

103^D CONGRESS
2^D SESSION

S. 2392

To amend section 18 of the United States Housing Act of 1937, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 16 (legislative day, AUGUST 11), 1994

Mr. BREAUX introduced the following bill; which was read twice and referred to the Committee on Banking, Housing and Urban Affairs

A BILL

To amend section 18 of the United States Housing Act of 1937, 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. DEMOLITION AND DISPOSITION OF PUBLIC**

4 **HOUSING.**

5 Section 18 of the United States Housing Act of 1937
6 (42 U.S.C. 1437p) is amended to read as follows:

7 **“SEC. 18. DEMOLITION AND DISPOSITION OF PUBLIC HOUS-**
8 **ING.**

9 “(a) **CONDITION OF HOUSING.**—The Secretary may
10 approve an application by a public housing agency for per-

1 mission to demolish or dispose of a public housing project
2 or a portion of a public housing project only if the Sec-
3 retary has determined that—

4 “(1) in the case of—

5 “(A) an application proposing demolition
6 of a public housing project or a portion of a
7 public housing project, the project or portion of
8 the project is obsolete as to physical condition,
9 location, or other factors, and it is more cost ef-
10 fective to replace the project or portion of the
11 project than to rehabilitate the project or por-
12 tion of the project; or

13 “(B) an application proposing the demoli-
14 tion of only a portion of a project, the demoli-
15 tion will help to assure the remaining useful life
16 of the remaining portion of the project;

17 “(2) in the case of an application proposing dis-
18 position of real property of a public housing agency
19 by sale or other transfer—

20 “(A)(i) the property’s retention is not in
21 the best interests of the tenants or the public
22 housing agency because—

23 “(I) developmental changes in the
24 area surrounding the project adversely af-
25 fect the health or safety of the tenants or

1 the feasible operation of the project by the
2 public housing agency;

3 “(II) disposition will allow the acqui-
4 sition, development, or rehabilitation of
5 other properties which will be more effi-
6 ciently or effectively operated as low-in-
7 come housing and which will preserve the
8 total amount of low-income housing stock
9 available in the community or housing suf-
10 ficient to address the needs of the commu-
11 nity as described in the comprehensive
12 housing affordability strategy under sec-
13 tion 105 of the Cranston-Gonzalez Na-
14 tional Affordable Housing Act; or

15 “(III) because of other factors which
16 the Secretary determines are consistent
17 with the best interests of the tenants and
18 public housing agency and which are not
19 inconsistent with other provisions of this
20 Act; and

21 “(ii) for property other than dwelling
22 units, the property is excess to the needs of a
23 project or the disposition is incidental to, or
24 does not interfere with, continued operation of
25 a project; and

1 “(B) the net proceeds of the disposition
2 will be used for—

3 “(i) the payment of development costs
4 for the replacement housing and for the re-
5 tirement of outstanding obligations issued
6 to finance original development or mod-
7 ernization of the project, which, in the case
8 of scattered-site housing of a public hous-
9 ing agency, shall be in an amount that
10 bears the same ratio to the total of such
11 costs and obligations as the number of
12 units disposed of bears to the total number
13 of units of the project at the time of dis-
14 position; and

15 “(ii) to the extent that any proceeds
16 remain after the application of proceeds in
17 accordance with clause (i), the provision of
18 housing assistance for low-income families
19 through such measures as modernization
20 of low-income housing, or the acquisition,
21 development, or rehabilitation of other
22 properties to operate as low-income hous-
23 ing; or

24 “(3) in the case of an application proposing
25 demolition or disposition of any portion of a public

1 housing project, assisted at any time under section
2 5(j)(2)—

3 “(A) such assistance has not been provided
4 for the portion of the project to be demolished
5 or disposed of during the 10-year period ending
6 upon submission of the application; or

7 “(B) the property’s retention is not in the
8 best interest of the tenants or the public hous-
9 ing agency because of changes in the area sur-
10 rounding the project or other circumstances of
11 the project, as determined by the Secretary.

12 “(b) TENANT INVOLVEMENT AND REPLACEMENT
13 HOUSING.—The Secretary may approve an application or
14 furnish assistance under this section or under any other
15 provision of this Act with respect to the demolition or dis-
16 position of public housing only if the following require-
17 ments are met:

18 “(1) TENANT CONSULTATION AND EMPLOY-
19 MENT.—The application submitted by the public
20 housing agency—

21 “(A) has been developed in consultation
22 with tenants and tenant councils, if any, who
23 will be affected by the demolition or disposition;

24 “(B) includes a plan to employ public
25 housing tenants in construction or rehabilita-

1 tion, to the extent practicable, pursuant to sec-
2 tion 3 of the Housing and Urban Development
3 Act of 1968; and

4 “(C) contains a certification by appropriate
5 local government officials that the proposed ac-
6 tivity is consistent with the applicable com-
7 prehensive housing affordability strategy under
8 section 105 of the Cranston-Gonzalez National
9 Affordable Housing Act.

10 “(2) RELOCATION ASSISTANCE.—All tenants to
11 be relocated as a result of the demolition or dispo-
12 sition will be provided assistance by the public housing
13 agency and are relocated to other decent, safe, sani-
14 tary, and affordable housing, which is, to the maxi-
15 mum extent practicable, housing of their choice, in-
16 cluding housing assisted under section 8.

17 “(3) REPLACEMENT HOUSING.—The public
18 housing agency has developed a plan that provides
19 for additional decent, safe, sanitary, and affordable
20 dwelling units for each public housing dwelling unit
21 to be demolished or disposed of under such applica-
22 tion or provides additional dwelling units sufficient
23 to address the needs and demographic characteris-
24 tics of the number of applicants on the waiting list
25 of the agency equal to the number of units to be de-

1 molished or disposed of or the needs of the commu-
2 nity, as described in the comprehensive housing af-
3 fordability strategy under section 105 of the Cran-
4 ston-Gonzalez National Affordable Housing Act,
5 which plan—

6 “(A) provides for the provision of such ad-
7 ditional dwelling units through—

8 “(i) the acquisition or development of
9 additional public housing dwelling units,
10 which may be units in housing owned (or
11 leased for a period to be determined by the
12 Secretary) by a partnership of a public
13 housing agency and other entity in which
14 the agency has a controlling interest;

15 “(ii) the use of 15-year project-based
16 assistance under section 8;

17 “(iii) in the case of an application
18 proposing demolition or disposition of 200
19 or more units, the use of tenant-based as-
20 sistance under section 8 having a term of
21 not less than 5 years;

22 “(iv) units acquired or otherwise pro-
23 vided for homeownership (including cooper-
24 ative and condominium interests) by public
25 housing residents under section 5(h), sub-

1 title B or C of title IV of the Cranston-
2 Gonzalez National Affordable Housing Act,
3 or other programs for homeownership that
4 have program requirements substantially
5 equivalent to the requirements established
6 under section 605 of the Housing and
7 Community Development Act of 1987;

8 “(v) affordable housing homeowner-
9 ship units assisted under title II of the
10 Cranston-Gonzalez National Affordable
11 Housing Act and sold to public housing
12 residents;

13 “(vi) rental units that are—

14 “(I) assisted under title II of the
15 Cranston-Gonzalez National Afford-
16 able Housing Act (notwithstanding
17 section 212(d)(2) of such Act); or

18 “(II) assisted under a State or
19 local rental assistance program that
20 provides for rental assistance over a
21 term of not less than 15 years that is
22 comparable in terms of eligibility and
23 contribution to rent to assistance
24 under section 8, except that this

1 subclause shall only apply in cases
2 provided under subparagraph (C);

3 “(vii) housing assisted by a tax credit
4 under section 42 of the Internal Revenue
5 Code of 1986;

6 “(viii) housing acquired from the Res-
7 olution Trust Corporation or the Federal
8 Deposit Insurance Corporation;

9 “(ix) housing acquired under section
10 203 of the Housing and Community Devel-
11 opment Amendments of 1978;

12 “(x) other methods of providing hous-
13 ing units approved by the Secretary; or

14 “(xi) any combination of such meth-
15 ods;

16 “(B) in the case of an application propos-
17 ing demolition or disposition of 200 or more
18 units, shall provide that—

19 “(i) not less than 50 percent of such
20 additional dwelling units shall be provided
21 through the acquisition or development of
22 additional dwelling units or through
23 project-based assistance; and

24 “(ii) not more than 50 percent of such
25 additional dwelling units shall be provided

1 through tenant-based assistance under sec-
2 tion 8 having a term of not less than 5
3 years;

4 “(C) if it provides for the use of tenant-
5 based assistance provided under section 8 or
6 otherwise, may be approved—

7 “(i) only after a finding by the Sec-
8 retary that replacement with project-based
9 assistance is not feasible, and the supply of
10 private rental housing actually available to
11 those who would receive such assistance
12 under the plan is sufficient for the total
13 number of families in the community as-
14 sisted with tenant-based assistance after
15 implementation of the plan and that such
16 supply is likely to remain available for the
17 full term of the assistance; and

18 “(ii) only if such finding is based on
19 objective information, which shall include
20 rates of participation by owners in the sec-
21 tion 8 program, size, conditions and rent
22 levels of available rental housing as com-
23 pared to section 8 standards, the supply of
24 vacant existing housing meeting the section
25 8 housing quality standards with rents at

1 or below the fair market rental, the num-
2 ber of eligible families waiting for public
3 housing or housing assistance under sec-
4 tion 8, and the extent of discrimination
5 against the types of individuals or families
6 to be served by the assistance;

7 “(D) may provide that all or part of such
8 additional dwelling units may be located outside
9 the jurisdiction of the public housing agency (in
10 this subparagraph referred to as the ‘original
11 agency’) if—

12 “(i) the location is in the same hous-
13 ing market area as the original agency, as
14 determined by the Secretary; and

15 “(ii) the plan contains an agreement
16 between the original agency and the public
17 housing agency in the alternate location or
18 other public or private entity that will be
19 responsible for providing the additional
20 units in the alternate location that such al-
21 ternate agency or entity will, with respect
22 to the dwelling units involved—

23 “(I) provide the dwelling units in
24 accordance with subparagraph (A);

1 “(II) complete the plan on sched-
2 ule in accordance with subparagraph
3 (F);

4 “(III) meet the requirements of
5 subparagraph (G) and the maximum
6 rent provisions of subparagraph (H);

7 “(IV) not impose a local resi-
8 dency preference on any resident of
9 the jurisdiction of the original agency
10 for purposes of admission to any such
11 units; and

12 “(V) allow that preference for ad-
13 mission to any such additional units
14 may be provided to residents of the
15 severely distressed public housing
16 dwelling units replaced under this
17 subparagraph pursuant to section 24;

18 “(E) includes a schedule for completing
19 the plan during a period consistent with the
20 size of the proposed demolition or disposition
21 and replacement plan, which—

22 “(i) shall not exceed 6 years, except
23 that the Secretary may extend the schedule
24 to not more than 10 years if the Secretary
25 determines that good cause exists to ex-

1 tend the implementation of the replace-
2 ment plan under this subsection; and

3 “(ii) the demolition or disposition
4 under the plan can occur in phases nec-
5 essary to provide for relocation of tenants
6 under paragraph (2);

7 “(F) includes a method of ensuring that
8 the same number of individuals and families
9 will be provided housing;

10 “(G) provides for the payment of the relo-
11 cation expenses of each tenant to be displaced
12 and ensures that the rent paid by the tenant
13 following relocation will not exceed the amount
14 permitted under this Act;

15 “(H) prevents the taking of any action to
16 demolish or dispose of any unit until the tenant
17 of the unit is relocated to decent, safe, sanitary,
18 and affordable housing; and

19 “(I) permits the Secretary to intervene and
20 take any actions necessary to complete the plan
21 if the public housing agency fails, without good
22 cause, to carry out its obligations under the
23 plan.

24 “(c) LIMITATION ON DEMOLITION AND EXEMP-
25 TION.—

1 “(1) MAXIMUM PERCENTAGE.—Notwithstand-
2 ing any other provision of this section, during any
3 5-year period a public housing agency may demolish
4 not more than the lesser of 5 dwelling units or 5
5 percent of the total dwelling units owned and oper-
6 ated by the public housing agency, without providing
7 an additional dwelling unit for each such public
8 housing dwelling unit to be demolished, but only if
9 the space occupied by the demolished unit is used
10 for meeting the service or other needs of public
11 housing residents.

12 “(2) SITE AND NEIGHBORHOOD STANDARDS
13 EXEMPTION.—Notwithstanding any other provision
14 of law, a replacement plan under subsection (b)(3)
15 may provide for demolition of public housing units
16 and replacement of such units on site or in the same
17 neighborhood if the number of replacement units
18 provided in the same neighborhood is fewer than the
19 number of units demolished and the balance of re-
20 placement units are provided elsewhere in the juris-
21 diction or pursuant to subsection (b)(3)(D).

22 “(d) TREATMENT OF REPLACEMENT UNITS.—With
23 respect to any dwelling units developed, acquired, or leased
24 by a public housing agency pursuant to a replacement plan
25 under subsection (b)(3)—

1 “(1) assistance may be provided under section
2 9 for such units; and

3 “(2) such units shall be available for occupancy,
4 operated and managed in the manner required for
5 public housing, and shall be subject to the other re-
6 quirements applicable to public housing dwelling
7 units.

8 “(e) APPROVAL OF APPLICATIONS.—

9 “(1) IN GENERAL.—The Secretary shall notify
10 a public housing agency submitting an application
11 under this section for demolition or disposition and
12 replacement of a public housing project or portion of
13 a project of the approval or disapproval of the appli-
14 cation not later than 60 days after receiving the ap-
15 plication. If the Secretary does not notify the public
16 housing agency as required under this paragraph or
17 paragraph (2), the application shall be considered to
18 have been approved.

19 “(2) DISAPPROVAL AND RESUBMISSION.—If the
20 Secretary disapproves an application, the Secretary
21 shall specify in the notice of disapproval the reasons
22 for the disapproval and the agency may resubmit the
23 application as amended or modified.

24 “(3) ANNUAL REPORT.—The Secretary shall
25 annually submit a report to the Congress describing

1 for the year the applications under this section ap-
2 proved and disapproved, the number, general condi-
3 tion, and location of units demolished or disposed of,
4 and the number, general condition, location, and
5 method of provision of units of replacement housing
6 provided pursuant to this section.

7 “(f) ACTION BEFORE APPROVAL OF APPLICATION.—

8 “(1) PROHIBITED ACTION.—A public housing
9 agency shall not take any action to demolish or dis-
10 pose of a public housing project or a portion of a
11 public housing project without obtaining the ap-
12 proval of the Secretary and satisfying the conditions
13 specified in subsections (a) and (b).

14 “(2) ALLOWABLE RELOCATION.—A public
15 housing agency may relocate tenants of public hous-
16 ing into other dwelling units before the approval of
17 an application under this section for demolition or
18 disposition, or prior to implementing a plan for mod-
19 ernization under section 14 or 24, if units to be de-
20 molished or disposed of are not decent, safe, and
21 sanitary, or if the units to be rehabilitated cannot be
22 maintained cost-effectively in a decent, safe, and
23 sanitary condition.

1 “(g) ASSISTANCE FOR REPLACEMENT HOUSING.—
2 The Secretary may provide assistance under this sub-
3 section for—

4 “(1) providing replacement public housing units
5 pursuant to subsection (b)(3)(A) for units demol-
6 ished or disposed of pursuant to this section; and

7 “(2) providing assistance under section 8 for
8 replacement housing pursuant to subsection
9 (b)(3)(A) for units demolished or disposed of pursu-
10 ant to this section.

11 “(h) INAPPLICABILITY TO PUBLIC HOUSING HOME-
12 OWNERSHIP PROGRAM.—The provisions of this section
13 shall not apply to the disposition of a public housing
14 project in accordance with an approved homeownership
15 program under title III.

16 “(i) EXCEPTION TO REPLACEMENT RULE.—

17 “(1) REQUIREMENTS FOR WAIVER.—The Sec-
18 retary shall waive the applicability of the provisions
19 of subsection (b)(3) with respect to any application
20 under this section by a public housing agency for the
21 demolition or disposition of public housing dwelling
22 units if—

23 “(A) the Secretary determines, based on
24 information provided by the public housing

1 agency in the application and the request under
2 paragraph (2), that—

3 “(i) the requirements under sub-
4 section (b)(3) are preventing or interfering
5 with the development or acquisition of new
6 public housing dwelling units by the agen-
7 cy;

8 “(ii) the long-term goal of the agency
9 in requesting the waiver under this sub-
10 section is to increase the number of habit-
11 able public housing dwelling units of the
12 agency;

13 “(iii) maintaining and operating the
14 dwelling units to be demolished or disposed
15 of is not cost-effective; and

16 “(iv) sufficient financial assistance is
17 not, and will not be, available to the public
18 housing agency to rehabilitate or replace
19 all or some of the units;

20 “(B) the Secretary determines that replac-
21 ing the dwelling units to be demolished or dis-
22 posed of under the application is unnecessary
23 because other affordable housing is available in
24 the area in which the units are located, and in
25 making such determination the Secretary con-

1 siders the assessment submitted by the public
2 housing agency under paragraph (2)(C); and

3 “(C) the public housing agency requests a
4 waiver under this subsection in accordance with
5 the requirements of paragraph (2).

6 “(2) REQUEST FOR WAIVER.—To be eligible for
7 a waiver under this subsection, a public housing
8 agency shall submit to the Secretary a request for
9 a waiver under this subsection that includes—

10 “(A) a comprehensive plan for demolition,
11 disposition, and replacement that describes ad-
12 ditional dwelling units to be made available by
13 the public housing agency;

14 “(B) an identification of the dwelling units
15 for which the waiver is requested; and

16 “(C) an assessment of the need of replac-
17 ing such dwelling units including the unit size,
18 age, general condition, and length of time such
19 units have been vacant, the condition of the
20 neighborhood in which the dwelling units are lo-
21 cated, and the availability of dwelling units af-
22 fordable to low-income families within the juris-
23 diction in which the dwelling units are located,
24 during the implementation of the replacement
25 plan.

1 “(3) SUBMISSION TO SECRETARY.—A request
2 for a waiver under this subsection may be submitted
3 at any time. The request shall be submitted to the
4 Secretary by certified mail or any other equivalent
5 means that provides notification to the public hous-
6 ing agency making the request of the date of receipt
7 by the Secretary.

8 “(4) NOTICE OF DISPOSITION OF REQUEST.—
9 Except as provided in paragraph (5), the Secretary
10 shall notify a public housing agency requesting a
11 waiver under this section of the approval or dis-
12 approval of the request not later than 45 days after
13 receiving the request. If the Secretary does not no-
14 tify the public housing agency as required under this
15 paragraph or paragraph (5), the request for a waiver
16 shall be considered to have been approved.

17 “(5) REQUEST FOR ADDITIONAL INFORMA-
18 TION.—If the Secretary determines that more infor-
19 mation is needed to make the determinations under
20 paragraph (1) than has been provided by the public
21 housing agency, the Secretary shall notify the agen-
22 cy in writing not later 30 days after receiving the re-
23 quest for the waiver that additional information is
24 necessary. Such notice shall describe specifically the
25 additional information required for the determina-

1 tions and establish a deadline for the submission of
2 the information by the agency, which shall be deter-
3 mined based on the difficulty of obtaining the infor-
4 mation requested. If the agency submits such addi-
5 tional information requested before the deadline es-
6 tablished in the notice under this paragraph, the
7 Secretary shall notify the agency requesting the
8 waiver that the request is approved or disapproved
9 not later than 30 days after the submission of such
10 additional information.

11 “(6) STATEMENT OF REASONS FOR DENYING
12 OR APPROVING REQUEST.—The Secretary shall in-
13 clude, in each notice under paragraph (4) or (5) of
14 the denial or approval of a request for a waiver
15 under this subsection, the specific reasons for deny-
16 ing or approving the request. The denial of any re-
17 quest for a waiver for public housing dwelling units
18 shall not prejudice the consideration of any other
19 subsequent request for such a waiver for any of such
20 dwelling units.”.

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