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H. R. 2349

To establish the National Affordable Housing Trust Fund in the Treasury of the United States to provide for the development, rehabilitation, and preservation of decent, safe, and affordable housing for low-income families.

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IN THE HOUSE OF REPRESENTATIVES

June 27, 2001

Mr. Sanders (for himself, Ms. Lee, Mr. McHugh, Mr. Rush, Mrs. Clayton, Ms. McKinney, Mr. Israel, Mr. Filner, Mrs. Meek of Florida, Mr. Kennedy of Rhode Island, Ms. Schakowsky, Mr. Thompson of Mississippi, Mr. Engel, Mr. Coyne, Mr. Conyers, Mr. Owens, Mr. Schiff, Mr. Capuano, Mr. Frost, Mr. Stark, Ms. Carson of Indiana, Mr. Delahunt, Mr. Kucinich, Mr. Cummings, Mr. Clay, Ms. Velazquez, Ms. Rivers, Ms. Pelosi, Mr. Blumenauer, Mr. McDermott, Mr. Baldacci, Ms. McCollum, Mr. Larsen of Washington, Ms. McCarthy of Missouri, Mr. Frank, Mrs. Jones of Ohio, Mr. Hastings of Florida, Ms. Waters, Ms. Eddie Bernice Johnson of Texas, Mr. Brady of Pennsylvania, Ms. Jackson-Lee of Texas, Mr. Allen, Mr. Gutierrez, Mr. Davis of Illinois, Mr. Payne, Mr. Farr of California, and Mr. Nadler) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To establish the National Affordable Housing Trust Fund in the Treasury of the United States to provide for the development, rehabilitation, and preservation of decent, safe, and affordable housing for low-income families.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Affordable Housing Trust Fund Act of 2001".

SEC. 2. PURPOSES.

The purposes of this Act are--

- (1) to fill the growing gap in the national ability to build affordable housing by using profits generated by Federal housing programs to fund additional housing activities, without supplanting existing housing appropriations;
- (2) to enable rental housing to be built, for families with

the greatest economic need, in mixed-income settings and in areas with the greatest economic opportunities;

(3) to promote homeownership for low-income families; and

(4) to produce, rehabilitate, and preserve at least 1,500,000 affordable dwelling units by 2010.

### SEC. 3. NATIONAL HOUSING TRUST FUND.

(a) Establishment of Trust Fund.--There is established in the Treasury of the United States a trust fund to be known as the National Affordable Housing Trust Fund, which shall be available as provided in this Act for assisting the development, rehabilitation, and preservation of affordable housing.

(b) Deposits to Trust Fund.--For fiscal year 2002 and each fiscal year thereafter, there shall be appropriated to the Trust Fund an amount equal to the sum of--

(1) any revenue generated in the previous fiscal year by the Mutual Mortgage Insurance Fund established under section 202(a) of the National Housing Act (12 U.S.C. 1708(a)) that exceeds the amount necessary for such Fund to maintain the capital ratio required under section 205(f) of such Act (12 U.S.C. 1711(f)) at the conclusion of such preceding fiscal year; and

(2) any revenue generated in the preceding fiscal year by the Government National Mortgage Association in excess of the amount necessary to pay the administrative costs and expenses necessary to ensure the safety and soundness of the Government National Mortgage Association, as determined by the Secretary.

(c) Expenditures From Trust Fund.--For fiscal year 2002 and each fiscal year thereafter, amounts appropriated to the Trust Fund for each such fiscal year shall be available to the Secretary of Housing and Urban Development for providing assistance under this Act in accordance with section 4.

### SEC. 4. ASSISTANCE FROM TRUST FUND.

(a) Use of Trust Fund Amounts for Assistance.--The Secretary shall use the total amount made available under section 3(c) to the Secretary from the Trust Fund for such fiscal year to provide assistance under this Act for the States.

(b) Affordable Housing Needs Formula.--The Secretary shall establish a formula to allocate assistance under this Act among the States based on the relative need of each State for additional affordable housing. The formula shall be based upon a comparison of the following factors for each State:

(1) The percentage of families in the State that live in substandard housing.

(2) The percentage of families in the State that pay more than 50 percent of their annual income for housing costs.

(3) The percentage of persons in the State having an income at or below the poverty line.

(4) The cost of developing or carrying out substantial rehabilitation of housing in the State.

(5) The percentage of the population of the State that resides in counties having extremely low vacancy rates.

(6) The percentage of housing stock in the State that is extremely old housing.

(7) Any other factors that the Secretary determines to be appropriate.

(c) Formula Amount.--For fiscal year 2002 and each fiscal year thereafter, the Secretary shall determine the formula amount under this subsection for each State, which shall be the amount determined for each such State by applying the formula under subsection (b) to the total amount made available under section 3(c) to the Secretary for the fiscal year.

(d) Allocation Amount for States.--The allocation under this subsection for a State for a fiscal year shall be determined as follows:

(1) Minimum amount.--If the formula amount determined under subsection (c) for the State for the fiscal year is less than 1 percent of the total amount made available under section 3(c) for such fiscal year, the allocation for the State shall be 1 percent of such amount.

(2) Formula amount.--If the formula amount determined under subsection (c) for the State for the fiscal year is 1 percent or more of the total amount made available under section 3(c) for such fiscal year, the allocation for the State shall be the formula amount for the State, except that the Secretary shall reduce such formula amounts for all States whose allocations are determined under this paragraph on a pro rata basis by the amount necessary to account for any increases from the formula amount for allocations made under paragraph (1) of this subsection.

(e) Grant Awards.--For fiscal year 2002 and each fiscal year thereafter, using the amounts made available to the Secretary from the Trust Fund for such fiscal year under section 3(c), the Secretary shall make a grant to each eligible State (as determined under section 5(d)) in the lesser of the following amounts:

(1) Full allocation.--The amount of the allocation under subsection (d) for the eligible State.

(2) 4 times matching contribution.--The amount that is equal to 4 times the amount of funds provided by the eligible State from non-Federal sources for use only as provided in subsection (f) (2).

(f) Matching Contribution.--

(1) Eligible amounts.--For purposes of subsection (e) (2), only the following amounts shall be considered amounts from non-Federal sources:

(A) Low-income housing tax credits.--50 percent of funds allocable to tax credits allocated under section 42 of the Internal Revenue Code of 1986.

(B) Mortgage bond revenue.--50 percent of revenue from mortgage revenue bonds issued under section 143 of such Code.

(C) Tax exempt bonds proceeds.--50 percent of proceeds from the sale of tax exempt bonds.

(D) General state revenue.--Any other State revenue that is not derived from Federal sources, including any State tax revenue.

(2) Use of matching amounts.--Use of amounts as provided in this paragraph shall be used only for--

(A) eligible activities relating to affordable housing; or

(B) eligible activities relating to a project not less than 50 percent of the dwelling units of which qualify as affordable housing.

(3) Certification.--The Secretary shall require States to certify to the Secretary the amount of non-Federal funds provided for purposes of subsection (e) (2).

(g) Grants for Ineligible States and States With Insufficient Matching Contributions.--

(1) Available amounts.--For a fiscal year, the following amounts shall be available for grants under this subsection:

(A) Allocation for ineligible state.--With respect to each ineligible State, the amount of the allocation for the State for such fiscal year determined under subsection (d).

(B) Unmatched portion of allocation.--With respect to any eligible State for which the amount of the grant assistance for such fiscal year is determined under

subsection (e)(2), the amount by which the allocation determined under subsection (d) for the State for the fiscal year exceeds the grant assistance for the State for the fiscal year.

(2) Notice.--For each fiscal year, not later than 60 days after the date that the Secretary determines that the amounts described in paragraph (1) shall be available for grants under this subsection, the Secretary shall cause to be published in the Federal Register a notice that such amounts shall be so available.

(3) Applications.--The Secretary shall provide for nonprofit and public entities (and consortia thereof, which may include units of local government working together on a regional basis) to submit applications, during the 9-month period beginning upon publication of a notice of funding availability under paragraph (2), for a grant of all or a portion of the amounts referred to in paragraph (1). Such an application shall include--

(A) a certification that the applicant will provide supplemental amounts in accordance with paragraph

(5)(B)(i); and

(B) an allocation plan described in paragraph (5)(B)(ii).

(4) Selection criteria.--The Secretary shall, by regulation, establish criteria for selecting applicants that meet the requirements of paragraph (3) for funding under this subsection. Such criteria shall give priority to applications that provide that grant amounts under this subsection will be used for eligible activities relating to affordable housing that is located in the State for which such grant funds were originally allocated under subsection (d).

(5) Award and use of grant assistance.--

(A) Award of grants.--Subject only to the absence of applications meeting the requirements of paragraph (3), upon the expiration of the period referred to in such paragraph, the Secretary shall select an applicant or applicants under this subsection to receive the amounts available under paragraph (1) and shall make a grant or grants to such applicant or applicants. The selection shall be based upon the criteria established under paragraph (4).

(B) Grant requirements.--Grant assistance under this subsection shall be subject to the following requirements:

(i) Matching amounts.--The grantee shall supplement any grant amounts received under this subsection with an amount equal to 25 percent of such grant amounts.

(ii) Use.--Grant amounts received under this subsection shall be used in accordance with an allocation plan that meets the requirements of section 5(e) and provides that any assistance provided to the applicant under this subsection, and any supplemental amounts provided by the applicant pursuant to clause (i), shall be used only to carry out eligible activities.

#### SEC. 5. USE OF ASSISTANCE BY RECIPIENTS.

(a) Distribution to Eligible Entities.--Each State that receives a grant under this Act shall distribute the grant amounts (excluding any amounts used under subsection (b)) to eligible entities for use by such entities only for eligible activities in the State, as follows:

(1) Use for rental housing for extremely low-income

families.--75 percent of such amounts shall be distributed for use only for eligible activities relating to affordable housing that is available for rental by extremely low-income families in the State.

(2) Use for rental housing or homeownership for low-income families.--25 percent of such amounts shall be distributed for use only for eligible activities relating to affordable housing that is available for rental by low-income families in the State, or for homeownership assistance for low-income families in the State.

(b) Operating Assistance for Nonprofit Housing Development Organizations.--A State that receives a grant under this Act may use not more than 5 percent of such grant amounts to provide assistance to nonprofit organizations involved in the development, rehabilitation, or preservation of affordable rental housing for payment of operating costs of such organizations. Such nonprofit organizations shall include community housing development organizations (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704)), community development financial institutions (as such term is defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)), community development corporations (as such term is defined in section 31131 of the National Community Economic Partnership Act of 1994 (42 U.S.C. 13851)), and community-based development organizations.

(c) Cost Limits.--The Secretary shall establish limitations on the amount of grant amounts that may be used, on a per unit basis, for eligible activities. Such limitations shall be the same as the per unit cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)), as adjusted annually, and established by number of bedrooms, market area, and eligible activity.

(d) Eligible States.--With respect to a fiscal year, a State shall be an eligible State for purposes of this Act for such fiscal year only if the State has established an allocation plan that has been submitted to the Secretary and reviewed and approved by the Secretary as in accordance with subsection (e). The Secretary may disapprove an allocation plan only if the plan fails to comply with requirements set forth in this section.

(e) Allocation Plan.--

(1) In general.--An allocation plan in accordance with this subsection is a plan, established by a State for a fiscal year, for the distribution of grant amounts provided to the State under this Act for such fiscal year.

(2) Establishment.--In establishing an allocation plan, the State shall notify the public of the establishment of the plan, provide an opportunity for public comments regarding the plan, consider any public comments received, and make the completed plan available to the public.

(3) Contents.--An allocation plan of a State shall include the following information:

(A) Application requirements for eligible entities and subrecipients.--The allocation plan shall set forth the requirements for eligible entities and eligible subrecipients to apply to receive assistance from grant amounts under this Act, including a requirement that each such application include--

(i) a description of the eligible activities to be conducted using such assistance; and

(ii) a certification by the applicant that any housing units assisted with such assistance will comply with the requirements under--

(I) section 6(1)(A) (relating to rents charged);

(II) section 6(1)(B) (relating to

tenant rent contribution);

(III) section 6(1)(C) (relating to availability of units for voucher holders); and

(IV) section 6(1)(D) (relating to use as affordable housing for 40 years).

(B) Selection and preference criteria for eligible entities and subrecipients.--The allocation plan shall set forth the factors for consideration in selecting among applicants that meet the application requirements set forth pursuant to subparagraph (A), which shall give preference to applicants based on--

(i) the amount of assistance leveraged by the applicant from private and other non-Federal sources for carrying out the eligible activities to be funded with assistance from grant amounts under this Act, including assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) that is devoted to the project that contains the affordable housing to be assisted with such assistance;

(ii) the extent of local assistance that will be provided in carrying out the eligible activities, including--

(I) financial assistance;

(II) the extent to which the applicant has worked to address issues of siting and exclusionary zoning or other policies that are barriers to affordable housing with the unit of general local government in which the housing to be assisted with such assistance will be located; and

(III) the extent to which the applicant has worked with the unit of general local government to reduce the barriers to affordable housing;

(iii) the degree to which the project in which the affordable housing will be located will have residents of various incomes;

(iv) the extent of employment and other economic opportunities for low-income families in the area in which the housing will be located;

(v) the extent to which the applicant demonstrates the ability to maintain dwelling units as affordable housing through the use of assistance made available under this Act, assistance leveraged from non-Federal sources, assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), State or local assistance, programs to increase tenant income, cross-subsidization, and any other resources;

(vi) the extent to which the applicant demonstrates that the county in which the housing is to be located is experiencing an extremely low vacancy rate;

(vii) the extent to which the percentage of the housing located in such county that is extremely old housing exceeds 35 percent;

(viii) whether the applicant has provided that--

(I) 75 percent of the grant amounts will be used for eligible activities relating to housing located in census tracts in which the number of families having incomes less than the poverty line is less than 20 percent or in communities undergoing revitalization; and

(II) 25 percent of the grant amounts will be used for eligible activities relating to housing that is located in census tracts in which the number of families having incomes less than the poverty line is greater than 20 percent and is not located in a community undergoing revitalization; and

(ix) whether the applicant has provided that--

(I) not less than 45 percent of the grant amounts will be used for eligible activities relating to housing that is affordable to families having incomes less than 30 percent of the greater of (aa) the median income for the area in which the housing is located, or (bb) the median income for the State in which the housing is located;

(II) not less than 30 percent of the grant amounts will be used for eligible activities relating to housing that is affordable to families having incomes not exceeding the amount earned by a family having one individual (or 1.5 individuals in the case of a family consisting of 3 or more individuals), who is employed on a full-time basis in a position paying the higher of (aa) the Federal minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), or (bb) the minimum wage under State law of the State in which the housing is located; and

(III) not more than 25 percent of the grant amounts will be used for eligible activities relating to housing for families having incomes that (aa) are greater than the incomes referred to in subclauses (I) and (II) of this clause, but (bb) do not exceed 80 percent of the median income for the area in which the housing is located.

(4) Consolidated plan.--The Secretary shall provide that a State may comply with the requirements under this subsection for submission of a allocation plan through the inclusion of any appropriate information in a single consolidated submission used for purposes of applying for other community planning and development and housing assistance programs administered by the Secretary.

(f) Forms of Assistance.--

(1) In general.--Assistance may be distributed pursuant to this section in the form of capital grants, noninterest bearing or low-interest loans or advances, deferred payment loans, guarantees, and any other forms of assistance approved by the

Secretary.

(2) Repayments.--If a State awards assistance under this section in the form of a loan or other mechanism by which funds are later repaid to the State, any repayments received by the State shall be distributed by the State in accordance with the allocation plan under subsection (e) for the State for the fiscal year in which such repayments are made.

(g) Coordination With Other Assistance.--In distributing assistance pursuant to this section, each State shall, to the maximum extent practicable, coordinate such distribution with the provision of other affordable housing assistance by the State, including--

(1) housing credit dollar amounts allocated by the State under section 42(h) of the Internal Revenue Code of 1986;

(2) assistance made available under the HOME Investment Partnerships Act (42 U.S.C. 12721 et seq.) or the community development block grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); and

(3) private activity bonds.

(h) Administration of State Program By Subrecipient.--At the discretion of the State, a State may select an eligible subrecipient to carry out all or a portion of the State's responsibilities under this Act, in accordance with this section.

## SEC. 6. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) Affordable housing.--The term "affordable housing" means a rental dwelling unit that is subject to legally binding commitments that ensure that the dwelling unit meets all of the following requirements:

(A) Rents.--The dwelling unit bears a rent not greater than the lesser of--

(i) the existing fair market rental established by the Secretary under section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)) for a dwelling unit of the same size in the same market area; and

(ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for number of bedrooms in the unit, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(B) Tenant rent contribution.--The contribution toward rent by the family residing in the dwelling unit will not exceed 30 percent of the adjusted income of such family.

(C) Availability of units for voucher holders.--The dwelling unit--

(i) is located in a project within which a percentage of units are made available only for occupancy by families assisted under the voucher program under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) (including project-based assistance under section 8(o)(13)) on the same basis as other families eligible for occupancy of the project (except that only the voucher holder's



expected share of rent shall be considered), which percentage shall not be less than the percentage of the total cost of developing, rehabilitating, or preserving the project that is funded with assistance under this Act; and

(ii) is one of the units that is subject to such occupancy requirements.

(D) Non-discrimination against voucher holders.-- The dwelling unit is located in a project in which all dwelling units are subject to enforceable restrictions that provide that a unit may not be refused for leasing to a holder of a voucher of eligibility under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) because of the status of the prospective tenant as a holder of such voucher.

(E) Duration of use.--The dwelling unit will continue to be subject to the requirements under this paragraph for not less than 40 years.

(2) Continued assistance rental subsidy program.--The term "continued assistance rental subsidy program" means a program that--

(A) provides project-based rental assistance, for not more than 3 years, on behalf of a family who resides in a dwelling unit that complies with the requirements under subparagraphs (A) and (B) of paragraph (1);

(B) is administered--

(i) by the public housing agency within whose jurisdiction the affordable housing is located (or if no such agency exists, the agency whose jurisdiction is closest to such unit); and

(ii) in accordance with section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)); and

(C) provides that, upon the expiration of the period that the family receives rental assistance under the program pursuant to subparagraph (A) of this Act, project-based rental assistance under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) shall be provided on behalf of the family for rental of such dwelling unit, notwithstanding any provision to the contrary in such section 8(o).

(3) Eligible activities.--The term "eligible activities" means activities relating to the providing affordable housing, including--

(A) the construction of new housing;

(B) the acquisition of real property;

(C) site preparation and improvement, including demolition;

(D) substantial rehabilitation of existing housing;

(E) the provision of rental assistance under a continued assistance rental subsidy program; and

(F) providing incentives to maintain existing housing as affordable housing and to establish or extend any low-income affordability restrictions for such housing, including covering capital expenditures and operating costs.

(4) Eligible entity.--The term "eligible entity" includes any public or private nonprofit or for-profit entity, unit of general local government, regional planning entity, and any other entity engaged in the development, rehabilitation, or preservation of affordable housing, as determined by the Secretary.

(5) Eligible subrecipient.--The term "eligible

subrecipient'' means a public agency or a nonprofit organization, including a community development corporation, a community development financial institution, a State housing trust fund, and any other intermediary selected by a State to administer all or a portion of the State's responsibilities under this Act. The term does not include any public agency or nonprofit organization that receives money from the Trust Fund solely as a developer or owner of housing.

(6) Extremely low-income families.--The term ``extremely low-income families'' means families (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))) whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(7) Extremely low vacancy rate.--The term ``extremely low vacancy rate'' means a housing or rental vacancy rate of 2 percent or less.

(8) Extremely old housing.--The term ``extremely old housing'' means housing that is 45 years old or older.

(9) Ineligible state.--The term ``ineligible State'' means, with respect to a fiscal year, a State that has not submitted to the Secretary an allocation plan meeting the requirements of section 5(e).

(10) Low-income families.--The term ``low-income families'' has the meaning given such term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(11) Poverty line.--The term ``poverty line'' has the meaning given such term in section 673(2) of the Omnibus Budget Reconciliation Act of 1981, including any revision required by such section.

(12) Secretary.--The term ``Secretary'' means the Secretary of Housing and Urban Development.

(13) State.--The term ``State'' has the meaning given such term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(14) Trust fund.--The term ``Trust Fund'' means the National Affordable Housing Trust Fund established under section 3.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR SECTION 8 PROJECT-BASED ASSISTANCE UNDER CONTINUED ASSISTANCE RENTAL SUBSIDY PROGRAMS.

There are authorized to be appropriated, for rental assistance under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) provided in connection with continued assistance rental subsidy programs pursuant to section 6(2)(C) of this Act, such sums as may be necessary for each fiscal year to provide such rental assistance on behalf of each family whose assistance is terminated pursuant to section 6(2)(A) of this Act.

#### SEC. 8. REGULATIONS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall promulgate regulations to carry out this Act.

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