

Union Calendar No. 222

110TH CONGRESS
1ST SESSION

H. R. 2895

[Report No. 110-362]

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2007

Mr. FRANK of Massachusetts (for himself, Ms. WATERS, Mr. GARY G. MILLER of California, Mr. RAMSTAD, Ms. VELÁZQUEZ, Mr. MCHUGH, Mr. ENGLISH of Pennsylvania, Mr. AL GREEN of Texas, Mr. SHAYS, Mr. MURPHY of Connecticut, Mr. DENT, Ms. LEE, Mr. RENZI, Mr. CLAY, Mr. SMITH of New Jersey, Mr. LYNCH, and Mr. HINOJOSA) introduced the following bill; which was referred to the Committee on Financial Services

OCTOBER 2, 2007

Additional sponsors: Mr. PAYNE, Mr. WALSH of New York, Mr. EMANUEL, Mr. WELCH of Vermont, Mr. HINCHEY, Mr. KILDEE, Mr. LARSON of Connecticut, Mr. FARR, Ms. MCCOLLUM of Minnesota, Mr. ABERCROMBIE, Mr. MICHAUD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BLUMENAUER, Mr. CLEAVER, Mr. ELLISON, Mr. BARROW, Ms. BALDWIN, Ms. CASTOR, Mrs. EMERSON, Mr. GILCHREST, Mr. JACKSON of Illinois, Ms. MOORE of Wisconsin, Mr. ALLEN, Mr. GRIJALVA, Mrs. MALONEY of New York, Mr. WATT, Ms. CARSON, Mr. SHERMAN, Mr. CROWLEY, Ms. KAPTUR, Mr. GEORGE MILLER of California, Ms. ZOE LOFGREN of California, Mr. NADLER, Mr. RUSH, Mr. SCOTT of Virginia, Mr. RYAN of Ohio, Mrs. JONES of Ohio, Mr. CAPUANO, Mr. COHEN, Mr. HONDA, Ms. CLARKE, Mr. PASTOR, Mrs. MCCARTHY of New York, Ms. WATSON, Mr. DELAHUNT, Mr. COURTNEY, Mr. MCGOVERN, Mrs. CAPPS, Mr. KUCINICH, Mrs. DAVIS of California, Mr. ISRAEL, Ms. WOOLSEY, Mr. KIND, Ms. SCHAKOWSKY, Mr. WAXMAN, Mr. MCDERMOTT, Mr. RANGEL, Mr. DAVIS of Illinois, Mr. MATHESON, Mr. VAN HOLLEN, Mr. PALLONE, Mr. UPTON, Mr. WALZ of Minnesota, Mr. KENNEDY, Mr. OBERSTAR, Mr. SIRES, Mr. LEWIS of Georgia, Ms. LORETTA SANCHEZ

of California, Mr. LINCOLN DAVIS of Tennessee, Mr. NEAL of Massachusetts, Mr. GUTIERREZ, Mr. STARK, Mr. PETERSON of Minnesota, Mr. MCINTYRE, Mr. PRICE of North Carolina, Mr. GONZALEZ, Mr. THOMPSON of Mississippi, Mr. MORAN of Virginia, Mr. DOGGETT, Mr. ROSS, Ms. SHEA-PORTER, Ms. DELAURO, Mr. ARCURI, Mr. BRALEY of Iowa, Mr. ORTIZ, Mr. KAGEN, and Ms. DEGETTE

OCTOBER 2, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on June 28, 2007]

A BILL

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

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 “National Affordable*
 5 *Housing Trust Fund Act of 2007”.*

6 **SEC. 2. NATIONAL AFFORDABLE HOUSING TRUST FUND.**

7 *(a) IN GENERAL.—Title II of the Cranston-Gonzalez*
 8 *National Affordable Housing Act (42 U.S.C. 12721 et seq.)*
 9 *is amended by adding at the end the following new subtitle:*

1 **“Subtitle G—National Affordable**
2 **Housing Trust Fund**

3 **“SEC. 291. PURPOSES.**

4 *“The purposes of this subtitle are—*

5 *“(1) to address the national shortage of housing*
6 *that is affordable to low-income families by creating*
7 *a permanently appropriated fund, with dedicated*
8 *sources of funding, to finance additional housing ac-*
9 *tivities, without supplanting existing housing appro-*
10 *priations or existing State and local funding for af-*
11 *fordable housing;*

12 *“(2) to enable rental housing to be built, for fam-*
13 *ilies with the greatest economic need, in mixed-income*
14 *settings and in areas with the greatest economic op-*
15 *portunities;*

16 *“(3) to promote ownership of one-to-four family*
17 *owner-occupied housing by low-income families; and*

18 *“(4) to construct, rehabilitate, and preserve at*
19 *least 1,500,000 affordable dwelling units over the next*
20 *decade.*

21 **“SEC. 292. TRUST FUND.**

22 *“(a) ESTABLISHMENT.—There is established in the*
23 *Treasury of the United States a trust fund to be known*
24 *as the National Affordable Housing Trust Fund.*

1 “(b) *DEPOSITS TO TRUST FUND.*—*The Trust Fund*
2 *shall consist of—*

3 “(1) *any amounts of the Federal National Mort-*
4 *gage Association and the Federal Home Loan Mort-*
5 *gage Corporation transferred to the Trust Fund under*
6 *title XIII of the Housing and Community Develop-*
7 *ment Act of 1992;*

8 “(2) *any amounts appropriated to the Trust*
9 *Fund pursuant to the authorization in the Expand-*
10 *ing American Homeownership Act of 2007, relating*
11 *to the use of FHA savings for an affordable housing*
12 *grant fund; and*

13 “(3) *any amounts as are or may be appro-*
14 *priated, transferred, or credited to such Fund under*
15 *any other provisions of law.*

16 “(c) *EXPENDITURES FROM TRUST FUND.*—*Amounts*
17 *in the Trust Fund shall be available to the Secretary of*
18 *Housing and Urban Development, and are hereby appro-*
19 *priated, for providing assistance under this subtitle.*

20 “(d) *FEDERAL ASSISTANCE.*—*All assistance provided*
21 *using amounts in the Trust Fund shall be considered to*
22 *be Federal financial assistance.*

23 “(e) *CONDITIONS ON USE OF FHA SAVINGS.*—

24 “(1) *USE.*—*For each fiscal year, no funds may*
25 *be made available under paragraph (2) of subsection*

1 (b) unless the amount equal to the net increase for
2 such fiscal year in the negative credit subsidy for the
3 mortgage insurance programs under title II of the
4 National Housing Act resulting from the Expanding
5 American Homeownership Act of 2007, and the
6 amendments made by such Act, is first made avail-
7 able for the following purposes in the following
8 amounts:

9 “(A) *SINGLE FAMILY HOUSING MORTGAGE*
10 *INSURANCE.*—For each fiscal year, for costs (as
11 such term is defined in section 502 of the Federal
12 Credit Reform Act of 1990 (2 U.S.C. 661a)) of
13 mortgage insurance provided pursuant to section
14 203(b) of the National Housing Act (12 U.S.C.
15 1709(b)), the additional amount (not including
16 any costs of such mortgage insurance resulting
17 from this Act or the amendments made by this
18 Act), if any, necessary to ensure that the credit
19 subsidy cost of such mortgage insurance for such
20 fiscal year is \$0.

21 “(B) *HOUSING COUNSELING.*—For each of
22 fiscal years 2008 through 2012, the amount need-
23 ed to increase funding, for the housing coun-
24 seling program under section 106 of the Housing
25 and Urban Development Act of 1968 (12 U.S.C.

1 1701x), in connection with homebuyers and
2 homeowners with mortgages insured under title
3 II of the National Housing Act, from the amount
4 appropriated for the preceding fiscal year to
5 \$100,000,000.

6 “(C) *MORTGAGE INSURANCE TECHNOLOGY,*
7 *PROCEDURES, PROCESSES, PROGRAM PERFORM-*
8 *ANCE, AND SALARIES.*—For each of fiscal years
9 2008 through 2012, \$25,000,000 for increasing
10 funding for the purpose of improving technology,
11 procedures, processes, and program performance,
12 and salaries in connection with the mortgage in-
13 surance programs under title II of the National
14 Housing Act.

15 “(2) *EXCLUSION OF EARNINGS FROM THE SIN-*
16 *GLE FAMILY MORTGAGE INSURANCE PROGRAM.*—No
17 funds under paragraph (2) of subsection (b) for a fis-
18 cal year may be derived from the negative credit sub-
19 sidy cost for such fiscal year, if any, for mortgage in-
20 surance provided pursuant to section 203(b) of the
21 National Housing Act.

22 “(3) *CERTIFICATION.*—No funds may be made
23 available under paragraph (2) of subsection (b) for
24 any fiscal year unless the Secretary of Housing and
25 Urban Development has, by rule making in accord-

1 *ance with section 553 of title 5, United States Code*
2 *(notwithstanding subsections (a)(2), (b)(B), and*
3 *(d)(3) of such section), made a determination that*
4 *premiums being, or to be, charged during such fiscal*
5 *year for mortgage insurance under title II of the Na-*
6 *tional Housing Act are established at the minimum*
7 *amount sufficient to comply with the requirements of*
8 *section 205(f) of such Act (relating to required capital*
9 *ratio for the Mutual Mortgage Insurance Fund) and*
10 *ensure the safety and soundness of the other mortgage*
11 *insurance funds under such Act, and any negative*
12 *credit subsidy for such fiscal year resulting from such*
13 *mortgage insurance programs adequately ensures the*
14 *efficient delivery and availability of such programs.*

15 *“(4) LIMITATION ON MORTGAGE INSURANCE PRE-*
16 *MIUM INCREASES.—Notwithstanding any other provi-*
17 *sion of law—*

18 *“(A) the premiums charged for mortgage in-*
19 *surance under any program under the National*
20 *Housing Act may not be increased above the pre-*
21 *mium amounts in effect under such program on*
22 *October 1, 2006, unless the Secretary of Housing*
23 *and Urban Development determines that, absent*
24 *such increase, insurance of additional mortgages*
25 *under such program would, under the Federal*

1 *Credit Reform Act of 1990, require the appro-*
2 *priation of new budget authority to cover the*
3 *costs (as such term is defined in section 502 of*
4 *the Federal Credit Reform Act of 1990 (2 U.S.C.*
5 *661a) of such insurance; and*

6 *“(B) a premium increase pursuant to para-*
7 *graph (1) may be made only by rule making in*
8 *accordance with the procedures under section 553*
9 *of title 5, United States Code (notwithstanding*
10 *subsections (a)(2), (b)(B), and (d)(3) of such sec-*
11 *tion).*

12 **“SEC. 293. ALLOCATIONS FOR STATES, INDIAN TRIBES, IN-**
13 **SULAR AREAS, AND PARTICIPATING LOCAL**
14 **JURISDICTIONS.**

15 *“(a) DETERMINATION OF AMOUNT AVAILABLE FOR*
16 *FISCAL YEAR.—For fiscal year 2008 and for each fiscal*
17 *year thereafter, the Secretary shall determine the total*
18 *amount available from the Trust Fund pursuant to section*
19 *292(c) for assistance under this subtitle and shall use such*
20 *amount to provide such assistance for such fiscal year.*

21 *“(b) ALLOCATION.—For each such fiscal year, of such*
22 *total amount available from the Trust Fund, the Secretary*
23 *shall allocate for use under section 294—*

24 *“(1) 40 percent for States, Indian tribes, and in-*
25 *sular areas; and*

1 “(2) 60 percent for participating local jurisdic-
2 tions.

3 **“SEC. 294. ASSISTANCE FROM TRUST FUND.**

4 “(a) *AFFORDABLE HOUSING NEEDS FORMULA.*—

5 “(1) *ESTABLISHMENT AND FACTORS.*—*The Sec-*
6 *retary shall establish a formula to allocate amounts*
7 *made available for a fiscal year for assistance under*
8 *this subtitle among States, all Indian tribes, insular*
9 *areas, and participating local jurisdictions based on*
10 *the relative needs of such entities, for funds to in-*
11 *crease the supply of decent quality affordable housing.*
12 *The formula shall be based upon a comparison of the*
13 *following factors with respect to each State, Indian*
14 *tribes, each insular area, and each participating local*
15 *jurisdiction:*

16 “(A) *The ratio of the population of the*
17 *State, Indian tribes, insular area, or partici-*
18 *parting jurisdiction, to the aggregate population*
19 *of all States, Indian tribes, insular areas, and*
20 *participating jurisdictions.*

21 “(B) *The percentage of families in the juris-*
22 *dition of the State, of Indian tribes, or of the*
23 *insular area or participating jurisdiction that*
24 *live in substandard housing.*

1 “(C) *The percentage of families in the juris-*
2 *isdiction of the State, of Indian tribes, or of the*
3 *insular area or participating jurisdiction that*
4 *pay more than 50 percent of their annual in-*
5 *come for housing costs.*

6 “(D) *The percentage of persons in the juris-*
7 *isdiction of the State, of Indian tribes, or of the*
8 *insular area or participating jurisdiction having*
9 *an income at or below the poverty line.*

10 “(E) *The cost of constructing or carrying*
11 *out rehabilitation of housing in the jurisdiction*
12 *of the State, of Indian tribes, or of the insular*
13 *area or participating jurisdiction.*

14 “(F) *The percentage of the population of the*
15 *State, of Indian tribes, or of the insular area or*
16 *participating jurisdiction that resides in coun-*
17 *ties having extremely low vacancy rates.*

18 “(G) *The percentage of housing stock in the*
19 *jurisdiction of the State, of Indian tribes, or of*
20 *the insular area or participating jurisdiction*
21 *that is extremely old housing.*

22 “(H) *For the jurisdiction of a State, of In-*
23 *dian tribes, or of an insular area or partici-*
24 *parting jurisdiction that has an extremely low*
25 *percentage of affordable rental housing, the ex-*

1 *tent to which the State, Indian tribes, or the in-*
2 *sular area or participating jurisdiction has in*
3 *the preceding fiscal year increased the percentage*
4 *of rental housing within its jurisdiction that is*
5 *affordable housing.*

6 “(I) *Any other factors that the Secretary de-*
7 *termines to be appropriate.*

8 “(2) *FAILURE TO ESTABLISH.—If, in any fiscal*
9 *year referred to in section 293(a), the regulations es-*
10 *tablishing the formula required under paragraph (1)*
11 *of this subsection have not been issued by the date*
12 *that the Secretary determines the total amount avail-*
13 *able from the Trust Fund for assistance under this*
14 *subtitle for such fiscal year pursuant to section*
15 *292(c), or there has been enacted before such date a*
16 *joint resolution expressly disapproving the use of the*
17 *formula required under paragraph (1) and submitted*
18 *to the Congress pursuant to paragraph (3), for pur-*
19 *poses of such fiscal year—*

20 “(A) *section 293(b), paragraphs (2) and (3)*
21 *of subsection (b) of this section, and subsection*
22 *(c) of this section shall not apply;*

23 “(B) *the allocation for Indian tribes shall*
24 *be such amount as the Secretary shall establish;*
25 *and*

1 “(C) the formula amount for each State, in-
2 sular area, or participating local jurisdiction
3 shall be determined by applying, for such State,
4 insular area, or participating local jurisdiction,
5 the percentage that is equal to the percentage of
6 the total amounts made available for such fiscal
7 year for allocation under subtitle A of this title
8 (42 U.S.C. 12741 et seq.) that are allocated in
9 such year, pursuant to such subtitle, to such
10 State, insular area, or participating local juris-
11 diction, respectively, and the allocation for each
12 State, insular area, or participating jurisdic-
13 tion, for purposes of subsection (e) shall, except
14 as provided in subsection (d), be the formula
15 amount for the State, insular area, or partici-
16 pating jurisdiction, respectively.

17 “(3) SUBMISSION TO CONGRESS.—Notwith-
18 standing any other provision of this subtitle, any for-
19 mula established by the Secretary pursuant to this
20 subsection shall be submitted to the Committee on Fi-
21 nancial Services of the House of Representatives and
22 the Committee on Banking, Housing, and Urban Af-
23 fairs of the Senate not less than 120 days before ap-
24 plication of the formula for purposes of determining
25 formula amounts under subsection (b) for a fiscal

1 *year. Such submission shall be accompanied by a de-*
2 *tailed explanation of the factors under the formula*
3 *and anticipated effects of the formula.*

4 “(b) *FORMULA AMOUNT.*—

5 “(1) *IN GENERAL.*—*For each fiscal year referred*
6 *to in section 293(a), the Secretary shall determine the*
7 *formula amount under this subsection for each State,*
8 *for Indian tribes, for each insular area, and for each*
9 *participating local jurisdiction.*

10 “(2) *STATES, INDIAN TRIBES, AND INSULAR*
11 *AREAS.*—*The formula amount for each State, for In-*
12 *dian tribes, and for each insular area shall be the*
13 *amount determined for such State, for Indian tribes,*
14 *or for such insular area by applying the formula*
15 *under subsection (a) of this section to the total*
16 *amount allocated under section 293(b)(1) for all*
17 *States, Indian tribes, and insular areas for the fiscal*
18 *year.*

19 “(3) *PARTICIPATING LOCAL JURISDICTIONS.*—
20 *The formula amount for each participating local ju-*
21 *risdiction shall be the amount determined for such*
22 *participating local jurisdiction by applying the for-*
23 *mula under subsection (a) of this section to the total*
24 *amount allocated under section 293(b)(2) for all par-*
25 *ticipating local jurisdictions for the fiscal year.*

1 “(4) NOTICE.—For each fiscal year referred to in
2 section 293(a), not later than 60 days after the date
3 that the Secretary determines the total amount avail-
4 able from the Trust Fund for such fiscal year pursu-
5 ant to section 292(c) for assistance under this subtitle,
6 the Secretary shall cause to be published in the Fed-
7 eral Register a notice that such amounts shall be so
8 available.

9 “(c) ALLOCATION BASED ON AFFORDABLE HOUSING
10 NEEDS FORMULA.—The allocation under this subsection for
11 a State, for Indian tribes, for an insular area, or for a
12 local participating jurisdiction for a fiscal year shall be de-
13 termined as follows:

14 “(1) STATES.—Subject to subsection (d), the allo-
15 cation for a State shall be the formula amount for the
16 State.

17 “(2) INDIAN TRIBES AND INSULAR AREAS.—The
18 allocation for Indian tribes and for each insular area
19 shall be the formula amount for Indian tribes or for
20 the insular area, respectively, determined under sub-
21 section (b), as applicable.

22 “(3) PARTICIPATING LOCAL JURISDICTIONS.—
23 Subject to subsection (d), the allocation for each par-
24 ticipating local jurisdiction shall be the formula

1 *amount for the jurisdiction determined under sub-*
2 *section (b).*

3 *“(d) ALLOCATION EXCEPTION FOR YEARS IN WHICH*
4 *LESS THAN \$2 BILLION IS AVAILABLE.—If, for any fiscal*
5 *year, the total amount available pursuant to section 293(a)*
6 *for assistance under this subtitle is less than*
7 *\$2,000,000,000—*

8 *“(1) for each participating local jurisdiction*
9 *having a formula amount of less than \$750,000, the*
10 *allocation shall be \$0, except that if the Secretary*
11 *finds that the jurisdiction has demonstrated a capac-*
12 *ity to carry out provisions of this subtitle and the*
13 *State in which such jurisdiction is located has au-*
14 *thorized the Secretary to transfer to the jurisdiction*
15 *a portion of the State’s allocation that is equal to or*
16 *greater than the difference between the jurisdiction’s*
17 *formula amount and \$750,000, or the State or juris-*
18 *isdiction has made available such an amount from the*
19 *State’s or jurisdiction’s own sources available for use*
20 *by the jurisdiction in accordance with this subtitle,*
21 *the jurisdiction’s allocation for a fiscal year shall be*
22 *the formula amount for the jurisdiction; and*

23 *“(2) in the case of any jurisdiction whose alloca-*
24 *tion is \$0 by operation of paragraph (1), the alloca-*
25 *tion for the State in which such participating local*

1 *jurisdiction is located shall be increased by the*
2 *amount of the formula amount for the participating*
3 *local jurisdiction.*

4 *Any adjustments pursuant to paragraphs (1) and (2) shall*
5 *be made notwithstanding the allocation percentages under*
6 *section 293(b).*

7 “(e) *GRANT AWARDS.*—*For each fiscal year referred to*
8 *in section 293(a), using the amounts made available to the*
9 *Secretary from the Trust Fund for such fiscal year under*
10 *section 292(c), the Secretary shall, subject to subsection (f),*
11 *make a grant to each State, insular area, and participating*
12 *local jurisdiction in the amount of the allocation under sub-*
13 *section (a)(2), (c), or (d), as applicable, for the State, area,*
14 *or jurisdiction, respectively.*

15 “(f) *MATCHING REQUIREMENT.*—

16 “(1) *IN GENERAL.*—*Each grantee for a fiscal*
17 *year shall contribute to eligible activities funded with*
18 *Trust Fund grant amounts, or require the contribu-*
19 *tion to such eligible activities by recipients of such*
20 *Trust Fund grant amounts of, in addition to any*
21 *such grant amounts, not less than the following*
22 *amount:*

23 “(A) *STATE, LOCAL, OR PRIVATE RE-*
24 *SOURCES.*—*To the extent that such contributed*

1 *amounts are derived from State, local, or private*
2 *resources, 12.5 percent of such grant amounts.*

3 “(B) *FEDERAL AMOUNTS.*—*To the extent*
4 *that such contributed amounts are derived from*
5 *State- or locally-controlled amounts from Federal*
6 *assistance, or from amounts made available*
7 *under the affordable housing program of a Fed-*
8 *eral Home Loan Bank pursuant to section 10(j)*
9 *of the Federal Home Loan Bank Act (12 U.S.C.*
10 *1430(j)), 25 percent of such grant amounts.*

11 *Nothing in this paragraph may be construed to pre-*
12 *vent a grantee or recipient from complying with this*
13 *paragraph only by contributions in accordance with*
14 *subparagraph (A), only by contributions in accord-*
15 *ance with subparagraph (B), or by a combination of*
16 *such contributions.*

17 “(2) *REDUCTION OR WAIVER FOR RECIPIENTS IN*
18 *FISCAL DISTRESS.*—*The Secretary may reduce or*
19 *waive the requirement under paragraph (1) with re-*
20 *spect to any grantee that the Secretary determines,*
21 *pursuant to such demonstration by the recipient as*
22 *the Secretary shall require, is in fiscal distress. The*
23 *Secretary shall make determinations regarding fiscal*
24 *distress for purposes of this paragraph in the same*
25 *manner, and according to the same criteria, as fiscal*

1 *distress is determined with respect to jurisdictions*
2 *under section 220(d) (42 U.S.C. 12750(d)).*

3 *“(3) QUALIFICATION OF SERVICES FUNDING FOR*
4 *MATCH.—For purposes of meeting the requirements of*
5 *paragraph (1), amounts that a grantee, recipient, or*
6 *other governmental or private agency or entity com-*
7 *mits to contribute to provide services to residents of*
8 *affordable housing provided using grant amounts*
9 *under this subtitle, by entering into a binding com-*
10 *mitment for such contribution as the Secretary shall*
11 *require, shall be considered contributions to eligible*
12 *activities. Amounts to be considered eligible contribu-*
13 *tions under this paragraph shall not exceed 33 per-*
14 *cent of the total cost of the eligible activity.*

15 *“(4) REDUCTION OR WAIVER FOR CERTAIN AC-*
16 *TIVITIES.—With respect to Trust Fund grant*
17 *amounts made available for a fiscal year, the Sec-*
18 *retary shall reduce or waive the amount of contribu-*
19 *tions otherwise required under paragraph (1) to be*
20 *made with respect to eligible activities to be carried*
21 *out with such grant amounts and for which any vari-*
22 *ance from zoning laws or other waiver of regulatory*
23 *requirements was approved by the local jurisdiction.*
24 *Such reduction may be implemented in the year fol-*

1 *lowing the year in which such activities are funded*
2 *with Trust Fund grant amounts.*

3 “(5) *WAIVER FOR DISASTER AREAS.*—*In the case*
4 *of any area that is subject to a declaration by the*
5 *President of a major disaster or emergency under the*
6 *Robert T. Stafford Disaster Relief and Emergency As-*
7 *sistance Act (42 U.S.C. 5121), the Secretary shall, for*
8 *the fiscal year following such declaration, waive the*
9 *requirement under paragraph (1) with respect to any*
10 *eligible activities to be carried out in such area.*

11 “(g) *COMPETITIVE GRANTS FOR INDIAN TRIBES.*—*For*
12 *each fiscal year referred to in section 293(a), the Secretary*
13 *shall, using amounts allocated for Indian tribes pursuant*
14 *to subsection (a)(2)(B) or (c)(2), as applicable, and subject*
15 *to subsection (f), make grants to Indian tribes on a competi-*
16 *tive basis, based upon such criteria as the Secretary shall*
17 *establish, which shall include the factors specified in section*
18 *295(c)(2)(B).*

19 “(h) *USE BY STATE OF UNUSED FUNDS OF LOCAL JU-*
20 *RISDICTIONS.*—*If any participating local jurisdiction for*
21 *which an allocation is made for a fiscal year pursuant to*
22 *this section notifies the Secretary of an intent not to use*
23 *all or part of such funds, any such funds that will not be*
24 *used by the jurisdiction shall be added to the grant award*

1 *under subsection (e) for the State in which such jurisdiction*
2 *is located.*

3 “(i) *COMPETITIVE GRANTS FOR AREAS WITHOUT AL-*
4 *LOCATION PLANS AND RECIPIENTS WITH INSUFFICIENT*
5 *MATCHING CONTRIBUTIONS.*—

6 “(1) *AVAILABLE AMOUNTS.*—*For a fiscal year,*
7 *the following amounts shall be available for grants*
8 *under this subsection:*

9 “(A) *ALLOCATION FOR AREAS NOT SUBMIT-*
10 *TING ALLOCATION PLANS.*—*With respect to each*
11 *State, insular area, or participating local juris-*
12 *isdiction that has not, before the expiration of the*
13 *12-month period beginning upon the date of the*
14 *publication of the notice of funding availability*
15 *for such fiscal year under subsection (b)(4), sub-*
16 *mitted to and had approved by the Secretary an*
17 *allocation plan for such fiscal year meeting the*
18 *requirements of section 295, the amount of the*
19 *allocation for such State, insular area, or par-*
20 *ticipating local jurisdiction for such fiscal year*
21 *determined under this section.*

22 “(B) *UNMATCHED PORTION OF ALLOCA-*
23 *TION.*—*With respect to any grantee for which the*
24 *Trust Fund grant amount awarded for such fis-*
25 *cal year is reduced from the amount of the allo-*

1 *cation determined under this section for the*
2 *grantee by reason of failure comply with the re-*
3 *quirements under subsection (f), the amount by*
4 *which such allocation for the grantee for the fis-*
5 *cal year exceeds the Trust Fund grant amount*
6 *for the grantee for the fiscal year.*

7 *“(C) UNCOMMITTED AMOUNTS.—Any Trust*
8 *Fund grant amounts for a fiscal year that are*
9 *not committed for use for eligible activities before*
10 *the expiration of the 24-month period beginning*
11 *upon the date of the publication of the notice of*
12 *availability of amounts under subsection (b)(4)*
13 *for such fiscal year.*

14 *“(D) UNUSED AMOUNTS.—Any Trust Fund*
15 *grant amounts for which the grantee notifies the*
16 *Secretary that such funds will not be used under*
17 *this subtitle.*

18 *“(2) NOTICE.—For each fiscal year, not later*
19 *than 60 days after the date that the Secretary deter-*
20 *mines that the amounts described in paragraph (1)*
21 *shall be available for grants under this subsection, the*
22 *Secretary shall cause to be published in the Federal*
23 *Register a notice that such amounts shall be so avail-*
24 *able.*

1 “(3) *APPLICATIONS.*—*The Secretary shall pro-*
2 *vide for nonprofit and public entities (and consortia*
3 *thereof, which may include regional consortia of units*
4 *of local government) to submit applications, during*
5 *the 9-month period beginning upon publication of a*
6 *notice of funding availability under paragraph (2)*
7 *for a fiscal year, for a grant of all or a portion of*
8 *the amounts referred to in paragraph (1) for such fis-*
9 *cal year. Such an application shall include a certifi-*
10 *cation that the applicant will comply with all re-*
11 *quirements of this subtitle applicable to a grantee*
12 *under this subsection.*

13 “(4) *SELECTION CRITERIA.*—*The Secretary shall,*
14 *by regulation, establish criteria for selecting appli-*
15 *cants that meet the requirements of paragraph (3) for*
16 *funding under this subsection. Such criteria shall give*
17 *priority to applications that provide that grant*
18 *amounts under this subsection will be used for eligible*
19 *activities relating to affordable housing that is located*
20 *in the State or insular area, as applicable, for which*
21 *such grant funds were originally allocated under this*
22 *section.*

23 “(5) *AWARD AND USE OF GRANT ASSISTANCE.*—
24 “(A) *AWARD.*—*Subject only to the absence*
25 *of applications meeting the requirements of*

1 paragraph (3), upon the expiration of the period
2 referred to in such paragraph, the Secretary
3 shall select an applicant or applicants under this
4 subsection to receive the amounts available under
5 paragraph (1) and shall make a grant or grants
6 to such applicant or applicants. The selection
7 shall be based upon the criteria established under
8 paragraph (4).

9 “(B) USE.—Amounts from a grant under
10 this subsection shall be Trust Fund grant
11 amounts for purposes of this subtitle.

12 **“SEC. 295. ALLOCATION PLANS.**

13 “(a) IN GENERAL.—Each grantee that is a State, insu-
14 lar area, participating local jurisdiction, or grantee under
15 section 294(i) for a fiscal year, shall establish an allocation
16 plan in accordance with this section for the distribution
17 of Trust Fund grant amounts provided to the grantee for
18 such fiscal year, which shall be a plan that—

19 “(1) provides for use of such amounts in accord-
20 ance with section 296;

21 “(2) is based on priority housing needs, includ-
22 ing priority housing needs in rural areas, as deter-
23 mined by the grantee; and

24 “(3) is consistent with the comprehensive housing
25 affordability strategy under section 105 (42 U.S.C.

1 12705) or any applicable consolidated submission
2 used for purposes of applying for other community
3 planning and development and housing assistance
4 programs administered by the Secretary, for the ap-
5 plicable State, insular area, jurisdiction, or grantee
6 under section 294(i).

7 “(b) *ESTABLISHMENT.*—In establishing an allocation
8 plan, a grantee described in subsection (a) shall notify the
9 public of the establishment of the plan, provide an oppor-
10 tunity for public comments regarding the plan, consider
11 any public comments received, and make the completed
12 plan available to the public.

13 “(c) *CONTENTS.*—Each allocation plan of a grantee
14 described in subsection (a) shall comply with the following
15 requirements:

16 “(1) *APPLICATION REQUIREMENTS FOR ELIGIBLE*
17 *RECIPIENTS.*—The allocation plan shall set forth the
18 requirements for eligible recipients to apply to the
19 grantee to receive assistance from Trust Fund grant
20 amounts of the grantee for use for eligible activities,
21 including a requirement that each such application
22 include—

23 “(A) a description of the eligible activities
24 to be conducted using such assistance; and

1 “(B) a certification by the eligible recipient
2 applying for such assistance that any housing
3 assisted with such grant amounts will comply
4 with—

5 “(i) all of the requirements under this
6 subtitle, including the targeting require-
7 ments under section 296(c) and the afford-
8 able housing requirements under section
9 297;

10 “(ii) section 808(d) of the Fair Hous-
11 ing Act (relating to the obligation to affirm-
12 atively further fair housing); and

13 “(iii) section 504 of the Rehabilitation
14 Act of 1973 (relating to prohibition of dis-
15 crimination on the basis of disability).

16 “(2) *SELECTION PROCESS AND CRITERIA FOR AS-*
17 *SISTANCE.*—

18 “(A) *SELECTION PROCESS.*—*The allocation*
19 *plan shall set forth a process for the grantee to*
20 *select eligible activities meeting the grantee’s pri-*
21 *ority housing needs for funding with Trust Fund*
22 *grant amounts of the grantee, which shall com-*
23 *ply with requirements for such process as the*
24 *Secretary shall, by regulation, establish.*

1 “(B) *SELECTION CRITERIA.*—*The allocation*
2 *plan shall set forth the factors for consideration*
3 *in selecting among applicants that meet the ap-*
4 *plication requirements established pursuant to*
5 *paragraph (1), which shall provide for geo-*
6 *graphic diversity among eligible activities to be*
7 *assisted with Trust Fund grant amounts of the*
8 *grantee and shall include—*

9 “(i) *the merits of the proposed eligible*
10 *activity of the applicant, including the ex-*
11 *tent to which the activity addresses housing*
12 *needs identified in the allocation plan of the*
13 *grantee and the applicable comprehensive*
14 *housing affordability strategy or consoli-*
15 *dated submission referred to in subsection*
16 *(a)(3);*

17 “(ii) *the experience of the applicant,*
18 *including its principals, in carrying out*
19 *projects similar to the proposed eligible ac-*
20 *tivity;*

21 “(iii) *the ability of the applicant to ob-*
22 *ligate grant amounts for the proposed eligi-*
23 *ble activities and to undertake such activi-*
24 *ties in a timely manner;*

1 “(iv) the extent of leveraging of funds
2 by the applicant from private and other
3 non-Federal sources for carrying out the eli-
4 gible activities to be funded with Trust
5 Fund grant amounts, including assistance
6 made available under section 8 of the
7 United States Housing Act of 1937 (42
8 U.S.C. 1437f) that is devoted to the project
9 that contains the affordable housing to be
10 assisted with such assistance;

11 “(v) the extent of local assistance that
12 will be provided in carrying out the eligible
13 activities, including financial assistance;

14 “(vi) the efficiency of total project fund
15 use as measured by the cost per unit of the
16 proposal, as adjusted by factors which shall
17 include whether the funding with Trust
18 Fund grant amounts is for new construc-
19 tion, rehabilitation, preservation, or home-
20 ownership assistance, whether the project
21 involves supportive housing, differences in
22 construction and rehabilitation costs in dif-
23 ferent areas of the grantee, and other appro-
24 priate adjustments;

1 “(vii) the degree to which the project in
2 which the affordable housing will be located
3 will have residents of various incomes;

4 “(viii) the extent of employment and
5 other economic opportunities for low-income
6 families in the area in which the housing
7 will be located;

8 “(ix) the extent to which the applicant
9 demonstrates the ability to maintain dwell-
10 ing units as affordable housing through the
11 use of assistance made available under this
12 subtitle, assistance leveraged from non-Fed-
13 eral sources, assistance made available
14 under section 8 of the United States Hous-
15 ing Act of 1937 (42 U.S.C. 1437f), State or
16 local assistance, programs to increase ten-
17 ant income, cross-subsidization, and any
18 other resources;

19 “(x) the extent to which the applicant
20 demonstrates that the county in which the
21 housing is to be located is experiencing an
22 extremely low vacancy rate;

23 “(xi) the extent to which the percentage
24 of the housing located in such county that
25 is extremely old housing exceeds 35 percent;

1 “(xii) the extent to which the housing
2 assisted with the grant amounts will be ac-
3 cessible to persons with disabilities;

4 “(xiii) the extent to which the appli-
5 cant demonstrates that the affordable hous-
6 ing assisted with the grant amounts will be
7 located in proximity to public transpor-
8 tation, job opportunities, child care, and
9 community revitalization projects;

10 “(xiv) the extent to which the appli-
11 cant has provided that assistance from
12 grant amounts will be used for eligible ac-
13 tivities relating to housing located in census
14 tracts in which the number of families hav-
15 ing incomes less than the poverty line is less
16 than 20 percent; and

17 “(xv) the extent to which the housing
18 assisted with grant amounts will comply
19 with energy efficiency standards and the
20 national Green Communities criteria check-
21 list for residential construction that pro-
22 vides criteria for the design, development,
23 and operation of affordable housing, as the
24 Secretary shall by regulation provide.

1 *A grantee may allocate a portion of funds under*
2 *this section for use by such grantee for eligible*
3 *activities pursuant to the selection process under*
4 *subparagraph (A).*

5 “(3) *PERFORMANCE GOALS, BENCHMARKS, AND*
6 *TIMETABLES.*—*The allocation plan shall include per-*
7 *formance goals, benchmarks, and timetables for the*
8 *grantee for the conducting of eligible activities with*
9 *Trust Fund grant amounts that comply with require-*
10 *ments and standards for such goals, benchmarks, and*
11 *timetables as the Secretary shall, by regulation, estab-*
12 *lish.*

13 “(d) *REVIEW AND APPROVAL BY SECRETARY.*—

14 “(1) *SUBMISSION.*—*A grantee described in sub-*
15 *section (a) shall submit an allocation plan for the fis-*
16 *cal year for which the grant is made to the Secretary*
17 *not later than the expiration of the 6-month period*
18 *beginning upon the notice of funding availability*
19 *under section 294(b)(4) for such fiscal year amounts.*

20 “(2) *REVIEW AND APPROVAL OR DISAPPROVAL.*—
21 *The Secretary shall review and approve or disapprove*
22 *an allocation plan not later than the expiration of the*
23 *3-month period beginning upon submission of the*
24 *plan.*

1 “(3) *STANDARD FOR DISAPPROVAL.*—*The Sec-*
2 *retary may disapprove an allocation plan only if the*
3 *plan fails to comply with requirements of this section*
4 *or section 296.*

5 “(4) *RESUBMISSION UPON DISAPPROVAL.*—*If the*
6 *Secretary disapproves a plan, the grantee may submit*
7 *to the Secretary a revised plan for review and ap-*
8 *proval or disapproval under this subsection.*

9 “(5) *TIMING FOR FISCAL YEAR 2008.*—*With re-*
10 *spect only to fiscal year 2008, the Secretary may ex-*
11 *tend each of the periods referred to in paragraphs (1)*
12 *and (2), and the period referred to in section*
13 *294(i)(1)(A), by not more than 6 months.*

14 **“SEC. 296. USE OF ASSISTANCE BY RECIPIENTS.**

15 “(a) *DISTRIBUTION TO RECIPIENTS; USE REQUIRE-*
16 *MENTS.*—*Each grantee shall distribute Trust Fund grant*
17 *amounts of the grantee to eligible recipients for use in ac-*
18 *cordance with this section. Trust Fund grant amounts of*
19 *a grantee may be used, or committed for use, only for eligi-*
20 *ble activities that—*

21 “(1) *are conducted in the jurisdiction of the*
22 *grantee;*

23 “(2) *in the case of a grantee that is a State, in-*
24 *sular area, participating local jurisdiction, or grantee*

1 *under section 294(i), comply with the allocation plan*
2 *of the grantee under section 295;*

3 *“(3) are selected for funding by the grantee in*
4 *accordance with the process and criteria for such se-*
5 *lection established pursuant to section 295(c)(2); and*

6 *“(4) comply with the targeting requirements*
7 *under subsection (c) of this section and the affordable*
8 *housing requirements under section 297.*

9 *“(b) ELIGIBLE RECIPIENTS.—Trust Fund grant*
10 *amounts of a grantee may be provided only to an organiza-*
11 *tion, agency, or other entity (including a for-profit entity,*
12 *a nonprofit entity, a faith-based organization, a commu-*
13 *nity development financial institution, a community devel-*
14 *opment corporation, and a State or local housing trust*
15 *fund) that—*

16 *“(1) demonstrates the experience, ability, and ca-*
17 *capacity (including financial capacity) to undertake,*
18 *comply, and manage the eligible activity;*

19 *“(2) demonstrates its familiarity with the re-*
20 *quirements of any other Federal, State or local hous-*
21 *ing program that will be used in conjunction with*
22 *such grant amounts to ensure compliance with all ap-*
23 *plicable requirements and regulations of such pro-*
24 *grams; and*

1 “(3) makes such assurances to the grantee as the
2 Secretary shall, by regulation, require to ensure that
3 the recipient will comply with the requirements of
4 this subtitle during the entire period that begins upon
5 selection of the recipient to receive such grant
6 amounts and ending upon the conclusion of all eligi-
7 ble activities that are engaged in by the recipient and
8 funded with such grant amounts.

9 “(c) *TARGETING REQUIREMENTS.*—The targeting re-
10 quirements under this subsection are as follows:

11 “(1) *REQUIREMENT OF USE OF ALL AMOUNTS*
12 *FOR AFFORDABLE HOUSING FOR LOW-INCOME FAMI-*
13 *LIES.*—All Trust Fund grant amounts of a grantee
14 shall be distributed for use only for eligible activities
15 relating to affordable housing that are for the benefit
16 only of families whose incomes do not exceed 80 per-
17 cent of the greater of—

18 “(A) the median family income for the area
19 in which the housing is located, as determined by
20 the Secretary with adjustments for smaller and
21 larger families; and

22 “(B) the median family income for the
23 State or insular area in which the housing is lo-
24 cated, as determined by the Secretary with ad-
25 justments for smaller and larger families.

1 “(2) *USE OF 75 PERCENT FOR AFFORDABLE*
2 *HOUSING FOR EXTREMELY LOW-INCOME FAMILIES.*—
3 *Not less than 75 percent of the Trust Fund grant*
4 *amounts of a grantee for each fiscal year shall be used*
5 *only for eligible activities relating to affordable hous-*
6 *ing that are for the benefit only of families whose in-*
7 *comes do not exceed the higher of—*

8 “(A) *30 percent of the median family in-*
9 *come for the area in which the housing is lo-*
10 *cated, as determined by the Secretary with ad-*
11 *justments for smaller and larger families; and*

12 “(B) *the poverty line (as such term is de-*
13 *finied in section 673 of the Omnibus Budget Rec-*
14 *onciliation Act of 1981 (42 U.S.C. 9902), includ-*
15 *ing any revision required by such section) appli-*
16 *cable to a family of the size involved.*

17 “(3) *USE OF 30 PERCENT FOR AFFORDABLE*
18 *HOUSING FOR VERY POOR FAMILIES.*—*Not less than*
19 *30 percent of the Trust Fund grant amounts of a*
20 *grantee for each fiscal year shall be used only for eli-*
21 *gible activities relating to affordable housing that are*
22 *for the benefit only of families whose incomes do not*
23 *exceed the maximum amount of income that an indi-*
24 *vidual or family could have, taking into consideration*
25 *any income disregards, and remain eligible for bene-*

1 *fits under the Supplemental Security Income pro-*
2 *gram under title XVI of the Social Security Act (42*
3 *U.S.C. 1381 et seq.).*

4 “(4) *USE OF 10 PERCENT FOR AFFORDABLE*
5 *HOUSING FOR FAMILIES ABOVE 50 PERCENT OF AREA*
6 *MEDIAN INCOME.—Not less than 10 percent of the*
7 *Trust Fund grant amounts of a grantee for each fiscal*
8 *year shall be used only for eligible activities relating*
9 *to affordable housing that are for the benefit only of*
10 *families whose incomes exceed 50 percent of the me-*
11 *dian family income for the area in which the housing*
12 *is located, as determined by the Secretary with ad-*
13 *justments for smaller and larger families.*

14 “(5) *LIMITATION FOR YEARS IN WHICH LESS*
15 *THAN \$2 BILLION IS AVAILABLE.—If, for any fiscal*
16 *year, the total amount available pursuant to section*
17 *293(a) for assistance under this subtitle is less than*
18 *\$2,000,000,000, in addition to the other requirements*
19 *under this subsection, all such amounts shall be used*
20 *only for eligible activities relating to affordable hous-*
21 *ing that are for the benefit only of families whose in-*
22 *comes do not exceed 60 percent of the median family*
23 *income for the area in which the housing is located,*
24 *as determined by the Secretary with adjustments for*
25 *smaller and larger families.*

1 “(6) *REVIEW OF TARGETING REQUIREMENTS.*—
2 *The Secretary shall assess the need for, and the ap-*
3 *propriateness of, the requirements under paragraphs*
4 *(1) through (4) and shall submit a report to the Con-*
5 *gress on the results of the assessment not later than*
6 *October 1, 2012, and not later than the expiration of*
7 *the 5-year period beginning upon such date and each*
8 *successive 5-year period thereafter. In each such re-*
9 *port, the Secretary shall identify and make rec-*
10 *ommendations regarding the continuation or adjust-*
11 *ment of the targeting requirements in paragraphs (1)*
12 *through (4).*

13 “(d) *USE FOR RURAL AREAS.*—*Of the Trust Fund*
14 *grant amounts for any fiscal year for any grantee that is*
15 *a State or participating local jurisdiction that includes any*
16 *rural areas, the State or participating local jurisdiction*
17 *shall use a portion for eligible activities located in rural*
18 *areas that is proportionate to the identified need for such*
19 *activities in such rural areas.*

20 “(e) *COST LIMITS.*—*The Secretary shall establish limi-*
21 *tations on the amount of Trust Fund grant amounts that*
22 *may be used, on a per unit basis, for eligible activities. Such*
23 *limitations shall be the same as the per unit cost limits*
24 *established pursuant to section 212(e) (42 U.S.C. 12742(e)),*

1 *as adjusted annually, and established by number of bed-*
2 *rooms, market area, and eligible activity.*

3 “(f) *FORMS OF ASSISTANCE.—*

4 “(1) *IN GENERAL.—Assistance may be distrib-*
5 *uted pursuant to this section in the form of—*

6 “(A) *capital grants, noninterest-bearing or*
7 *low-interest loans or advances, deferred payment*
8 *loans, guarantees, and loan loss reserves;*

9 “(B) *in the case of assistance for ownership*
10 *of one- to four-family owner-occupied housing,*
11 *downpayment assistance, closing cost assistance,*
12 *and assistance for interest rate buy-downs; and*

13 “(C) *any other forms of assistance approved*
14 *by the Secretary.*

15 “(2) *REPAYMENTS.—If a grantee awards assist-*
16 *ance under this section in the form of a loan or other*
17 *mechanism by which funds are later repaid to the*
18 *grantee, any repayments and returns received by the*
19 *grantee shall be distributed by the grantee in accord-*
20 *ance with the allocation plan under section 295 for*
21 *the grantee for the fiscal year in which such repay-*
22 *ments are made or returns are received.*

23 “(g) *COORDINATION WITH OTHER ASSISTANCE.—In*
24 *distributing assistance pursuant to this section, each grant-*
25 *ee shall, to the maximum extent practicable, coordinate such*

1 *distribution with the provision of other Federal, State, trib-*
2 *al, and local housing assistance, including—*

3 “(1) *in the case of any State, housing credit dol-*
4 *lar amounts allocated by the State under section*
5 *42(h) of the Internal Revenue Code of 1986;*

6 “(2) *assistance made available under subtitles A*
7 *through F (42 U.S.C. 12721 et seq.) or the community*
8 *development block grant program under title I of the*
9 *Housing and Community Development Act of 1974*
10 *(42 U.S.C. 5301 et seq.);*

11 “(3) *private activity bonds;*

12 “(4) *assistance made available under section 9 of*
13 *the United States Housing Act of 1937 (42 U.S.C.*
14 *1437g);*

15 “(5) *assistance made available under section 8(o)*
16 *of the United States Housing Act of 1937 (42 U.S.C.*
17 *1437f(o));*

18 “(6) *assistance made available under title V of*
19 *the Housing Act of 1949 (42 U.S.C. 1471 et seq.);*

20 “(7) *assistance made available under section 101*
21 *of the Native American Housing Assistance and Self-*
22 *Determination Act of 1996 (25 U.S.C. 4111);*

23 “(8) *assistance made available from any State or*
24 *local housing trust fund established to provide or as-*
25 *ist in making available affordable housing; and*

1 “(9) any other housing assistance programs.

2 “(h) *PROHIBITED USES.*—*The Secretary shall—*

3 “(1) *by regulation, set forth prohibited uses of*
4 *grant amounts under this subtitle, which shall include*
5 *use for—*

6 “(A) *political activities;*

7 “(B) *advocacy;*

8 “(C) *lobbying, whether directly or through*
9 *other parties;*

10 “(D) *counseling services;*

11 “(E) *travel expenses; and*

12 “(F) *preparing or providing advice on tax*
13 *returns;*

14 “(2) *by regulation, provide that, except as pro-*
15 *vided in paragraph (3), grant amounts under this*
16 *subtitle may not be used for administrative, outreach,*
17 *or other costs of—*

18 “(A) *a grantee; or*

19 “(B) *any recipient of such grant amounts;*
20 *and*

21 “(3) *by regulation, limit the amount of any*
22 *Trust Fund grant amounts for a fiscal year that may*
23 *be used for administrative costs of the grantee of car-*
24 *rying out the program required under this subtitle to*

1 *a percentage of such grant amounts of the grantee for*
2 *such fiscal year, which may not exceed 10 percent.*

3 *“(i) LABOR STANDARDS.—Each grantee receiving*
4 *Trust Fund grant amounts shall ensure that contracts for*
5 *eligible activities assisted with such amounts comply with*
6 *the same requirements under section 286 (42 U.S.C. 12836)*
7 *that are applicable to contracts for construction of afford-*
8 *able housing assisted under subtitles A and D.*

9 *“(j) COMPLIANCE WITH OTHER FEDERAL LAWS.—All*
10 *amounts from the Trust Fund shall be allocated in accord-*
11 *ance with, and any eligible activities carried out in whole*
12 *or in part with grant amounts under this subtitle (includ-*
13 *ing housing provided with such grant amounts) shall com-*
14 *ply with and be operated in compliance with, other applica-*
15 *ble provisions of Federal law, including—*

16 *“(1) laws relating to tenant protections and ten-*
17 *ant rights to participate in decision making regard-*
18 *ing their residences;*

19 *“(2) laws requiring public participation, includ-*
20 *ing laws relating to Consolidated Plans, Qualified Al-*
21 *location Plans, and Public Housing Agency Plans;*
22 *and*

23 *“(3) fair housing laws and laws regarding acces-*
24 *sibility in federally assisted housing, including sec-*
25 *tion 504 of the Rehabilitation Act of 1973.*

1 **“SEC. 297. AFFORDABLE HOUSING.**

2 “(a) *RENTAL HOUSING.*—A rental dwelling unit
3 (which may include a dwelling unit in limited equity coop-
4 erative housing, as such term is defined in section 143(k)
5 of the Internal Revenue Code of 1986 (26 U.S.C. 143(k))
6 or in housing of a cooperative housing corporation, as such
7 term is defined in section 216(b) of the Internal Revenue
8 Code of 1986 (26 U.S.A. 216(b))), shall be considered afford-
9 able housing for purposes of this subtitle only if the dwelling
10 unit is subject to legally binding commitments that ensure
11 that the dwelling unit meets all of the following require-
12 ments:

13 “(1) *RENTS.*—The dwelling unit bears a rent not
14 greater than the lesser of—

15 “(A) the existing fair market rental estab-
16 lished by the Secretary under section 8(c) of the
17 United States Housing Act of 1937 (42 U.S.C.
18 1437f(c)) for a dwelling unit of the same size in
19 the same market area, or the applicable payment
20 standard for assistance under section 8(o) of
21 such Act, if higher; and

22 “(B) a rent that does not exceed 30 percent
23 of the adjusted income of a family whose income
24 equals 65 percent of the median income for the
25 area, as determined by the Secretary, with ad-
26 justment for number of bedrooms in the unit, ex-

1 *cept that the Secretary may establish income*
2 *ceilings higher or lower than 65 percent of the*
3 *median for the area on the basis of the findings*
4 *of the Secretary that such variations are nec-*
5 *essary because of prevailing levels of construction*
6 *costs or fair market rents, or unusually high or*
7 *low family incomes.*

8 “(2) *TENANT RENT CONTRIBUTION.*—*The con-*
9 *tribution toward rent by the family residing in the*
10 *dwelling unit will not exceed 30 percent of the ad-*
11 *justed income of such family.*

12 “(3) *NON-DISCRIMINATION AGAINST VOUCHER*
13 *HOLDERS.*—*The dwelling unit is located in a project*
14 *in which all dwelling units are subject to enforceable*
15 *restrictions that provide that a unit may not be re-*
16 *fused for leasing to a holder of a voucher of eligibility*
17 *under section 8 of the United States Housing Act of*
18 *1937 (42 U.S.C. 1437f) because of the status of the*
19 *prospective tenant as a holder of such voucher.*

20 “(4) *MIXED INCOME.*—

21 “(A) *IN GENERAL.*—*The dwelling unit is lo-*
22 *cated in a project in which not more than 50*
23 *percent of the rental units in the project that re-*
24 *ceive assistance under this subtitle and are not*
25 *previously occupied may be rented initially to*

1 *families with incomes described in section*
2 *296(c)(2), as determined at a reasonable time be-*
3 *fore occupancy.*

4 “(B) *REHABILITATION.*—*In the case of a*
5 *dwelling unit in a project for which Trust Fund*
6 *grant amounts are used for the rehabilitation of*
7 *the project, the dwelling unit is located in a*
8 *project in which the percentage of units being*
9 *rented upon completion of the rehabilitation to*
10 *families with incomes described in section*
11 *296(c)(2) may not exceed the higher of 50 per-*
12 *cent or the percentage of such families occupying*
13 *the project at the time funds are awarded for*
14 *such project.*

15 “(C) *EXCEPTIONS.*—*Subparagraph (A)*
16 *shall not apply in the case of a project having*
17 *25 or fewer dwelling units that is—*

18 “(i) *located in a census tract in which*
19 *the number of families having incomes less*
20 *than the poverty line is less than 20 per-*
21 *cent;*

22 “(ii) *located in a rural area, as such*
23 *term is defined in section 520 of the Hous-*
24 *ing Act of 1949 (42 U.S.C. 1490); or*

1 “(iii) specifically made available only
2 for households comprised of elderly families
3 or disabled families.

4 “(5) VISITABILITY.—To the extent the dwelling
5 unit is not required under Federal law to comply
6 with standards relating to accessibility to persons
7 with disabilities, the dwelling unit complies with such
8 basic visitability standards as the Secretary shall by
9 regulation provide.

10 “(6) DURATION OF USE.—The dwelling unit will
11 continue to be subject to all requirements under this
12 subsection for not less than 50 years.

13 “(b) OWNER-OCCUPIED HOUSING.—For purposes of
14 any eligible activity involving one- to four-family owner-
15 occupied housing (which may include housing of a coopera-
16 tive housing corporation, as such term is defined in section
17 216(b) of the Internal Revenue Code of 1986 (26 U.S.A.
18 216(b))), such a residence shall be considered affordable
19 housing for purposes of this subtitle only if—

20 “(1) in the case of housing to be made available
21 for purchase—

22 “(A) the housing is available for purchase
23 only for use as a principal residence by families
24 that qualify as first-time homebuyers, as such
25 term is defined in section 104 (42 U.S.C. 12704),

1 *except that any reference in such section to as-*
2 *istance under title II of this Act shall for pur-*
3 *poses of this section be considered to refer to as-*
4 *istance from Trust Fund grant amounts;*

5 *“(B) the housing has an initial purchase*
6 *price that meets the requirements of section*
7 *215(b)(1); and*

8 *“(C) the housing is subject to the same re-*
9 *sale restrictions established under section*
10 *215(b)(3) and applicable to the participating ju-*
11 *risdiction that is the State in which such hous-*
12 *ing is located; and*

13 *“(2) the housing is made available for purchase*
14 *only by, or in the case of assistance to a homebuyer*
15 *pursuant to this subsection, the assistance is made*
16 *available only to, homebuyers who have, before pur-*
17 *chase, completed a program of counseling with respect*
18 *to the responsibilities and financial management in-*
19 *volved in homeownership that is approved by the Sec-*
20 *retary; except that the Secretary may, at the request*
21 *of a State, waive the requirements of this paragraph*
22 *with respect to a geographic area or areas within the*
23 *State if—*

24 *“(A) the travel time or distance involved in*
25 *providing counseling with respect to such area or*

1 areas, as otherwise required under this para-
2 graph, on an in-person basis is excessive or the
3 cost of such travel is prohibitive; and

4 “(B) the State provides alternative forms of
5 counseling for such area or areas, which may in-
6 clude interactive telephone counseling, on-line
7 counseling, interactive video counseling, and
8 interactive home study counseling and a pro-
9 gram of financial literacy and education to pro-
10 mote an understanding of consumer, economic,
11 and personal finance issues and concepts, includ-
12 ing saving for retirement, managing credit, long-
13 term care, and estate planning and education on
14 predatory lending, identity theft, and financial
15 abuse schemes relating to homeownership that is
16 approved by the Secretary, except that entities
17 providing such counseling shall not discriminate
18 against any particular form of housing.

19 “(c) *PRIORITY FOR FAMILIES ON SECTION 8 OR PUB-*
20 *LIC HOUSING WAITING LIST FOR 12 MONTHS OR*
21 *LONGER.*—A dwelling unit in rental housing or owner-oc-
22 cupied housing shall be considered affordable housing for
23 purposes of this subtitle only if the dwelling unit is subject
24 to such requirements, as the Secretary shall provide, to en-
25 sure that priority for occupancy in or, in the case of owner-

1 *occupied housing, purchase of, the dwelling unit is provided*
2 *to families who are eligible for rental assistance under sec-*
3 *tion 8 of the United States Housing Act of 1937 (42 U.S.C.*
4 *1437f) or occupancy in public housing assisted under such*
5 *Act, and have applied to a public housing agency for such*
6 *assistance or occupancy, as applicable, and been on a wait-*
7 *ing list of a public housing agency for such assistance or*
8 *occupancy, as applicable, for at least 12 consecutive months.*

9 **“SEC. 298. OTHER PROVISIONS.**

10 “(a) *EFFECT OF ASSISTANCE UNDER PROGRAM.—Not-*
11 *withstanding any other provision of law, the provision of*
12 *assistance under this subtitle for a project shall not reduce*
13 *the amount of assistance for which such project is otherwise*
14 *eligible under subtitles A through F of this title, if the*
15 *project does not exceed the cost limits established pursuant*
16 *to section 296(e).*

17 “(b) *ACCOUNTABILITY OF GRANTEES AND RECIPI-*
18 *ENTS.—*

19 “(1) *RECIPIENTS.—*

20 “(A) *TRACKING OF FUNDS.—The Secretary*
21 *shall—*

22 “(i) *require each grantee to develop*
23 *and maintain a system to ensure that each*
24 *recipient of assistance from Trust Fund*
25 *grant amounts of the grantee uses such*

1 *amounts in accordance with this subtitle,*
2 *the regulations issued under this subtitle,*
3 *and any requirements or conditions under*
4 *which such amounts were provided; and*

5 “(ii) *establish minimum requirements*
6 *for agreements, between the grantee and re-*
7 *cipients, regarding assistance from the*
8 *Trust Fund grant amounts of the grantee,*
9 *which shall include—*

10 “(I) *appropriate continuing fi-*
11 *nancial and project reporting, record*
12 *retention, and audit requirements for*
13 *the duration of the grant to the recipi-*
14 *ent to ensure compliance with the limi-*
15 *tations and requirements of this sub-*
16 *title and the regulations under this*
17 *subtitle; and*

18 “(II) *any other requirements that*
19 *the Secretary determines are necessary*
20 *to ensure appropriate grant adminis-*
21 *tration and compliance.*

22 “(B) *MISUSE OF FUNDS.—*

23 “(i) *REIMBURSEMENT REQUIRE-*
24 *MENT.—If any recipient of assistance from*
25 *Trust Fund grant amounts of a grantee is*

1 *determined, in accordance with clause (ii),*
2 *to have used any such amounts in a man-*
3 *ner that is materially in violation of this*
4 *subtitle, the regulations issued under this*
5 *subtitle, or any requirements or conditions*
6 *under which such amounts were provided—*

7 *“(I) such recipient shall be ineli-*
8 *gible for any further assistance from*
9 *any Trust Fund grant amounts of any*
10 *grantee during the period that begins*
11 *upon such determination and ends*
12 *upon reinstatement by the Secretary of*
13 *the eligibility of recipient for such as-*
14 *sistance, except that the Secretary may*
15 *reinstate such an ineligible recipient*
16 *only pursuant to application by the re-*
17 *recipient for such reinstatement and the*
18 *recipient may not apply to the Sec-*
19 *retary for such reinstatement during*
20 *the 12-month period, or the 10-year pe-*
21 *riod in the case of a second or subse-*
22 *quent such determination, beginning*
23 *upon such determination; and*

24 *“(II) the grantee shall require*
25 *that, within 12 months after the deter-*

1 *mination of such misuse, the recipient*
2 *shall reimburse the grantee for such*
3 *misused amounts and return to the*
4 *grantee any amounts from the Trust*
5 *Fund grant amounts of the grantee*
6 *that remain unused or uncommitted*
7 *for use.*

8 *The remedies under this clause are in addi-*
9 *tion to any other remedies that may be*
10 *available under law.*

11 *“(ii) DETERMINATION.—A determina-*
12 *tion is made in accordance with this clause*
13 *if the determination is—*

14 *“(I) made by the Secretary; or*

15 *“(II)(aa) made by the grantee;*

16 *“(bb) the grantee provides notifi-*
17 *cation of the determination to the Sec-*
18 *retary for review, in the discretion of*
19 *the Secretary, of the determination;*
20 *and*

21 *“(cc) the Secretary does not subse-*
22 *quently reverse the determination.*

23 *“(2) GRANTEES.—*

24 *“(A) REPORT.—*

1 “(i) *IN GENERAL.*—*The Secretary shall*
2 *require each grantee receiving Trust Fund*
3 *grant amounts for a fiscal year to submit a*
4 *report, for such fiscal year, to the Secretary*
5 *that—*

6 “(I) *describes the activities funded*
7 *under this subtitle during such year*
8 *with the Trust Fund grant amounts of*
9 *the grantee; and*

10 “(II) *the manner in which the*
11 *grantee complied during such fiscal*
12 *year with the allocation plan estab-*
13 *lished pursuant to section 295 for the*
14 *grantee.*

15 “(ii) *PUBLIC AVAILABILITY.*—*The Sec-*
16 *retary shall make such reports pursuant to*
17 *this subparagraph publicly available.*

18 “(B) *MISUSE OF FUNDS.*—*If the Secretary*
19 *determines, after reasonable notice and oppor-*
20 *tunity for hearing, that a grantee has failed to*
21 *comply substantially with any provision of this*
22 *subtitle and until the Secretary is satisfied that*
23 *there is no longer any such failure to comply, the*
24 *Secretary shall—*

1 “(i) reduce the amount of assistance
2 under this section to the grantee by an
3 amount equal to the amount of Trust Fund
4 grant amounts which were not used in ac-
5 cordance with this subtitle;

6 “(ii) require the grantee to repay the
7 Secretary an amount equal to the amount
8 of the Trust Fund grant amounts which
9 were not used in accordance with this sub-
10 title;

11 “(iii) limit the availability of assist-
12 ance under this subtitle to the grantee to ac-
13 tivities or recipients not affected by such
14 failure to comply; or

15 “(iv) terminate any assistance under
16 this subtitle to the grantee.

17 **“SEC. 299. DEFINITIONS.**

18 “For purposes of this subtitle, the following definitions
19 shall apply:

20 “(1) *ELIGIBLE ACTIVITIES.*—The term ‘eligible
21 activities’ means activities relating to the construc-
22 tion, preservation, or rehabilitation of affordable rent-
23 al housing or affordable one- to four-family owner-oc-
24 cupied housing, including—

25 “(A) the construction of new housing;

1 “(B) the acquisition of real property;

2 “(C) site preparation and improvement, in-
3 cluding demolition;

4 “(D) rehabilitation of existing housing;

5 “(E) use of funds to facilitate affordability
6 for homeless and other extremely low-income
7 households of dwelling units assisted with Trust
8 Fund grant amounts, in a combined amount not
9 to exceed 20 percent of the project grant amount,
10 for—

11 “(i) project-based rental assistance for
12 not more than 12 months for a project as-
13 sisted with Trust Fund grant amounts;

14 “(ii) project operating reserves for use
15 to cover the loss of rental assistance or in
16 conjunction with a project loan; or

17 “(iii) project operating accounts used
18 to cover net operating income shortfalls for
19 dwelling units assisted with Trust Fund
20 grant amounts;

21 “(F) providing incentives to maintain exist-
22 ing housing (including manufactured housing)
23 as affordable housing and to establish or extend
24 any low-income affordability restrictions for
25 such housing, including covering capital expend-

1 *itures and costs of establishing community land*
2 *trusts to provide sites for manufactured housing*
3 *provided such incentives; and*

4 *“(G) in the case of affordable one- to four-*
5 *family owner-occupied housing, downpayment*
6 *assistance, closing cost assistance, and assistance*
7 *for interest rate buy-downs.*

8 *“(2) ELIGIBLE RECIPIENT.—The term ‘eligible*
9 *recipient’ means an entity that meets the require-*
10 *ments under section 296(b) for receipt of Trust Fund*
11 *grant amounts of a grantee.*

12 *“(3) EXTREMELY LOW VACANCY RATE.—The*
13 *term ‘extremely low vacancy rate’ means a housing or*
14 *rental vacancy rate of 2 percent or less.*

15 *“(4) EXTREMELY OLD HOUSING.—The term ‘ex-*
16 *tremely old housing’ means housing that is 45 years*
17 *old or older.*

18 *“(5) FAMILIES.—The term ‘families’ has the*
19 *meaning given such term in section 3(b) of the United*
20 *States Housing Act of 1937 (42 U.S.C. 1437a(b)).*

21 *“(6) FISCAL DISTRESS; SEVERE FISCAL DIS-*
22 *TRESS.—The terms ‘fiscal distress’ and ‘severe fiscal*
23 *distress’ have the meanings given such terms in sec-*
24 *tion 220(d).*

25 *“(7) GRANTEE.—The term ‘grantee’ means—*

1 “(A) a State, insular area, or participating
2 local jurisdiction for which a grant is made
3 under section 294(e);

4 “(B) an Indian tribe for which a grant is
5 made under section 294(g); or

6 “(C) a nonprofit or public entity for which
7 a grant is made under section 294(i).

8 “(8) INDIAN TRIBE.—The term ‘Indian tribe’
9 means a federally recognized Indian tribe.

10 “(9) INSULAR AREA.—The term ‘insular area’
11 has the meaning given such term in section 104.

12 “(10) PARTICIPATING LOCAL JURISDICTION.—
13 The term ‘participating local jurisdiction’ means,
14 with respect to a fiscal year—

15 “(A) any unit of general local government
16 (as such term is defined in section 104 (42
17 U.S.C. 12704) that qualifies as a participating
18 jurisdiction under section 216 (42 U.S.C. 12746)
19 for such fiscal year; and

20 “(B) at the option of such a consortium,
21 any consortium of units of general local govern-
22 ments that is designated pursuant to section 216
23 (42 U.S.C. 12746) as a participating jurisdic-
24 tion for purposes of title II.

1 “(11) *POVERTY LINE*.—The term ‘poverty line’
2 has the meaning given such term in section 673(2) of
3 the Omnibus Budget Reconciliation Act of 1981, in-
4 cluding any revision required by such section.

5 “(12) *RECIPIENT*.—The term ‘recipient’ means
6 an entity that receives assistance from a grantee, pur-
7 suant to section 296(a), from Trust Fund grant
8 amounts of the grantee.

9 “(13) *RURAL AREA*.—The term ‘rural area’ has
10 the meaning given such term in section 520 of the
11 Housing Act of 1949 (42 U.S.C. 1490).

12 “(14) *SECRETARY*.—The term ‘Secretary’ means
13 the Secretary of Housing and Urban Development.

14 “(15) *STATE*.—The term ‘State’ has the meaning
15 given such term in section 104.

16 “(16) *TRUST FUND*.—The term ‘Trust Fund’
17 means the National Affordable Housing Trust Fund
18 established under section 292.

19 “(17) *TRUST FUND GRANT AMOUNTS*.—The term
20 ‘Trust Fund grant amounts’ means amounts from the
21 Trust Fund that are provided to a grantee pursuant
22 to subsection (e), (g), or (i) of section 294.

23 **“SEC. 299A. INAPPLICABILITY OF HOME PROVISIONS.**

24 “Except as specifically provided otherwise in this sub-
25 title, no requirement under, or provision of, title I or sub-

1 *titles A through F of this title shall apply to assistance pro-*
2 *vided under this subtitle.*

3 **“SEC. 299B. REGULATIONS.**

4 *“Not later than 6 months after the date of enactment*
5 *of the National Affordable Housing Trust Fund Act of 2007,*
6 *the Secretary of Housing and Urban Development shall*
7 *promulgate regulations to carry out this subtitle, which*
8 *shall include regulations establishing the affordable housing*
9 *needs formula in accordance with section 294(a).”.*

10 *(b) CONFORMING AMENDMENT.—Section 201 of the*
11 *Cranston-Gonzalez National Affordable Housing Act (42*
12 *U.S.C. 12701 note) is amended by striking “This title” and*
13 *inserting “Subtitles A through F of this title”.*

Union Calendar No. 222

110TH CONGRESS
1ST Session

H. R. 2895

[Report No. 110-362]

A BILL

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

OCTOBER 2, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed