii) FINANCING OF IMPROVE-  
23 MENTS.—Energy conservation improve-  
24 ments may be undertaken pursuant to a  
25 contract for the improvements only, and

1 the public housing agency may finance  
2 such improvements for a period of up to  
3 20 years. A public housing agency may  
4 pledge operating assistance under this sub-  
5 section as security for such financings in  
6 an amount not to exceed the lesser of—

7 “(I) the amount of the debt serv-  
8 ice, plus such appropriate debt service  
9 coverage factor as the Secretary may  
10 establish; and

11 “(II) the amount of the reason-  
12 ably anticipated utility cost savings  
13 resulting from the improvements, as  
14 determined by the Secretary.

15 The Secretary may also permit the pledg-  
16 ing of the installed equipment related to  
17 such improvements.

18 “(iii) FREEZE OF CONSUMPTION LEV-  
19 ELS.—

20 “(I) IN GENERAL.—A public  
21 housing agency may elect to be paid  
22 for its utility costs, including utility  
23 allowances, under the formula for a  
24 period, at the discretion of the agency,  
25 of not longer than 20 years based on

1 the agency's average annual consump-  
2 tion during the 3-years period pre-  
3 ceding the year in which the election  
4 is made (in this clause referred to as  
5 the 'consumption base level'.

6 “(II) INITIAL ADJUSTMENTS IN  
7 CONSUMPTION BASE LEVEL.—The  
8 Secretary shall make an initial one-  
9 time adjustment in the consumption  
10 base level to account for differences in  
11 the heating degree day average over  
12 the most recent 20-year period com-  
13 pared to the average in the consump-  
14 tion base level.

15 “(III) ONGOING ADJUSTMENTS  
16 IN CONSUMPTION BASE LEVEL.—The  
17 Secretary shall make adjustments in  
18 the consumption base level to account  
19 for an increase or reduction in units,  
20 a change in fuel source, a change in  
21 resident-controlled electricity con-  
22 sumption, or for such other reasons as  
23 the Secretary considers appropriate.

24 “(IV) THIRD PARTIES.—A public  
25 housing agency making an election



1 under subclause (I) may use, but shall  
2 not be required to use, the services of  
3 a third party in its energy conserva-  
4 tion program. The agency shall have  
5 the sole discretion to determine the  
6 source, terms, and conditions of any  
7 financing used for its program.”.

8 (c) REQUIREMENTS FOR PROPERTIES WITH HOUS-  
9 ING TAX CREDITS.—Section 9 of the United States Hous-  
10 ing Act of 1937 (42 U.S.C. 1437g) is amended by adding  
11 at the end the following new subsection:

12 “(n) REQUIREMENTS FOR PROPERTIES WITH HOUS-  
13 ING TAX CREDITS.—Public housing agencies receiving  
14 funds under subsection (d) or (e) of this section that also  
15 utilize tax credits under section 42 of the Internal Rev-  
16 enue Code of 1986 for the rehabilitation of housing as-  
17 sisted under such subsection (d) or (e) or units converted  
18 pursuant to section 8(o)(13)(N) shall provide for—

19 “(1) an option for the public housing agency to  
20 purchase limited partnership interests in a property  
21 after the tax compliance period under section 42; or

22 “(2) a provision to give a public housing agency  
23 an active role in property management decisions of  
24 such housing.”.

1 **SEC. 3. GRANTS IN LIEU OF HOUSING TAX CREDITS.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
3 authorized to be appropriated to the Secretary of Housing  
4 and Urban Development (hereafter in this section referred  
5 to as “the Secretary”) such sums as may be necessary  
6 in each of fiscal years 2011 through 2015 to carry out  
7 this section. Such appropriation is subject to the enact-  
8 ment of legislation reducing the amount of each State’s  
9 low-income housing credits under section 42(h)(4)(B) of  
10 the Internal Revenue Code of 1986 by the amount of such  
11 State’s qualified public housing preservation project elec-  
12 tion amount.

13 (b) GRANTS.—The Secretary shall make a grant in  
14 each of fiscal years 2011 through 2015 to each State in  
15 an amount equal to such State’s qualified public housing  
16 preservation project election amount.

17 (c) QUALIFIED PUBLIC HOUSING PRESERVATION  
18 PROJECT ELECTION AMOUNT.—For purposes of this sec-  
19 tion—

20 (1) IN GENERAL.—The term “qualified public  
21 housing preservation project election amount”  
22 means, with respect to any State, such amount as  
23 the State may elect in each year, which does not ex-  
24 ceed the State’s bond-subsidized credit amount in  
25 such year, to finance the acquisition or rehabilitation  
26 of qualified public housing preservation projects.

1           (2) BOND-SUBSIDIZED CREDIT AMOUNT.—The  
2 term “bond-subsidized credit amount” means, with  
3 respect to any State, the product of 10 times the ag-  
4 gregate amount of low-income housing credits which  
5 the State determines would, but for any reduction  
6 under the legislation referred to in subsection (a), be  
7 awarded under section 42(h)(4)(B) of the Internal  
8 Revenue Code of 1986 with respect to qualified low-  
9 income buildings receiving an allocation of qualified  
10 residential rental project bonds of such State during  
11 each of years 2011 through 2015.

12           (3) QUALIFIED RESIDENTIAL RENTAL PROJECT  
13 BONDS.—The term “qualified residential rental  
14 project bond” means, with respect to any State, any  
15 qualified bond (as defined in section 141(e) of the  
16 Internal Revenue Code of 1986) if such bond—

17           (A) is issued as part of an issue 95 percent  
18 or more of the net proceeds of which are to be  
19 used to provide qualified residential rental  
20 projects (within the meaning of section 142 of  
21 such Code), and

22           (B) is taken into account under section  
23 146 of such Code with respect to the State ceil-  
24 ing applicable to such State.

1 (d) DEFINITION OF QUALIFIED PUBLIC HOUSING  
2 PRESERVATION PROJECT.—The term “qualified public  
3 housing preservation project” is a multifamily project that  
4 meets the requirements of this section and is owned by  
5 a public housing agency or owned by a nonprofit housing  
6 organization pursuant to a sale from a public housing  
7 agency, and which is operated as public housing, a project  
8 receiving assistance under section 8(o)(13) of the United  
9 States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), or  
10 a project receiving project-based rental assistance under  
11 section 8 of such Act. Such project must be approved for  
12 this purpose by the Secretary, under criteria to be estab-  
13 lished by the Secretary, which shall include a determina-  
14 tion that such approval shall facilitate preservation of the  
15 project as affordable rental housing.

16 (e) SUBAWARDS.—

17 (1) IN GENERAL.—A State receiving a grant  
18 under this section shall use such grant to make sub-  
19 awards to finance the acquisition or rehabilitation  
20 (or both) of qualified public housing preservation  
21 projects which have received the corresponding allo-  
22 cation of qualified residential rental project bonds  
23 referred to in subsection (c)(2).

24 (2) SUBAWARDS SUBJECT TO SAME REQUIRE-  
25 MENTS AS LOW-INCOME HOUSING CREDIT ALLOCA-

1 TIONS.—Any such subaward with respect to any  
2 qualified public housing preservation project may be  
3 in the form of a grant or a loan of any duration and  
4 shall be made in the same manner and shall be sub-  
5 ject to the same limitations as an allocation of hous-  
6 ing credit dollar amount allocated by the State hous-  
7 ing credit agency of such State under section 42 of  
8 the Internal Revenue Code of 1986, except that a  
9 project shall be considered to be in compliance with  
10 all rent income, use restrictions, asset management,  
11 and long-term viability requirements provided such  
12 project complies with public housing or he require-  
13 ments under section 8 of the United States Housing  
14 Act of 1937 (42 U.S.C. 1437f(o)), as are applicable  
15 to such project.

16 **SEC. 4. CAPITAL FUND FLEXIBILITY.**

17 (a) **NEW DEVELOPMENT FLEXIBILITY.**—Subsection  
18 (g) of section 9 of the United States Housing Act of 1937  
19 (42 U.S.C. 1437g(g)) is amended by striking paragraph  
20 (3).

21 (b) **REHABILITATION FLEXIBILITY.**—Subsection (d)  
22 of section 9 of the United States Housing Act of 1937  
23 (42 U.S.C. 1437g(d)) is amended by adding at the end  
24 the following new paragraph:

1           “(4) USE FOR UNITS NOT INCLUDED IN FOR-  
2           MULA.—A public housing agency may use amounts  
3           provided under this subsection for the purposes  
4           specified in subparagraphs (A), (C), (I), and (K) of  
5           paragraph (1) for public housing dwelling units not  
6           included in the formula established pursuant to  
7           paragraph (2), but only if—

8                   “(A) the agency agrees—

9                           “(i) to continue to operate and main-  
10                           tain any housing assisted with such funds  
11                           under the current terms and conditions for  
12                           a period not shorter than the 30-year pe-  
13                           riod that begins on the latest date on  
14                           which modernization using such amounts  
15                           was completed; or

16                           “(ii) to return any amounts provided  
17                           under this paragraph to the Secretary; and

18                   “(B) the agency certifies to the Secretary  
19                   that dwelling units owned and operated by the  
20                   public housing agency that are included in the  
21                   formula established pursuant to paragraph (2)  
22                   are being maintained and the funds amounts  
23                   being used under this authority will not be  
24                   needed for such maintenance.”.

1 **SEC. 5. GRANTS FOR CONVERSION OF PUBLIC HOUSING**  
2 **PROJECTS TO ASSISTED LIVING FACILITIES.**

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

6 **“SEC. 37. GRANTS FOR CONVERSION OF PUBLIC HOUSING**  
7 **PROJECTS TO ASSISTED LIVING FACILITIES.**

8 “(a) **AUTHORITY.**—The Secretary may make grants  
9 in accordance with this section to public housing agencies  
10 for use for activities designed to convert dwelling units in  
11 eligible projects described in subsection (b) to assisted liv-  
12 ing facilities for elderly persons.

13 “(b) **ELIGIBLE PROJECTS.**—An eligible project de-  
14 scribed in this subsection is a public housing project (or  
15 a portion thereof) that has been designated under section  
16 7 for occupancy only by elderly persons.

17 “(c) **APPLICATIONS.**—Applications for grants under  
18 this section shall be submitted to the Secretary in accord-  
19 ance with such procedures as the Secretary shall establish.  
20 Such applications shall contain—

21 “(1) a description of the proposed conversion  
22 activities for which a grant under this section is re-  
23 quested;

24 “(2) a statement of the amount of the grant re-  
25 quested;

1           “(3) a description of the resources that are ex-  
2           pected to be made available, if any, in conjunction  
3           with the grant under this section; and

4           “(4) such other information or certifications  
5           that the Secretary determines to be necessary or ap-  
6           propriate.

7           “(d) FUNDING FOR SERVICES.—The Secretary may  
8           not make a grant under this section unless the application  
9           contains sufficient evidence, in the determination of the  
10          Secretary, of firm commitments for the funding of services  
11          to be provided in the assisted living facility.

12          “(e) SELECTION CRITERIA.—The Secretary shall se-  
13          lect applications for grants under this section based upon  
14          selection criteria, which shall be established by the Sec-  
15          retary and shall include—

16                 “(1) the extent to which the conversion is likely  
17                 to provide assisted living facilities that are needed or  
18                 are expected to be needed by the categories of elder-  
19                 ly persons that the assisted living facility is intended  
20                 to serve;

21                 “(2) the extent to which the public housing  
22                 agency is not able to fund the conversion activities  
23                 from existing financial resources, as evidenced by  
24                 the agency’s financial records;



1           “(3) the extent to which the agency has evi-  
2           denced community support for the conversion, by  
3           such indicators as letters of support from the local  
4           community for the conversion and financial contribu-  
5           tions from public and private sources;

6           “(4) the extent to which the applicant dem-  
7           onstrates a strong commitment to promoting the au-  
8           tonomy and independence of the elderly persons that  
9           the assisted living facility is intended to serve;

10           “(5) the quality, completeness, and managerial  
11           capability of providing the services which the as-  
12           sisted living facility intends to provide to elderly  
13           residents, especially in such areas as meals, 24-hour  
14           staffing, and on-site health care; and

15           “(6) such other criteria as the Secretary deter-  
16           mines to be appropriate to ensure that funds made  
17           available under this section are used effectively.

18           “(f) DEFINITION.—For the purposes of this section,  
19           the term ‘assisted living facility’ has the meaning given  
20           such term in section 232(b) of the National Housing Act  
21           (12 U.S.C. 1715w(b)).

22           “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
23           is authorized to be appropriated for providing grants  
24           under this section such sums as may be necessary for each  
25           of fiscal years 2011, 2012, 2013, 2014, and 2015.”.