

110TH CONGRESS  
1ST SESSION

# H. R. 2895

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Affordable  
3 Housing Trust Fund Act of 2007”.

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

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

9 **“Subtitle G—National Affordable**  
10 **Housing Trust Fund**

11 **“SEC. 291. PURPOSES.**

12 “The purposes of this subtitle are—

13 “(1) to address the national shortage of hous-  
14 ing that is affordable to low-income families by cre-  
15 ating a permanently appropriated fund, with dedi-  
16 cated sources of funding, to finance additional hous-  
17 ing activities, without supplanting existing housing  
18 appropriations or existing State and local funding  
19 for affordable housing;

20 “(2) to enable rental housing to be built, for  
21 families with the greatest economic need, in mixed-  
22 income settings and in areas with the greatest eco-  
23 nomic opportunities;

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

1           “(4) to construct, rehabilitate, and preserve at  
2           least 1,500,000 affordable dwelling units over the  
3           next decade.

4   **“SEC. 292. TRUST FUND.**

5           “(a) ESTABLISHMENT.—There is established in the  
6 Treasury of the United States a trust fund to be known  
7 as the National Affordable Housing Trust Fund.

8           “(b) DEPOSITS TO TRUST FUND.—The Trust Fund  
9 shall consist of—

10           “(1) any amounts of the Federal National  
11 Mortgage Association and the Federal Home Loan  
12 Mortgage Corporation transferred to the Trust  
13 Fund under title XIII of the Housing and Commu-  
14 nity Development Act of 1992;

15           “(2) any amounts appropriated to the Trust  
16 Fund pursuant to the authorization in the Expand-  
17 ing American Homeownership Act of 2007, relating  
18 to the use of FHA savings for an affordable housing  
19 grant fund; and

20           “(3) any amounts as are or may be appro-  
21 priated, transferred, or credited to such Fund under  
22 any other provisions of law.

23           “(c) EXPENDITURES FROM TRUST FUND.—Amounts  
24 in the Trust Fund shall be available to the Secretary of

1 Housing and Urban Development, and are hereby appro-  
2 priated, for providing assistance under this subtitle.

3 “(d) FEDERAL ASSISTANCE.—All assistance provided  
4 using amounts in the Trust Fund shall be considered to  
5 be Federal financial assistance.

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

7 “(1) USE.—For each fiscal year, no funds may  
8 be made available under paragraph (2) of subsection  
9 (b) unless the amount equal to the net increase for  
10 such fiscal year in the negative credit subsidy for the  
11 mortgage insurance programs under title II of the  
12 National Housing Act resulting from the Expanding  
13 American Homeownership Act of 2007, and the  
14 amendments made by such Act, is first made avail-  
15 able for the following purposes in the following  
16 amounts:

17 “(A) SINGLE FAMILY HOUSING MORTGAGE  
18 INSURANCE.—For each fiscal year, for costs (as  
19 such term is defined in section 502 of the Fed-  
20 eral Credit Reform Act of 1990 (2 U.S.C.  
21 661a)) of mortgage insurance provided pursu-  
22 ant to section 203(b) of the National Housing  
23 Act (12 U.S.C. 1709(b)), the additional amount  
24 (not including any costs of such mortgage in-  
25 surance resulting from this Act or the amend-

1           ments made by this Act), if any, necessary to  
2           ensure that the credit subsidy cost of such  
3           mortgage insurance for such fiscal year is \$0.

4           “(B) HOUSING COUNSELING.—For each of  
5           fiscal years 2008 through 2012, the amount  
6           needed to increase funding, for the housing  
7           counseling program under section 106 of the  
8           Housing and Urban Development Act of 1968  
9           (12 U.S.C. 1701x), in connection with home-  
10          buyers and homeowners with mortgages insured  
11          under title II of the National Housing Act,  
12          from the amount appropriated for the preceding  
13          fiscal year to \$100,000,000.

14          “(C) MORTGAGE INSURANCE TECH-  
15          NOLOGY, PROCEDURES, PROCESSES, PROGRAM  
16          PERFORMANCE, AND SALARIES.—For each of  
17          fiscal years 2008 through 2012, \$25,000,000  
18          for increasing funding for the purpose of im-  
19          proving technology, procedures, processes, and  
20          program performance, and salaries in connec-  
21          tion with the mortgage insurance programs  
22          under title II of the National Housing Act.

23          “(2) EXCLUSION OF EARNINGS FROM THE SIN-  
24          GLE FAMILY MORTGAGE INSURANCE PROGRAM.—No  
25          funds under paragraph (2) of subsection (b) for a

1 fiscal year may be derived from the negative credit  
2 subsidy cost for such fiscal year, if any, for mort-  
3 gage insurance provided pursuant to section 203(b)  
4 of the National Housing Act.

5 “(3) CERTIFICATION.—No funds may be made  
6 available under paragraph (2) of subsection (b) for  
7 any fiscal year unless the Secretary of Housing and  
8 Urban Development has, by rule making in accord-  
9 ance with section 553 of title 5, United States Code  
10 (notwithstanding subsections (a)(2), (b)(B), and  
11 (d)(3) of such section), made a determination that  
12 premiums being, or to be, charged during such fiscal  
13 year for mortgage insurance under title II of the  
14 National Housing Act are established at the min-  
15 imum amount sufficient to comply with the require-  
16 ments of section 205(f) of such Act (relating to re-  
17 quired capital ratio for the Mutual Mortgage Insur-  
18 ance Fund) and ensure the safety and soundness of  
19 the other mortgage insurance funds under such Act,  
20 and any negative credit subsidy for such fiscal year  
21 resulting from such mortgage insurance programs  
22 adequately ensures the efficient delivery and avail-  
23 ability of such programs.

1           “(4) LIMITATION ON MORTGAGE INSURANCE  
2 PREMIUM INCREASES.—Notwithstanding any other  
3 provision of law—

4           “(A) the premiums charged for mortgage  
5 insurance under any program under the Na-  
6 tional Housing Act may not be increased above  
7 the premium amounts in effect under such pro-  
8 gram on October 1, 2006, unless the Secretary  
9 of Housing and Urban Development determines  
10 that, absent such increase, insurance of addi-  
11 tional mortgages under such program would,  
12 under the Federal Credit Reform Act of 1990,  
13 require the appropriation of new budget author-  
14 ity to cover the costs (as such term is defined  
15 in section 502 of the Federal Credit Reform  
16 Act of 1990 (2 U.S.C. 661a) of such insurance;  
17 and

18           “(B) a premium increase pursuant to  
19 paragraph (1) may be made only by rule mak-  
20 ing in accordance with the procedures under  
21 section 553 of title 5, United States Code (not-  
22 withstanding subsections (a)(2), (b)(B), and  
23 (d)(3) of such section).

1 **“SEC. 293. ALLOCATIONS FOR STATES, INDIAN TRIBES, IN-**  
2 **SULAR AREAS, AND PARTICIPATING LOCAL**  
3 **JURISDICTIONS.**

4 “(a) DETERMINATION OF AMOUNT AVAILABLE FOR  
5 FISCAL YEAR.—For fiscal year 2008 and for each fiscal  
6 year thereafter, the Secretary shall determine the total  
7 amount available from the Trust Fund pursuant to section  
8 292(c) for assistance under this subtitle and shall use such  
9 amount to provide such assistance for such fiscal year.

10 “(b) ALLOCATION.—For each such fiscal year, of  
11 such total amount available from the Trust Fund, the Sec-  
12 retary shall allocate for use under section 294—

13 “(1) 40 percent for States, Indian tribes, and  
14 insular areas; and

15 “(2) 60 percent for participating local jurisdic-  
16 tions.

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

18 “(a) AFFORDABLE HOUSING NEEDS FORMULA.—

19 “(1) ESTABLISHMENT AND FACTORS.—The  
20 Secretary shall establish a formula to allocate  
21 amounts made available for a fiscal year for assist-  
22 ance under this subtitle among States, all Indian  
23 tribes, insular areas, and participating local jurisdic-  
24 tions based on the relative needs of such entities, for  
25 funds to increase the supply of decent quality afford-  
26 able housing. The formula shall be based upon a

1 comparison of the following factors with respect to  
2 each State, Indian tribes, each insular area, and  
3 each participating local jurisdiction:

4 “(A) The ratio of the population of the  
5 State, Indian tribes, insular area, or partici-  
6 pating jurisdiction, to the aggregate population  
7 of all States, Indian tribes, insular areas, and  
8 participating jurisdictions.

9 “(B) The percentage of families in the ju-  
10 risdiction of the State, of Indian tribes, or of  
11 the insular area or participating jurisdiction  
12 that live in substandard housing.

13 “(C) The percentage of families in the ju-  
14 risdiction of the State, of Indian tribes, or of  
15 the insular area or participating jurisdiction  
16 that pay more than 50 percent of their annual  
17 income for housing costs.

18 “(D) The percentage of persons in the ju-  
19 risdiction of the State, of Indian tribes, or of  
20 the insular area or participating jurisdiction  
21 having an income at or below the poverty line.

22 “(E) The cost of constructing or carrying  
23 out rehabilitation of housing in the jurisdiction  
24 of the State, of Indian tribes, or of the insular  
25 area or participating jurisdiction.

1           “(F) The percentage of the population of  
2           the State, of Indian tribes, or of the insular  
3           area or participating jurisdiction that resides in  
4           counties having extremely low vacancy rates.

5           “(G) The percentage of housing stock in  
6           the jurisdiction of the State, of Indian tribes, or  
7           of the insular area or participating jurisdiction  
8           that is extremely old housing.

9           “(H) For the jurisdiction of a State, of In-  
10          dian tribes, or of an insular area or partici-  
11          pating jurisdiction that has an extremely low  
12          percentage of affordable rental housing, the ex-  
13          tent to which the State, Indian tribes, or the in-  
14          sular area or participating jurisdiction has in  
15          the preceding fiscal year increased the percent-  
16          age of rental housing within its jurisdiction that  
17          is affordable housing.

18          “(I) Any other factors that the Secretary  
19          determines to be appropriate.

20          “(2) FAILURE TO ESTABLISH.—If, in any fiscal  
21          year referred to in section 293(a), the regulations  
22          establishing the formula required under paragraph  
23          (1) of this subsection have not been issued by the  
24          date that the Secretary determines the total amount  
25          available from the Trust Fund for assistance under

1 this subtitle for such fiscal year pursuant to section  
2 292(c), or there has been enacted before such date  
3 a joint resolution expressly disapproving the use of  
4 the formula required under paragraph (1) and sub-  
5 mitted to the Congress pursuant to paragraph (3),  
6 for purposes of such fiscal year—

7 “(A) section 293(b), paragraphs (2) and  
8 (3) of subsection (b) of this section, and sub-  
9 section (c) of this section shall not apply;

10 “(B) the allocation for Indian tribes shall  
11 be such amount as the Secretary shall establish;  
12 and

13 “(C) the formula amount for each State,  
14 insular area, or participating local jurisdiction  
15 shall be determined by applying, for such State,  
16 insular area, or participating local jurisdiction,  
17 the percentage that is equal to the percentage  
18 of the total amounts made available for such  
19 fiscal year for allocation under subtitle A of this  
20 title (42 U.S.C. 12741 et seq.) that are allo-  
21 cated in such year, pursuant to such subtitle, to  
22 such State, insular area, or participating local  
23 jurisdiction, respectively, and the allocation for  
24 each State, insular area, or participating juris-  
25 diction, for purposes of subsection (e) shall, ex-

1           cept as provided in subsection (d), be the for-  
2           mula amount for the State, insular area, or  
3           participating jurisdiction, respectively.

4           “(3) SUBMISSION TO CONGRESS.—Notwith-  
5           standing any other provision of this subtitle, any for-  
6           mula established by the Secretary pursuant to this  
7           subsection shall be submitted to the Committee on  
8           Financial Services of the House of Representatives  
9           and the Committee on Banking, Housing, and  
10          Urban Affairs of the Senate not less than 120 days  
11          before application of the formula for purposes of de-  
12          termining formula amounts under subsection (b) for  
13          a fiscal year. Such submission shall be accompanied  
14          by a detailed explanation of the factors under the  
15          formula and anticipated effects of the formula.

16          “(b) FORMULA AMOUNT.—

17                 “(1) IN GENERAL.—For each fiscal year re-  
18                 ferred to in section 293(a), the Secretary shall deter-  
19                 mine the formula amount under this subsection for  
20                 each State, for Indian tribes, for each insular area,  
21                 and for each participating local jurisdiction.

22                 “(2) STATES, INDIAN TRIBES, AND INSULAR  
23                 AREAS.—The formula amount for each State, for In-  
24                 dian tribes, and for each insular area shall be the  
25                 amount determined for such State, for Indian tribes,

1 or for such insular area by applying the formula  
2 under subsection (a) of this section to the total  
3 amount allocated under section 293(b)(1) for all  
4 States, Indian tribes, and insular areas for the fiscal  
5 year.

6 “(3) PARTICIPATING LOCAL JURISDICTIONS.—  
7 The formula amount for each participating local ju-  
8 risdiction shall be the amount determined for such  
9 participating local jurisdiction by applying the for-  
10 mula under subsection (a) of this section to the total  
11 amount allocated under section 293(b)(2) for all  
12 participating local jurisdictions for the fiscal year.

13 “(4) NOTICE.—For each fiscal year referred to  
14 in section 293(a), not later than 60 days after the  
15 date that the Secretary determines the total amount  
16 available from the Trust Fund for such fiscal year  
17 pursuant to section 292(c) for assistance under this  
18 subtitle, the Secretary shall cause to be published in  
19 the Federal Register a notice that such amounts  
20 shall be so available.

21 “(c) ALLOCATION BASED ON AFFORDABLE HOUSING  
22 NEEDS FORMULA.—The allocation under this subsection  
23 for a State, for Indian tribes, for an insular area, or for  
24 a local participating jurisdiction for a fiscal year shall be  
25 determined as follows:

1           “(1) STATES.—Subject to subsection (d), the  
2 allocation for a State shall be as follows:

3           “(A) MINIMUM AMOUNT.—If the formula  
4 amount determined under subsection (b)(2) for  
5 the State for the fiscal year is less than 0.5 per-  
6 cent of the total amount allocated for such fis-  
7 cal year under section 293(b)(1), the allocation  
8 for the State shall be 0.5 percent of the total  
9 amount allocated for such fiscal year under sec-  
10 tion 293(b)(1).

11           “(B) FORMULA AMOUNT.—If the formula  
12 amount determined under subsection (b)(2) for  
13 the State for the fiscal year is 0.5 percent or  
14 more of the total amount allocated for such fis-  
15 cal year under section 293(b)(1), the allocation  
16 for the State shall be the formula amount for  
17 the State, except that—

18           “(i) the Secretary shall reduce such  
19 formula amounts for all States whose allo-  
20 cations are determined under this subpara-  
21 graph on a pro rata basis, except as pro-  
22 vided in clause (ii), by the amount nec-  
23 essary to account for any increases from  
24 the formula amount for allocations made  
25 under subparagraph (A), so that the total

1 of the allocations for all States pursuant to  
2 this paragraph is equal to the aggregate of  
3 the formula amounts under subsection  
4 (b)(2) for all States; and

5 “(ii) no reduction pursuant to clause  
6 (i) for any State may reduce the formula  
7 amount for the State to less than 0.5 per-  
8 cent of such total amount allocated for  
9 such fiscal year.

10 “(2) INDIAN TRIBES AND INSULAR AREAS.—  
11 The allocation for Indian tribes and for each insular  
12 area shall be the formula amount for Indian tribes  
13 or for the insular area, respectively, determined  
14 under subsection (b), as applicable.

15 “(3) PARTICIPATING LOCAL JURISDICTIONS.—  
16 Subject to subsection (d), the allocation for each  
17 participating local jurisdiction shall be the formula  
18 amount for the jurisdiction determined under sub-  
19 section (b).

20 “(d) ALLOCATION EXCEPTION FOR YEARS IN WHICH  
21 LESS THAN \$2 BILLION IS AVAILABLE.—If, for any fiscal  
22 year, the total amount available pursuant to section  
23 293(a) for assistance under this subtitle is less than  
24 \$2,000,000,000—

1           “(1) for each participating local jurisdiction  
2           having a formula amount for such fiscal year of less  
3           than \$750,000, the allocation shall be \$0, except  
4           that the allocation for such a jurisdiction for such  
5           fiscal year shall be the formula amount for the juris-  
6           diction for such fiscal year if—

7                   “(A) the Secretary finds that the jurisdic-  
8                   tion has demonstrated a capacity to carry out  
9                   provisions of this subtitle and the State in  
10                  which such jurisdiction is located has author-  
11                  ized the Secretary to transfer to the jurisdiction  
12                  a portion of the State’s allocation that is equal  
13                  to or greater than the difference between the  
14                  jurisdiction’s formula amount and \$750,000, or  
15                  the State or jurisdiction has made available  
16                  such an amount from the State’s or jurisdic-  
17                  tion’s own sources available for use by the juris-  
18                  diction in accordance with this subtitle; or

19                   “(B) the formula amount for such jurisdic-  
20                  tion for such fiscal year is an amount that is  
21                  greater than the formula amount for such fiscal  
22                  year for any other participating local jurisdic-  
23                  tion that is located in the same State; and

24                   “(2) in the case of any jurisdiction whose allo-  
25                  cation is \$0 by operation of paragraph (1), the allo-

1 cation for the State in which such participating local  
2 jurisdiction is located shall be increased by the  
3 amount of the formula amount for the participating  
4 local jurisdiction.

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

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

16 “(f) MATCHING REQUIREMENT.—

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

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

1 amounts are derived from State, local, or pri-  
2 vate resources, 12.5 percent of such grant  
3 amounts.

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

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

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

1       distress for purposes of this paragraph in the same  
2       manner, and according to the same criteria, as fiscal  
3       distress is determined with respect to jurisdictions  
4       under section 220(d) (42 U.S.C. 12750(d)).

5           “(3) QUALIFICATION OF SERVICES FUNDING  
6       FOR MATCH.—For purposes of meeting the require-  
7       ments of paragraph (1), amounts that a grantee, re-  
8       cipient, or other governmental or private agency or  
9       entity commits to contribute to provide services to  
10      residents of affordable housing provided using grant  
11      amounts under this subtitle, by entering into a bind-  
12      ing commitment for such contribution as the Sec-  
13      retary shall require, shall be considered contribu-  
14      tions to eligible activities. Amounts to be considered  
15      eligible contributions under this paragraph shall not  
16      exceed 33 percent of the total cost of the eligible ac-  
17      tivity.

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

1 requirements was approved by the local jurisdiction.  
2 Such reduction may be implemented in the year fol-  
3 lowing the year in which such activities are funded  
4 with Trust Fund grant amounts.

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

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

22 “(h) USE BY STATE OF UNUSED FUNDS OF LOCAL  
23 JURISDICTIONS.—If any participating local jurisdiction  
24 for which an allocation is made for a fiscal year pursuant  
25 to this section notifies the Secretary of an intent not to

1 use all or part of such funds, any such funds that will  
2 not be used by the jurisdiction shall be added to the grant  
3 award under subsection (e) for the State in which such  
4 jurisdiction is located.

5 “(i) COMPETITIVE GRANTS FOR AREAS WITHOUT  
6 ALLOCATION PLANS AND RECIPIENTS WITH INSUFFI-  
7 CIENT MATCHING CONTRIBUTIONS.—

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

11 “(A) ALLOCATION FOR AREAS NOT SUB-  
12 MITTING ALLOCATION PLANS.—With respect to  
13 each State, insular area, or participating local  
14 jurisdiction that has not, before the expiration  
15 of the 12-month period beginning upon the date  
16 of the publication of the notice of funding avail-  
17 ability for such fiscal year under subsection  
18 (b)(4), submitted to and had approved by the  
19 Secretary an allocation plan for such fiscal year  
20 meeting the requirements of section 295, the  
21 amount of the allocation for such State, insular  
22 area, or participating local jurisdiction for such  
23 fiscal year determined under this section.

24 “(B) UNMATCHED PORTION OF ALLOCA-  
25 TION.—With respect to any grantee for which

1 the Trust Fund grant amount awarded for such  
2 fiscal year is reduced from the amount of the  
3 allocation determined under this section for the  
4 grantee by reason of failure comply with the re-  
5 quirements under subsection (f), the amount by  
6 which such allocation for the grantee for the  
7 fiscal year exceeds the Trust Fund grant  
8 amount for the grantee for the fiscal year.

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

16 “(D) UNUSED AMOUNTS.—Any Trust  
17 Fund grant amounts for which the grantee no-  
18 tifies the Secretary that such funds will not be  
19 used under this subtitle.

20 “(2) NOTICE.—For each fiscal year, not later  
21 than 60 days after the date that the Secretary deter-  
22 mines that the amounts described in paragraph (1)  
23 shall be available for grants under this subsection,  
24 the Secretary shall cause to be published in the Fed-

1       eral Register a notice that such amounts shall be so  
2       available.

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

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

1           “(5) AWARD AND USE OF GRANT ASSIST-  
2 ANCE.—

3           “(A) AWARD.—Subject only to the absence  
4 of applications meeting the requirements of  
5 paragraph (3), upon the expiration of the pe-  
6 riod referred to in such paragraph, the Sec-  
7 retary shall select an applicant or applicants  
8 under this subsection to receive the amounts  
9 available under paragraph (1) and shall make a  
10 grant or grants to such applicant or applicants.  
11 The selection shall be based upon the criteria  
12 established under paragraph (4).

13           “(B) USE.—Amounts from a grant under  
14 this subsection shall be Trust Fund grant  
15 amounts for purposes of this subtitle.

16 **“SEC. 295. ALLOCATION PLANS.**

17           “(a) IN GENERAL.—Each grantee that is a State, in-  
18 sular area, participating local jurisdiction, or grantee  
19 under section 294(i) for a fiscal year, shall establish an  
20 allocation plan in accordance with this section for the dis-  
21 tribution of Trust Fund grant amounts provided to the  
22 grantee for such fiscal year, which shall be a plan that—

23           “(1) provides for use of such amounts in ac-  
24 cordance with section 296;

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

4           “(3) is consistent with the comprehensive hous-  
5           ing affordability strategy under section 105 (42  
6           U.S.C. 12705) or any applicable consolidated sub-  
7           mission used for purposes of applying for other com-  
8           munity planning and development and housing as-  
9           sistance programs administered by the Secretary, for  
10          the applicable State, insular area, jurisdiction, or  
11          grantee under section 294(i).

12          “(b) ESTABLISHMENT.—In establishing an allocation  
13          plan, a grantee described in subsection (a) shall notify the  
14          public of the establishment of the plan, provide an oppor-  
15          tunity for public comments regarding the plan, consider  
16          any public comments received, and make the completed  
17          plan available to the public.

18          “(c) CONTENTS.—Each allocation plan of a grantee  
19          described in subsection (a) shall comply with the following  
20          requirements:

21                  “(1) APPLICATION REQUIREMENTS FOR ELIGI-  
22                  BLE RECIPIENTS.—The allocation plan shall set  
23                  forth the requirements for eligible recipients to apply  
24                  to the grantee to receive assistance from Trust Fund  
25                  grant amounts of the grantee for use for eligible ac-

1 activities, including a requirement that each such ap-  
2 plication include—

3 “(A) a description of the eligible activities  
4 to be conducted using such assistance;

5 “(B) a certification by the eligible recipient  
6 applying for such assistance that any housing  
7 assisted with such grant amounts will comply  
8 with—

9 “(i) all of the requirements under this  
10 subtitle, including the targeting require-  
11 ments under section 296(c) and the afford-  
12 able housing requirements under section  
13 297;

14 “(ii) section 808(d) of the Fair Hous-  
15 ing Act (relating to the obligation to af-  
16 firmatively further fair housing); and

17 “(iii) section 504 of the Rehabilitation  
18 Act of 1973 (relating to prohibition of dis-  
19 crimination on the basis of disability); and

20 “(C) in the case of any recipient who has  
21 received assistance from Trust Fund grant  
22 amounts in any previous fiscal year, a report on  
23 the progress made in carrying out the eligible  
24 activities funded with such previous assistance.

1           “(2) SELECTION PROCESS AND CRITERIA FOR  
2 ASSISTANCE.—

3           “(A) SELECTION PROCESS.—The allocation  
4 plan shall set forth a process for the grantee to  
5 select eligible activities meeting the grantee’s  
6 priority housing needs for funding with Trust  
7 Fund grant amounts of the grantee, which shall  
8 comply with requirements for such process as  
9 the Secretary shall, by regulation, establish.

10          “(B) SELECTION CRITERIA.—The alloca-  
11 tion plan shall set forth the factors for consid-  
12 eration in selecting among applicants that meet  
13 the application requirements established pursu-  
14 ant to paragraph (1), which shall provide for  
15 geographic diversity among eligible activities to  
16 be assisted with Trust Fund grant amounts of  
17 the grantee and shall include—

18           “(i) the merits of the proposed eligible  
19 activity of the applicant, including the ex-  
20 tent to which the activity addresses hous-  
21 ing needs identified in the allocation plan  
22 of the grantee and the applicable com-  
23 prehensive housing affordability strategy or  
24 consolidated submission referred to in sub-  
25 section (a)(3);

1           “(ii) the experience of the applicant,  
2 including its principals, in carrying out  
3 projects similar to the proposed eligible ac-  
4 tivity;

5           “(iii) the ability of the applicant to  
6 obligate grant amounts for the proposed el-  
7 igible activities and to undertake such ac-  
8 tivities in a timely manner;

9           “(iv) the extent of leveraging of funds  
10 by the applicant from private and other  
11 non-Federal sources for carrying out the  
12 eligible activities to be funded with Trust  
13 Fund grant amounts, including assistance  
14 made available under section 8 of the  
15 United States Housing Act of 1937 (42  
16 U.S.C. 1437f) that is devoted to the  
17 project that contains the affordable hous-  
18 ing to be assisted with such assistance;

19           “(v) the extent of local assistance that  
20 will be provided in carrying out the eligible  
21 activities, including financial assistance;

22           “(vi) the efficiency of total project  
23 fund use as measured by the cost per unit  
24 of the proposal, as adjusted by factors  
25 which shall include whether the funding

1 with Trust Fund grant amounts is for new  
2 construction, rehabilitation, preservation,  
3 or homeownership assistance, whether the  
4 project involves supportive housing, dif-  
5 ferences in construction and rehabilitation  
6 costs in different areas of the grantee, and  
7 other appropriate adjustments;

8 “(vii) the degree to which the project  
9 in which the affordable housing will be lo-  
10 cated will have residents of various in-  
11 comes;

12 “(viii) the extent of employment and  
13 other economic opportunities for low-in-  
14 come families in the area in which the  
15 housing will be located;

16 “(ix) the extent to which the applicant  
17 demonstrates the ability to maintain dwell-  
18 ing units as affordable housing through the  
19 use of assistance made available under this  
20 subtitle, assistance leveraged from non-  
21 Federal sources, assistance made available  
22 under section 8 of the United States Hous-  
23 ing Act of 1937 (42 U.S.C. 1437f), State  
24 or local assistance, programs to increase

1 tenant income, cross-subsidization, and any  
2 other resources;

3 “(x) the extent to which the applicant  
4 demonstrates that the county in which the  
5 housing is to be located is experiencing an  
6 extremely low vacancy rate;

7 “(xi) the extent to which the percent-  
8 age of the housing located in such county  
9 that is extremely old housing exceeds 35  
10 percent;

11 “(xii) the extent to which the housing  
12 assisted with the grant amounts will be ac-  
13 cessible to persons with disabilities;

14 “(xiii) the extent to which the appli-  
15 cant demonstrates that the affordable  
16 housing assisted with the grant amounts  
17 will be located in proximity to public trans-  
18 portation, job opportunities, child care, and  
19 community revitalization projects;

20 “(xiv) the extent to which the appli-  
21 cant has provided that assistance from  
22 grant amounts will be used for eligible ac-  
23 tivities relating to housing located in cen-  
24 sus tracts in which the number of families

1           having incomes less than the poverty line is  
2           less than 20 percent;

3           “(xv) the extent to which the housing  
4           assisted with grant amounts will comply  
5           with energy efficiency standards and the  
6           national Green Communities criteria  
7           checklist for residential construction that  
8           provides criteria for the design, develop-  
9           ment, and operation of affordable housing,  
10          as the Secretary shall by regulation pro-  
11          vide; and

12          “(xvi) the extent to which the design,  
13          construction, and operation of the housing  
14          assisted with grant amounts reduces utility  
15          costs for residents and thereby reduces  
16          their total housing cost.

17          A grantee may allocate a portion of funds  
18          under this section for use by such grantee for  
19          eligible activities pursuant to the selection proc-  
20          ess under subparagraph (A).

21          “(3) USE FOR FIRST RESPONDERS AND TEACH-  
22          ERS.—To the extent that Trust Fund grant  
23          amounts of a grantee are made available for eligible  
24          activities involving one- to four-family owner-occu-  
25          pied housing, the grantee may give preference in the

1 use of such grant amounts to eligible activities relat-  
2 ing to affordable housing for first responders, public  
3 safety officers, teachers, and other public employees  
4 who have family incomes such that such use of the  
5 grant amounts complies with the requirements under  
6 section 296(c).

7 “(4) PERFORMANCE GOALS, BENCHMARKS, AND  
8 TIMETABLES.—The allocation plan shall include per-  
9 formance goals, benchmarks, and timetables for the  
10 grantee for the conducting of eligible activities with  
11 Trust Fund grant amounts that comply with re-  
12 quirements and standards for such goals, bench-  
13 marks, and timetables as the Secretary shall, by reg-  
14 ulation, establish.

15 “(d) REVIEW AND APPROVAL BY SECRETARY.—

16 “(1) SUBMISSION.—A grantee described in sub-  
17 section (a) shall submit an allocation plan for the  
18 fiscal year for which the grant is made to the Sec-  
19 retary not later than the expiration of the 6-month  
20 period beginning upon the notice of funding avail-  
21 ability under section 294(b)(4) for such fiscal year  
22 amounts.

23 “(2) REVIEW AND APPROVAL OR DIS-  
24 APPROVAL.—The Secretary shall review and approve  
25 or disapprove an allocation plan not later than the

1 expiration of the 3-month period beginning upon  
2 submission of the plan.

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

7 “(4) RESUBMISSION UPON DISAPPROVAL.—If  
8 the Secretary disapproves a plan, the grantee may  
9 submit to the Secretary a revised plan for review  
10 and approval or disapproval under this subsection.

11 “(5) TIMING FOR FISCAL YEAR 2008.—With re-  
12 spect only to fiscal year 2008, the Secretary may ex-  
13 tend each of the periods referred to in paragraphs  
14 (1) and (2), and the period referred to in section  
15 294(i)(1)(A), by not more than 6 months.

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

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

23 “(1) are conducted in the jurisdiction of the  
24 grantee;

1           “(2) in the case of a grantee that is a State,  
2 insular area, participating local jurisdiction, or  
3 grantee under section 294(i), comply with the alloca-  
4 tion plan of the grantee under section 295;

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

9           “(4) comply with the targeting requirements  
10 under subsection (c) of this section and the afford-  
11 able housing requirements under section 297.

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

19           “(1) demonstrates the experience, ability, and  
20 capacity (including financial capacity) to undertake,  
21 comply, and manage the eligible activity;

22           “(2) demonstrates its familiarity with the re-  
23 quirements of any other Federal, State or local  
24 housing program that will be used in conjunction  
25 with such grant amounts to ensure compliance with

1 all applicable requirements and regulations of such  
2 programs; and

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

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

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

20 “(A) the median family income for the  
21 area in which the housing is located, as deter-  
22 mined by the Secretary with adjustments for  
23 smaller and larger families; and

24 “(B) the median family income for the  
25 State or insular area in which the housing is lo-

1           cated, as determined by the Secretary with ad-  
2           justments for smaller and larger families.

3           “(2) USE OF 75 PERCENT FOR AFFORDABLE  
4 HOUSING FOR EXTREMELY LOW-INCOME FAMI-  
5 LIES.—Not less than 75 percent of the Trust Fund  
6 grant amounts of a grantee for each fiscal year shall  
7 be used only for eligible activities relating to afford-  
8 able housing that are for the benefit only of families  
9 whose incomes do not exceed the higher of—

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

14           “(B) the poverty line (as such term is de-  
15 fined in section 673 of the Omnibus Budget  
16 Reconciliation Act of 1981 (42 U.S.C. 9902),  
17 including any revision required by such section)  
18 applicable to a family of the size involved.

19           “(3) USE OF 30 PERCENT FOR AFFORDABLE  
20 HOUSING FOR VERY POOR FAMILIES.—Not less than  
21 30 percent of the Trust Fund grant amounts of a  
22 grantee for each fiscal year shall be used only for el-  
23 igible activities relating to affordable housing that  
24 are for the benefit only of families whose incomes do  
25 not exceed the maximum amount of income that an

1 individual or family could have, taking into consider-  
2 ation any income disregards, and remain eligible for  
3 benefits under the Supplemental Security Income  
4 program under title XVI of the Social Security Act  
5 (42 U.S.C. 1381 et seq.).

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

16 “(5) LIMITATION FOR YEARS IN WHICH LESS  
17 THAN \$2 BILLION IS AVAILABLE.—If, for any fiscal  
18 year, the total amount available pursuant to section  
19 293(a) for assistance under this subtitle is less than  
20 \$2,000,000,000, in addition to the other require-  
21 ments under this subsection, all such amounts shall  
22 be used only for eligible activities relating to afford-  
23 able housing that are for the benefit only of families  
24 whose incomes do not exceed 60 percent of the me-  
25 dian family income for the area in which the housing

1 is located, as determined by the Secretary with ad-  
2 justments for smaller and larger families.

3 “(6) REVIEW OF TARGETING REQUIREMENTS.—

4 The Secretary shall assess the need for, and the ap-  
5 propriateness of, the requirements under paragraphs  
6 (1) through (4) and shall submit a report to the  
7 Congress on the results of the assessment not later  
8 than October 1, 2012, and not later than the expira-  
9 tion of the 5-year period beginning upon such date  
10 and each successive 5-year period thereafter. In each  
11 such report, the Secretary shall identify and make  
12 recommendations regarding the continuation or ad-  
13 justment of the targeting requirements in para-  
14 graphs (1) through (4).

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

22 “(e) COST LIMITS.—The Secretary shall establish  
23 limitations on the amount of Trust Fund grant amounts  
24 that may be used, on a per unit basis, for eligible activi-  
25 ties. Such limitations shall be the same as the per unit

1 cost limits established pursuant to section 212(e) (42  
2 U.S.C. 12742(e)), as adjusted annually, and established  
3 by number of bedrooms, market area, and eligible activity.

4 “(f) FORMS OF ASSISTANCE.—

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

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

10 “(B) in the case of assistance for owner-  
11 ship of one- to four-family owner-occupied hous-  
12 ing, downpayment assistance, closing cost as-  
13 sistance, and assistance for interest rate buy-  
14 downs; and

15 “(C) any other forms of assistance ap-  
16 proved by the Secretary.

17 “(2) REPAYMENTS.—If a grantee awards as-  
18 sistance under this section in the form of a loan or  
19 other mechanism by which funds are later repaid to  
20 the grantee, any repayments and returns received by  
21 the grantee shall be distributed by the grantee in ac-  
22 cordance with the allocation plan under section 295  
23 for the grantee for the fiscal year in which such re-  
24 payments are made or returns are received.

1       “(g) COORDINATION WITH OTHER ASSISTANCE.—In  
2 distributing assistance pursuant to this section, each  
3 grantee shall, to the maximum extent practicable, coordi-  
4 nate such distribution with the provision of other Federal,  
5 State, tribal, and local housing assistance, including—

6           “(1) in the case of any State, housing credit  
7 dollar amounts allocated by the State under section  
8 42(h) of the Internal Revenue Code of 1986;

9           “(2) assistance made available under subtitles  
10 A through F (42 U.S.C. 12721 et seq.) or the com-  
11 munity development block grant program under title  
12 I of the Housing and Community Development Act  
13 of 1974 (42 U.S.C. 5301 et seq.);

14           “(3) private activity bonds;

15           “(4) assistance made available under section 9  
16 of the United States Housing Act of 1937 (42  
17 U.S.C. 1437g);

18           “(5) assistance made available under section  
19 8(o) of the United States Housing Act of 1937 (42  
20 U.S.C. 1437f(o));

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

23           “(7) assistance made available under section  
24 101 of the Native American Housing Assistance and  
25 Self-Determination Act of 1996 (25 U.S.C. 4111);

1           “(8) assistance made available from any State  
2 or local housing trust fund established to provide or  
3 assist in making available affordable housing; and

4           “(9) any other housing assistance programs.

5           “(h) PROHIBITED USES.—The Secretary shall—

6           “(1) by regulation, set forth prohibited uses of  
7 grant amounts under this subtitle, which shall in-  
8 clude use for—

9                   “(A) political activities;

10                   “(B) advocacy;

11                   “(C) lobbying, whether directly or through  
12 other parties;

13                   “(D) counseling services;

14                   “(E) travel expenses; and

15                   “(F) preparing or providing advice on tax  
16 returns;

17           “(2) by regulation, provide that, except as pro-  
18 vided in paragraph (3), grant amounts under this  
19 subtitle may not be used for administrative, out-  
20 reach, or other costs of—

21                   “(A) a grantee; or

22                   “(B) any recipient of such grant amounts;

23           and

24           “(3) by regulation, limit the amount of any  
25 Trust Fund grant amounts for a fiscal year that

1       may be used for administrative costs of the grantee  
2       of carrying out the program required under this sub-  
3       title to a percentage of such grant amounts of the  
4       grantee for such fiscal year, which may not exceed  
5       10 percent.

6       “(i) LABOR STANDARDS.—Each grantee receiving  
7       Trust Fund grant amounts shall ensure that contracts for  
8       eligible activities assisted with such amounts comply with  
9       the same requirements under section 286 (42 U.S.C.  
10      12836) that are applicable to contracts for construction  
11      of affordable housing assisted under subtitles A and D.

12      “(j) COMPLIANCE WITH OTHER FEDERAL LAWS.—  
13      All amounts from the Trust Fund shall be allocated in  
14      accordance with, and any eligible activities carried out in  
15      whole or in part with grant amounts under this subtitle  
16      (including housing provided with such grant amounts)  
17      shall comply with and be operated in compliance with,  
18      other applicable provisions of Federal law, including—

19              “(1) laws relating to tenant protections and  
20              tenant rights to participate in decision making re-  
21              garding their residences;

22              “(2) laws requiring public participation, includ-  
23              ing laws relating to Consolidated Plans, Qualified  
24              Allocation Plans, and Public Housing Agency Plans;  
25              and

1           “(3) fair housing laws and laws regarding ac-  
2           cessibility in federally assisted housing, including  
3           section 504 of the Rehabilitation Act of 1973.

4   **“SEC. 297. AFFORDABLE HOUSING.**

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

16                 “(1) RENTS.—The dwelling unit bears a rent  
17                 not greater than the lesser of—

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

1           “(B) a rent that does not exceed 30 per-  
2           cent of the adjusted income of a family whose  
3           income equals 65 percent of the median income  
4           for the area, as determined by the Secretary,  
5           with adjustment for number of bedrooms in the  
6           unit, except that the Secretary may establish  
7           income ceilings higher or lower than 65 percent  
8           of the median for the area on the basis of the  
9           findings of the Secretary that such variations  
10          are necessary because of prevailing levels of  
11          construction costs or fair market rents, or un-  
12          usually high or low family incomes.

13           “(2) TENANT RENT CONTRIBUTION.—The con-  
14          tribution toward rent by the family residing in the  
15          dwelling unit will not exceed 30 percent of the ad-  
16          justed income of such family.

17           “(3) NON-DISCRIMINATION AGAINST VOUCHER  
18          HOLDERS.—The dwelling unit is located in a project  
19          in which all dwelling units are subject to enforceable  
20          restrictions that provide that a unit may not be re-  
21          fused for leasing to a holder of a voucher of eligi-  
22          bility under section 8 of the United States Housing  
23          Act of 1937 (42 U.S.C. 1437f) because of the status  
24          of the prospective tenant as a holder of such vouch-  
25          er.

1 “(4) MIXED INCOME.—

2 “(A) IN GENERAL.—The dwelling unit is  
3 located in a project: (i) that receives assistance  
4 under this subtitle; and (ii) for which not more  
5 than 50 percent of the rental units in the  
6 project that are not previously occupied may be  
7 rented initially only to families with incomes de-  
8 scribed in section 296(c)(2), as determined at a  
9 reasonable time before occupancy.

10 “(B) REHABILITATION.—In the case of a  
11 dwelling unit in a project for which Trust Fund  
12 grant amounts are used for the rehabilitation of  
13 the project, the dwelling unit is located in a  
14 project in which the percentage of units being  
15 rented upon completion of the rehabilitation to  
16 families with incomes described in section  
17 296(c)(2) may not exceed the higher of 50 per-  
18 cent or the percentage of such families occu-  
19 pying the project at the time funds are awarded  
20 for such project.

21 “(C) EXCEPTIONS.—Subparagraph (A)  
22 shall not apply in the case of a project that—

23 “(i) has 25 or fewer dwelling units  
24 and that is—

1                   “(I) located in a census tract in  
2                   which the number of families having  
3                   incomes less than the poverty line is  
4                   less than 20 percent;

5                   “(II) located in a rural area, as  
6                   such term is defined in section 520 of  
7                   the Housing Act of 1949 (42 U.S.C.  
8                   1490); or

9                   “(III) specifically made available  
10                  only for households comprised of dis-  
11                  abled families; or

12                  “(ii) is specifically made available only  
13                  for households comprised of elderly fami-  
14                  lies.

15                  “(5) VISITABILITY.—To the extent the dwelling  
16                  unit is not required under Federal law to comply  
17                  with standards relating to accessibility to persons  
18                  with disabilities, the dwelling unit complies with  
19                  such basic visitability standards as the Secretary  
20                  shall by regulation provide.

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

24                  “(b) OWNER-OCCUPIED HOUSING.—For purposes of  
25                  any eligible activity involving one- to four-family owner-

1 occupied housing (which may include housing of a cooper-  
2 ative housing corporation, as such term is defined in sec-  
3 tion 216(b) of the Internal Revenue Code of 1986 (26  
4 U.S.A. 216(b))), such a residence shall be considered af-  
5 fordable housing for purposes of this subtitle only if—

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

8                   “(A) the housing is available for purchase  
9                   only for use as a principal residence by families  
10                  that qualify as first-time homebuyers, as such  
11                  term is defined in section 104 (42 U.S.C.  
12                  12704), except that any reference in such sec-  
13                  tion to assistance under title II of this Act shall  
14                  for purposes of this section be considered to  
15                  refer to assistance from Trust Fund grant  
16                  amounts;

17                  “(B) the housing has an initial purchase  
18                  price that meets the requirements of section  
19                  215(b)(1); and

20                  “(C) the housing is subject to the same re-  
21                  sale restrictions established under section  
22                  215(b)(3) and applicable to the participating  
23                  jurisdiction that is the State in which such  
24                  housing is located; and

1           “(2) the housing is made available for purchase  
2           only by, or in the case of assistance to a homebuyer  
3           pursuant to this subsection, the assistance is made  
4           available only to, homebuyers who have, before purchase,  
5           completed a program of counseling with respect to the  
6           responsibilities and financial management involved in  
7           homeownership that is approved by the Secretary and  
8           includes counseling regarding financial literacy, strategies  
9           to save money, qualifying for a mortgage loan, methods  
10          to avoid predatory lenders and foreclosure, and, where  
11          appropriate by region, any requirements and costs associated  
12          with obtaining flood or other disaster-specific insurance  
13          coverage; except that the Secretary may, at the request  
14          of a State, waive the requirements of this paragraph  
15          with respect to a geographic area or areas within the State if—

18                   “(A) the travel time or distance involved in  
19                   providing counseling with respect to such area  
20                   or areas, as otherwise required under this paragraph,  
21                   on an in-person basis is excessive or the cost of such  
22                   travel is prohibitive; and

23                   “(B) the State provides alternative forms  
24                   of counseling for such area or areas, which may  
25                   include interactive telephone counseling, on-line

1           counseling, interactive video counseling, and  
2           interactive home study counseling and a pro-  
3           gram of financial literacy and education to pro-  
4           mote an understanding of consumer, economic,  
5           and personal finance issues and concepts, in-  
6           cluding saving for retirement, managing credit,  
7           long-term care, and estate planning and edu-  
8           cation on predatory lending, identity theft, and  
9           financial abuse schemes relating to homeownership  
10          that is approved by the Secretary, except  
11          that entities providing such counseling shall not  
12          discriminate against any particular form of  
13          housing.

14          “(c) PRIORITY FOR FAMILIES ON SECTION 8 OR  
15          PUBLIC HOUSING WAITING LIST FOR 12 MONTHS OR  
16          LONGER.—A dwelling unit in rental housing or owner-oc-  
17          cupied housing shall be considered affordable housing for  
18          purposes of this subtitle only if the dwelling unit is subject  
19          to such requirements, as the Secretary shall provide, to  
20          ensure that priority for occupancy in or, in the case of  
21          owner-occupied housing, purchase of, the dwelling unit is  
22          provided to families who are eligible for rental assistance  
23          under section 8 of the United States Housing Act of 1937  
24          (42 U.S.C. 1437f) or occupancy in public housing assisted  
25          under such Act, and have applied to a public housing

1 agency for such assistance or occupancy, as applicable,  
2 and been on a waiting list of a public housing agency for  
3 such assistance or occupancy, as applicable, for at least  
4 12 consecutive months.

5 **“SEC. 298. OTHER PROVISIONS.**

6       “(a) EFFECT OF ASSISTANCE UNDER PROGRAM.—  
7 Notwithstanding any other provision of law, the provision  
8 of assistance under this subtitle for a project shall not re-  
9 duce the amount of assistance for which such project is  
10 otherwise eligible under subtitles A through F of this title,  
11 if the project does not exceed the cost limits established  
12 pursuant to section 296(e).

13       “(b) ACCOUNTABILITY OF GRANTEES AND RECIPI-  
14 ENTS.—

15               “(1) RECIPIENTS.—

16                       “(A) TRACKING OF FUNDS.—The Sec-  
17 retary shall—

18                               “(i) require each grantee to develop  
19 and maintain a system to ensure that each  
20 recipient of assistance from Trust Fund  
21 grant amounts of the grantee uses such  
22 amounts in accordance with this subtitle,  
23 the regulations issued under this subtitle,  
24 and any requirements or conditions under  
25 which such amounts were provided; and

1           “(ii) establish minimum requirements  
2           for agreements, between the grantee and  
3           recipients, regarding assistance from the  
4           Trust Fund grant amounts of the grantee,  
5           which shall include—

6                   “(I) appropriate continuing fi-  
7                   nancial and project reporting, record  
8                   retention, and audit requirements for  
9                   the duration of the grant to the re-  
10                  cipient to ensure compliance with the  
11                  limitations and requirements of this  
12                  subtitle and the regulations under this  
13                  subtitle; and

14                  “(II) any other requirements that  
15                  the Secretary determines are nec-  
16                  essary to ensure appropriate grant ad-  
17                  ministration and compliance.

18           “(B) MISUSE OF FUNDS.—

19                   “(i) REIMBURSEMENT REQUIRE-  
20                   MENT.—If any recipient of assistance from  
21                   Trust Fund grant amounts of a grantee is  
22                   determined, in accordance with clause (ii),  
23                   to have used any such amounts in a man-  
24                   ner that is materially in violation of this  
25                   subtitle, the regulations issued under this

1 subtitle, or any requirements or conditions  
2 under which such amounts were pro-  
3 vided—

4 “(I) such recipient shall be ineli-  
5 gible for any further assistance from  
6 any Trust Fund grant amounts of any  
7 grantee during the period that begins  
8 upon such determination and ends  
9 upon reinstatement by the Secretary  
10 of the eligibility of recipient for such  
11 assistance, except that the Secretary  
12 may reinstate such an ineligible recipi-  
13 ent only pursuant to application by  
14 the recipient for such reinstatement  
15 and the recipient may not apply to the  
16 Secretary for such reinstatement dur-  
17 ing the 12-month period, or the 10-  
18 year period in the case of a second or  
19 subsequent such determination, begin-  
20 ning upon such determination; and

21 “(II) the grantee shall require  
22 that, within 12 months after the de-  
23 termination of such misuse, the recipi-  
24 ent shall reimburse the grantee for  
25 such misused amounts and return to

1 the grantee any amounts from the  
2 Trust Fund grant amounts of the  
3 grantee that remain unused or uncom-  
4 mitted for use.

5 The remedies under this clause are in ad-  
6 dition to any other remedies that may be  
7 available under law.

8 “(ii) DETERMINATION.—A determina-  
9 tion is made in accordance with this clause  
10 if the determination is—

11 “(I) made by the Secretary; or

12 “(II)(aa) made by the grantee;

13 “(bb) the grantee provides notifi-  
14 cation of the determination to the  
15 Secretary for review, in the discretion  
16 of the Secretary, of the determination;  
17 and

18 “(cc) the Secretary does not sub-  
19 sequently reverse the determination.

20 “(2) GRANTEES.—

21 “(A) REPORT.—

22 “(i) IN GENERAL.—The Secretary  
23 shall require each grantee receiving Trust  
24 Fund grant amounts for a fiscal year to

1 submit a report, for such fiscal year, to the  
2 Secretary that—

3 “(I) describes the activities fund-  
4 ed under this subtitle during such  
5 year with the Trust Fund grant  
6 amounts of the grantee;

7 “(II) describes the manner in  
8 which the grantee complied during  
9 such fiscal year with the allocation  
10 plan established pursuant to section  
11 295 for the grantee; and

12 “(III) certifies the number of  
13 total dwelling units of affordable  
14 housing that were constructed, pre-  
15 served, or rehabilitated during such  
16 fiscal year with assistance from Trust  
17 Funds grant amounts of the grantee  
18 comply with widely accepted standards  
19 for green building.

20 “(ii) PUBLIC AVAILABILITY.—The  
21 Secretary shall make such reports pursu-  
22 ant to this subparagraph publicly available.

23 “(B) MISUSE OF FUNDS.—If the Secretary  
24 determines, after reasonable notice and oppor-  
25 tunity for hearing, that a grantee has failed to

1           comply substantially with any provision of this  
2           subtitle and until the Secretary is satisfied that  
3           there is no longer any such failure to comply,  
4           the Secretary shall—

5                   “(i) reduce the amount of assistance  
6                   under this section to the grantee by an  
7                   amount equal to the amount of Trust  
8                   Fund grant amounts which were not used  
9                   in accordance with this subtitle;

10                   “(ii) require the grantee to repay the  
11                   Secretary an amount equal to the amount  
12                   of the Trust Fund grant amounts which  
13                   were not used in accordance with this sub-  
14                   title;

15                   “(iii) limit the availability of assist-  
16                   ance under this subtitle to the grantee to  
17                   activities or recipients not affected by such  
18                   failure to comply; or

19                   “(iv) terminate any assistance under  
20                   this subtitle to the grantee.

21           “(c) GREEN HOUSING CLEARINGHOUSE.—

22                   “(1) ESTABLISHMENT.—The Secretary shall es-  
23                   tablish a clearinghouse of information relating to  
24                   green building techniques to provide grantees and  
25                   recipients of Trust Fund amounts information re-

1       garding use of Trust Fund grant amounts in a man-  
2       ner that increases the efficiency of buildings and  
3       their use of energy, water, and materials, and reduc-  
4       ing building impacts on human health and the envi-  
5       ronment, through better siting, design, construction,  
6       operation, maintenance, and removal, including in-  
7       formation regarding best practices and technical rec-  
8       ommendations.

9               “(2) ACCESS THROUGH INTERNET.—The Sec-  
10       retary shall make the information of the clearing-  
11       house available by means of the Internet.

12       **“SEC. 299. DEFINITIONS.**

13       “For purposes of this subtitle, the following defini-  
14       tions shall apply:

15               “(1) ELIGIBLE ACTIVITIES.—The term ‘eligible  
16       activities’ means activities relating to the construc-  
17       tion, preservation, or rehabilitation of affordable  
18       rental housing or affordable one- to four-family  
19       owner-occupied housing, including—

20                       “(A) the construction of new housing;

21                       “(B) the acquisition of real property;

22                       “(C) site preparation and improvement, in-  
23       cluding demolition;

24                       “(D) rehabilitation of existing housing;

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

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

10                   “(ii) project operating reserves for use  
11 to cover the loss of rental assistance or in  
12 conjunction with a project loan; or

13                   “(iii) project operating accounts used  
14 to cover net operating income shortfalls for  
15 dwelling units assisted with Trust Fund  
16 grant amounts;

17           “(F) use of funds to facilitate affordability  
18 for families having incomes described in section  
19 296(c)(3), in a combined amount for a grantee  
20 in any fiscal year not to exceed 10 percent of  
21 the aggregate Trust Fund grant amounts pro-  
22 vided to the grantee for such fiscal year, for  
23 project operating accounts used to cover net op-  
24 erating income shortfalls for dwelling units as-  
25 sisted with Trust Fund grant amounts;

1           “(G) providing incentives to maintain ex-  
2           isting housing (including manufactured hous-  
3           ing) as affordable housing and to establish or  
4           extend any low-income affordability restrictions  
5           for such housing, including covering capital ex-  
6           penditures and costs of establishing community  
7           land trusts to provide sites for manufactured  
8           housing provided such incentives; and

9           “(H) in the case of affordable one- to four-  
10          family owner-occupied housing, downpayment  
11          assistance, closing cost assistance, and assist-  
12          ance for interest rate buy-downs.

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

17          “(3) EXTREMELY LOW VACANCY RATE.—The  
18          term ‘extremely low vacancy rate’ means a housing  
19          or rental vacancy rate of 2 percent or less.

20          “(4) EXTREMELY OLD HOUSING.—The term  
21          ‘extremely old housing’ means housing that is 45  
22          years old or older.

23          “(5) FAMILIES.—The term ‘families’ has the  
24          meaning given such term in section 3(b) of the

1 United States Housing Act of 1937 (42 U.S.C.  
2 1437a(b)).

3 “(6) FISCAL DISTRESS; SEVERE FISCAL DIS-  
4 TRESS.—The terms ‘fiscal distress’ and ‘severe fiscal  
5 distress’ have the meanings given such terms in sec-  
6 tion 220(d).

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

8 “(A) a State, insular area, or participating  
9 local jurisdiction for which a grant is made  
10 under section 294(e);

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

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

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

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

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

22 “(A) any unit of general local government  
23 (as such term is defined in section 104 (42  
24 U.S.C. 12704) that qualifies as a participating

1 jurisdiction under section 216 (42 U.S.C.  
2 12746) for such fiscal year; and

3 “(B) at the option of such a consortium,  
4 any consortium of units of general local govern-  
5 ments that is designated pursuant to section  
6 216 (42 U.S.C. 12746) as a participating juris-  
7 diction for purposes of title II.

8 “(11) POVERTY LINE.—The term ‘poverty line’  
9 has the meaning given such term in section 673(2)  
10 of the Omnibus Budget Reconciliation Act of 1981,  
11 including any revision required by such section.

12 “(12) RECIPIENT.—The term ‘recipient’ means  
13 an entity that receives assistance from a grantee,  
14 pursuant to section 296(a), from Trust Fund grant  
15 amounts of the grantee.

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

19 “(14) SECRETARY.—The term ‘Secretary’  
20 means the Secretary of Housing and Urban Develop-  
21 ment.

22 “(15) STATE.—The term ‘State’ has the mean-  
23 ing given such term in section 104.

1           “(16) TRUST FUND.—The term ‘Trust Fund’  
2 means the National Affordable Housing Trust Fund  
3 established under section 292.

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

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

9           “Except as specifically provided otherwise in this sub-  
10 title, no requirement under, or provision of, title I or sub-  
11 titles A through F of this title shall apply to assistance  
12 provided under this subtitle.

13 **“SEC. 299B. REGULATIONS.**

14           “Not later than 6 months after the date of enactment  
15 of the National Affordable Housing Trust Fund Act of  
16 2007, the Secretary of Housing and Urban Development  
17 shall promulgate regulations to carry out this subtitle,  
18 which shall include regulations establishing the affordable  
19 housing needs formula in accordance with section 294(a).

20 **“SEC. 299C. BENEFITS.**

21           “Nothing in this subtitle allows any payments under  
22 this subtitle for any individual or head of household that  
23 is not a legal resident.”.

24           (b) CONFORMING AMENDMENT.—Section 201 of the  
25 Cranston-Gonzalez National Affordable Housing Act (42

- 1 U.S.C. 12701 note) is amended by striking “This title”
- 2 and inserting “Subtitles A through F of this title”.

Passed the House of Representatives October 10,  
2007.

Attest:

*Clerk.*



110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2895**

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**AN ACT**

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.