

110TH CONGRESS
1ST SESSION

H. R. 3965

To extend the Mark-to-Market program of the Department of Housing and Urban Development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2007

Ms. WATERS (for herself, Mr. FRANK of Massachusetts, and Ms. PRYCE of Ohio) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To extend the Mark-to-Market program of the Department of Housing and Urban Development, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Mark-to-Market Extension and Enhancement Act of
6 2007”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.
- Sec. 4. Extension of Mark-to-Market program.

- Sec. 5. Exception rents.
 Sec. 6. Otherwise eligible projects.
 Sec. 7. Disaster-damaged eligible projects.
 Sec. 8. Period of eligibility for nonprofit debt relief.
 Sec. 9. Correcting harm caused by late subsidy payments.
 Sec. 10. Effective date.

1 **SEC. 2. PURPOSES.**

2 The purpose of this Act is to—

3 (1) continue the progress of the Multifamily As-
 4 sisted Housing Reform and Affordability Act of
 5 1997, as amended by the Mark-To-Market Exten-
 6 sion Act of 2001;

7 (2) expand eligibility for Mark-to-Market re-
 8 structuring so as to further the preservation of af-
 9 fordable housing in a cost-effective manner; and

10 (3) provide for the preservation and rehabilita-
 11 tion of projects damaged by Hurricanes Katrina,
 12 Rita, and Wilma, or by other natural disasters.

13 **SEC. 3. DEFINITIONS.**

14 Section 512 of the Multifamily Assisted Housing Re-
 15 form and Affordability Act of 1997 (42 U.S.C. 1473f
 16 note) is amended by adding at the end the following:

17 “(20) DISASTER-DAMAGED ELIGIBLE
 18 PROJECT.—

19 “(A) IN GENERAL.—The term ‘disaster-
 20 damaged eligible project’ means an otherwise el-
 21 igible multifamily housing project—

1 “(i) that is located in a county that
2 was designated a major disaster area on or
3 after January 1, 2005, by the President
4 pursuant to title IV of the Robert T. Staf-
5 ford Disaster Relief and Emergency Assist-
6 ance Act (42 U.S.C. 5121 et seq.);

7 “(ii) whose owner carried casualty and
8 liability insurance covering such project in
9 an amount required by the Secretary;

10 “(iii) that suffered damages not cov-
11 ered by such insurance that the Secretary
12 determines is likely to exceed \$5,000 per
13 unit in connection with the natural disaster
14 that was the subject of the designation de-
15 scribed in subparagraph (A); and

16 “(iv) whose owner requests restruc-
17 turing of the project not later than 2 years
18 after the date that such damage occurred.

19 “(B) RULE OF CONSTRUCTION.—A dis-
20 aster-damaged eligible project shall be eligible
21 for amounts under this Act without regard to
22 the relationship between rent levels for the as-
23 sisted units in such project and comparable
24 rents for the relevant market area.”.

1 **SEC. 4. EXTENSION OF MARK-TO-MARKET PROGRAM.**

2 Section 579 of the Multifamily Assisted Housing Re-
3 form and Affordability Act of 1997 (42 U.S.C. 1473f
4 note) is amended by striking “October 1, 2011” each place
5 such term appears and inserting “October 1, 2012”.

6 **SEC. 5. EXCEPTION RENTS.**

7 Section 514(g)(2) of the Multifamily Assisted Hous-
8 ing Reform and Affordability Act of 1997 (42 U.S.C.
9 1473f note) is amended—

10 (1) by inserting “disaster-damaged eligible
11 projects and” after “waive this limit”; and

12 (2) by striking “five percent” and inserting “9
13 percent”.

14 **SEC. 6. OTHERWISE ELIGIBLE PROJECTS.**

15 Section 514 of the Multifamily Assisted Housing Re-
16 form and Affordability Act of 1997 (42 U.S.C. 1473f
17 note) is amended by adding at the end the following:

18 “(i) OTHER ELIGIBLE PROJECTS.—

19 “(1) IN GENERAL.—Notwithstanding any other
20 provision of this subtitle, a project that meets the re-
21 quirements of subparagraphs (B) and (C) of section
22 512(2) but does not meet the requirements of sub-
23 paragraph (A) of section 512(2), may be treated as
24 an eligible multifamily housing project on an excep-
25 tion basis if the Secretary determines, subject to
26 paragraph (2), that such treatment is necessary to

1 preserve the project in the most cost-effective man-
2 ner in relation to other alternative preservation op-
3 tions.

4 “(2) OWNER REQUEST.—

5 “(A) REQUEST REQUIRED.—The Secretary
6 shall not treat an otherwise eligible project de-
7 scribed under paragraph (1) as an eligible mul-
8 tifamily housing project unless the owner of the
9 project requests such treatment.

10 “(B) NO ADVERSE TREATMENT IF NO RE-
11 QUEST MADE.—If the owner of a project does
12 not make a request under subparagraph (A),
13 the Secretary shall not withhold from such
14 project any other available preservation option.

15 “(3) CANCELLATION.—

16 “(A) TIMING.—At any time prior to the
17 completion of a mortgage restructuring under
18 this subtitle, the owner of a project may—

19 “(i) withdraw any request made under
20 paragraph (2)(A); and

21 “(ii) pursue any other option with re-
22 spect to the renewal of such owner’s sec-
23 tion 8 contract pursuant to any applicable
24 statute or regulation.

1 “(B) DOCUMENTATION.—If an owner of a
2 project withdraws such owner’s request and
3 pursues other renewal options under this para-
4 graph, such owner shall be entitled to submit
5 documentation or other information to replace
6 the documentation or other information used
7 during processing for mortgage restructuring
8 under this subtitle.

9 “(4) LIMITATION.—The Secretary may exercise
10 the authority to treat projects as eligible multifamily
11 housing projects pursuant to this subsection only to
12 the extent that the number of units in such projects
13 do not exceed 10 percent of all units for which mort-
14 gage restructuring pursuant to section 517 is com-
15 pleted.”.

16 **SEC. 7. DISASTER-DAMAGED ELIGIBLE PROJECTS.**

17 (a) MARKET RENT DETERMINATIONS.—Section
18 514(g)(1)(B) of the Multifamily Assisted Housing Reform
19 and Affordability Act of 1997 (42 U.S.C. 1473f note) is
20 amended by striking “determined, are equal” and insert-
21 ing the following: “determined—

22 “(i) with respect to a disaster-dam-
23 aged eligible property, are equal to 100
24 percent of the fair market rents for the rel-

1 evant market area (as such rents were in
2 effect at the time of such disaster; and

3 “(ii) with respect to other eligible
4 multifamily housing projects, are equal”.

5 (b) OWNER INVESTMENT.—Section 517(e) of the
6 Multifamily Assisted Housing Reform and Affordability
7 Act of 1997 (42 U.S.C. 1473f note) is amended by adding
8 at the end the following:

9 “(3) PROPERTIES DAMAGED BY NATURAL DIS-
10 ASTERS.—With respect to a disaster-damaged eligi-
11 ble property, the owner contribution toward rehabili-
12 tation needs shall be determined in accordance with
13 paragraph (2)(C).”.

14 **SEC. 8. PERIOD OF ELIGIBILITY FOR NONPROFIT DEBT RE-**
15 **LIEF.**

16 Section 517(a)(5) of the Multifamily Assisted Hous-
17 ing Reform and Affordability Act of 1997 (42 U.S.C.
18 1473f note) is amended by adding at the end the following:

19 “If such purchaser acquires such project subsequent to the
20 date of recordation of the affordability agreement de-
21 scribed in section 514(e)(6)—

22 “(1) such purchaser shall acquire such project
23 on or before the later of—

24 “(A) 5 years after the date of recordation
25 of the affordability agreement; or

1 “(B) 2 years after the date of enactment
2 of the Mark-to-Market Extension and Enhance-
3 ment Act of 2007; and

4 “(2) the Secretary shall have received, and de-
5 termined acceptable, such purchaser’s application for
6 modification, assignment, or forgiveness prior to the
7 acquisition of the project by such purchaser.”.

8 **SEC. 9. CORRECTING HARM CAUSED BY LATE SUBSIDY**
9 **PAYMENTS.**

10 Section 8 of the United States Housing Act of 1937
11 (42 U.S.C. 1437f) is amended by adding at the end the
12 following new subsection:

13 “(ff) LATE PAYMENTS.—

14 “(1) GENERAL.—The Secretary shall make pay-
15 ments of project-based rental assistance provided
16 under this section for each month on or before the
17 due date under paragraph (2) for the payment.

18 “(2) DUE DATE.—The due date under this
19 paragraph for a monthly payment is the first busi-
20 ness day of the month.

21 “(3) NOTIFICATION OF LATE PAYMENT.—The
22 Secretary shall notify a project owner at least 10
23 days before the due date for a housing assistance
24 payment if such payment will be late and shall in-

1 form the project owner of the approximate date the
2 payment will be made.

3 “(4) USE OF RESERVES.—If a housing assist-
4 ance payment for a project has not been received be-
5 fore the expiration of the 10-day period beginning
6 upon the due date for such payment, the project
7 owner shall, after the expiration of such period, be
8 entitled to obtain funds from a project replacement
9 reserve, residual receipts reserve, or other project re-
10 serve in order to pay operating and debt service
11 costs for the project.

12 “(5) INTEREST PAYMENT.—If a monthly hous-
13 ing assistance payment is not made before the expi-
14 ration of the 30-day period beginning upon the due
15 date for such payment, the Secretary shall pay to
16 the owner simple interest on the amount of such
17 monthly payment, from the due date until the date
18 of payment, at a rate determined by the Secretary
19 of Treasury in accordance with section 12 of the
20 Contract Disputes Act of 1978 (41 U.S.C. 611). In-
21 terest payments under this paragraph shall be made
22 from amounts made available for management and
23 administration of the Department of Housing and
24 Urban Development.”.

1 **SEC. 10. EFFECTIVE DATE.**

2 This Act, and the amendments made by this Act,
3 shall take effect on the earlier of—

4 (1) the date of enactment of this Act; or

5 (2) September 30, 2008.

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