

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3524) TO REAUTHORIZE THE HOPE VI PROGRAM FOR REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING, AND FOR OTHER PURPOSES

JANUARY 16, 2008.—Referred to the House Calendar and ordered to be printed

Ms. CASTOR, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 922]

The Committee on Rules, having had under consideration House Resolution 922, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3524, the HOPE VI Improvement and Reauthorization Act of 2007, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute except for clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments except for clauses 9 and 10 of rule XXI are waived. The rule provides one motion to recommit with or without instructions. The rule provides that, notwith-

standing the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker. The rule tables H. Res. 894.

EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) and waives all points of order against the amendment in the nature of a substitute (except clause 10 of rule XXI), the Committee is not aware of any points of order. The waivers of all points of order are prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 420

Date: January 16, 2008.

Measure: H.R. 3524.

Motion by: Mr. Sessions.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Price, Tom (GA), #5, which would prohibit illegal immigrants from living in housing built with HOPE VI grants.

Results: Defeated 3–8.

Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea; Sessions—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. Waters (CA)/Frank (MA)/Watt (NC): The amendment makes a number of technical and conforming changes as well as enhancements to the bill, including the following: (1) redefines the scope of the 1 for 1 replacement requirement by requiring the replacement of all units in existence as of January 1, 2005, and provides a limited waiver from the replacement requirement; (2) extends the timeline for rebuilding replacement housing units to 54 months from the date of execution of the grant agreement, consistent with current HUD practice; (3) clarifies procedural requirements for making any significant amendments or changes to a revitalization plan; (4) removes specific references to LEED for non-residential construction and excludes costs associated with green development compliance from HUD's Total Development Cost calculation; (5) clarifies eligibility and occupancy standards; and (6) clarifies that no person not lawfully permitted to be in, or remain in, the United States is eligible for housing assistance under this bill. (20 minutes)

2. Neugebauer (TX): The amendment would apply the one-to-one replacement requirement for units demolished under a HOPE VI grant only to units that are occupied prior to demolition. (10 minutes)

3. Mahoney (FL): The amendment restores the set-aside for the Main Street grant program. (10 minutes)

4. Sessions (TX): The amendment maintains HUD's authority to issue demolition-only grants. (10 minutes)

5. Lee (CA): The amendment will safeguard the rights of tenants of HOPE VI housing from eviction based on the criminal activities of others if the tenant is elderly or disabled, and did not or should not have known of the activity, or if they were the victims of a criminal act. (10 minutes)

6. King, Steve (IA): The amendment prevents appropriations for Davis-Bacon wages. (10 minutes)

7. Capito (WV): The amendment substitutes the green building requirement, which is part of the mandatory core component of the underlying bill, with a provision that includes green building as part of the mandatory graded section. It also strikes references in the bill to specific green building standards and instead requires the Secretary of HUD to select a rating system, standard, or code for green buildings. This standard shall meet certain criteria and the Secretary shall conduct a study every 5 years to evaluate and compare third party green building standards to see if they meet the criteria.

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATERS OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 9, strike lines 7 through 12, and insert the following:

“(I)(aa) provides for replacement in accordance with subsection (j) of 100 percent of all dwelling units in existence as of January 1, 2005, that are subject to the revitalization plan and that have been or will be demolished or disposed of, on the site of”.

Page 9, line 15, before the semicolon insert the following: “, or (bb) pursuant to subsection (j)(1)(B), requests a reduction of the percentage specified in subsection (j)(1)(A) and provides for replacement of dwelling units demolished or disposed of in accordance with the percentage requested”.

Page 9, line 18, strike “tenants” and insert “residents”.

Page 9, strike “and” in line 24 and all that follows through “(p)(1)” on page 10, line 2, and insert “(as modified by any percentage reduction requested under subsection (j)(1)(B))”.

Page 11, line 9, before the comma insert “(including nonprofit housing developers)”.

Page 13, line 4, before the last comma insert “(including non-profit housing developers)”.

Page 14, line 9, after “standard” insert “or standards”.

Strike line 16 on page 14 and all that follows through page 15, line 5, and insert the following: “construction, complies with the components of the green building rating systems and levels identified by the Secretary pursuant to subsection (1)(3), but only to the extent such compliance exceeds the minimum level required under such systems and levels.”.

Page 15, line 13, before “individuals” insert “, but not limited to, elderly households, disabled households, households consisting of

grandparents raising grandchildren, large families, households displaced by the revitalization plan in need of special services, and”.

Page 15, line 16, strike “State or Federal correctional facility” and insert “prison, jail, or other correctional facility of the Federal Government, a State government, or a unit of local government”.

Page 17, after line 21, insert the following:

(c) EXCLUSION OF GREEN DEVELOPMENT COSTS FROM TOTAL DEVELOPMENT COSTS.—Subsection (f) of section 24 is amended by adding after and below paragraph (2) the following:

“In determining the total development costs for a revitalization plan, the Secretary shall not consider any costs of compliance with green building rating systems and levels identified by the Secretary pursuant to subsection (1)(3).”.

Page 21, line 6, before “dates” insert “approximate”.

Page 23, after line 3, insert the following new paragraph:

“(5) SIGNIFICANT AMENDMENTS OR CHANGES TO PLAN.—A public housing agency may not carry out any significant amendment or change to a revitalization plan unless—

“(A) the public housing agency has convened and conducted a public hearing regarding the significant amendment or change at a time and location that is convenient for residents of the public housing subject to the plan and has provided each household occupying a dwelling unit in such public housing with written notice of such hearing not less than 10 days before such hearing; and

“(B) after such hearing, the public housing agency consults with the households occupying dwelling units in the public housing that are subject to, or to be subject to, the plan, and the agency submits a report to the Secretary describing the results of such consultation; and

“(C) the Secretary approves the significant amendment or change.

Notwithstanding subparagraph (C), if the Secretary does not approve or disapprove a request for a significant amendment or change to a revitalization plan before the expiration of the 30-day period beginning upon the receipt by the Secretary of the report referred to in subparagraph (B), such request shall be considered to have been approved.”.

Page 24, line 20, strike “either”.

Page 24, line 22, strike “or provide the tenant” and insert “and continue to provide the household with comprehensive relocation assistance, or at the option of the household, provide the household”.

Page 26, strike line 13, and insert the following:

“(1) NUMBER.—

“(A) IN GENERAL.—For one hundred percent, or such lower percentage as is provided pursuant to subparagraph (B), of all”.

Page 26, strike “the date” in line 14 and all that follows through line 16 and insert the following: “January 1, 2005, that are subject to the revitalization plan and that have been or will be demolished or disposed of, the public hous-”.

Page 26, after line 18, insert the following:

“(B) WAIVER.—

“(i) **AUTHORITY.**—Upon the written request of a public housing agency submitted as part of an application for a grant under this section, the Secretary may reduce the percentage applicable under subparagraph (A) to a revitalization plan of the agency to not less than 90 percent, but only if—

“(I) the Secretary determines that such written request has sufficiently demonstrated a compelling need for such reduction due to extenuating circumstances, which shall include—

“(aa) a judgment, consent decree, or other order of a court that limits the ability of the public housing agency to comply with such requirements;

“(bb) a severe shortage of land available to comply with such requirements; and

“(cc) such other circumstances as the Secretary determines on a case-by-case basis; and

“(II) the reduction is narrowly tailored such that it—

“(aa) reduces the percentage only to the extent necessary to address the particular extenuating circumstances demonstrated pursuant to subclause (I); and

“(bb) is limited in a manner that ensures the maximum extent of compliance with the requirements of this subsection.

“(ii) **REQUIRED AND IMPERMISSIBLE CONSIDERATIONS.**—In determining whether a compelling need for a reduction pursuant to this subparagraph exists, and extenuating circumstances exist, for purposes of clause (i), the Secretary—

“(I) shall take into consideration the extent and circumstances of any vacant public housing dwelling units of the public housing agency;

“(II) shall take into consideration the extent to which revitalization plan provides additional amenities that will improve the quality of the life of residents by increasing open space or by providing health care or day care facilities or by providing larger units to accommodate families; and

“(III) shall not base any such determination solely or primarily upon any financial hardship of a public housing agency or any other financial condition or consideration.

“(iii) **NO WAIVER OF TIME LIMITS.**—The Secretary may not, under this subparagraph, waive any requirement of paragraph (3) (relating to timing). The preceding sentence may not be construed to limit or otherwise affect the authority under subsection (o)(3).

“(iv) **PENALTY.**—If, pursuant to this subparagraph, the Secretary reduces the percentage under subparagraph (A) applicable to the revitalization plan of a public housing agency, no grant under this section may be made to such agency or for any public housing

of such agency at any time that such agency is not in full compliance with the requirements of this paragraph, as modified by the terms of such reduction.”.

Page 30, after line 2, insert the following:

“Notwithstanding the preceding sentence, if a public housing agency has limited areas within its jurisdiction having low concentrations of poverty, the replacement housing units provided in addition to the dwelling units provided pursuant to subparagraph (A) may be provided within a 25-mile radius of the mixed-income development referred to in subparagraph (A).”.

Page 30, strike line 3 and all that follows through “credit.” in line 13, and insert the following:

“(3) TIMING.—All replacement dwelling units required pursuant to this subsection with respect to the revitalization plan of a public housing agency shall be provided not later than the expiration of the 54-month period that begins upon the execution of the grant agreement under this section for the revitalization plan of the public housing agency.”.

Page 31, after line 2, insert the following:

“(5) PROJECT-BASED VOUCHERS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2009 through 2015 for providing replacement vouchers for project-based rental assistance for the purpose of complying with the one-for-one replacement requirement under this subsection.”.

Page 33, line 1, strike “(3)” and insert “(4)”.

Page 33, line 3, after “standard” insert “or standards”.

Strike line 22 on page 33 and all that follows through page 34, line 9, and insert the following:

“(B) GREEN BUILDINGS CERTIFICATION SYSTEM.—All non-residential construction under the proposed plan complies with all minimum required levels of the green building rating systems and levels identified by the Secretary pursuant to paragraph (3), as such systems and levels are in effect for purposes of this subsection pursuant to paragraph (4) at the time of the application for the grant.”.

Page 35, after line 5, insert the following:

“(3) IDENTIFICATION OF GREEN BUILDINGS RATING SYSTEMS AND LEVELS.—

“(A) IN GENERAL.—For purposes of this section, the Secretary shall identify rating systems and levels for green buildings that the Secretary determines to be the most likely to encourage a comprehensive and environmentally-sound approach to ratings and standards for green buildings. The identification of the ratings systems and levels shall be based on the criteria specified in subparagraph (B), shall identify the highest levels the Secretary determines are appropriate above the minimum levels required under the systems selected. Within 90 days of the completion of each study required by subparagraph (C), the Secretary shall review and update the rating systems and levels, or identify alternative systems and levels for purposes of this section, taking into account the conclusions of such study.

“(B) CRITERIA.—In identifying the green rating systems and levels, the Secretary shall take into consideration—

“(i) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this subsection;

“(ii) the ability of the applicable ratings system organizations to collect and reflect public comment;

“(iii) the ability of the standards to be developed and revised through a consensus-based process;

“(iv) an evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

“(I) efficient and sustainable use of water, energy, and other natural resources;

“(II) use of renewable energy sources;

“(III) improved indoor environmental quality through enhanced indoor air quality, thermal comfort, acoustics, day lighting, pollutant source control, and use of low-emission materials and building system controls; and

“(IV) such other criteria as the Secretary determines to be appropriate; and

“(v) national recognition within the building industry.

“(C) 5-YEAR EVALUATION.—At least once every five years, the Secretary shall conduct a study to evaluate and compare available third-party green building rating systems and levels, taking into account the criteria listed in subparagraph (B).”.

Page 35, line 6, strike “(3)” and insert “(4)”.

Page 35, lines 10 and 11, strike “LEED rating systems” and insert “green building rating systems and levels”.

Page 35, line 12, after “(B)” insert “of paragraph (1)”.

Page 35, line 13, strike “and systems” and insert “, systems, and levels”.

Page 35, strike lines 21 through 24 and insert the following: “criteria checklist, any standard or standards that the Secretary has determined to be substantially equivalent to such checklist, and the green building ratings systems and levels identified by the Secretary pursuant to paragraph (3).”.

Page 35, line 25, strike “LIMITATION ON EXCLUSION” and insert “CONSISTENT ELIGIBILITY AND OCCUPANCY STANDARDS”.

Page 36, line 5, strike “LIMITATION ON EXCLUSION” and insert “CONSISTENT ELIGIBILITY AND OCCUPANCY STANDARDS”.

Strike “. A household” in line 15, on page 36 and all that follows through page 37, line 7, and insert the following: “, including requirements under Federal law relating to safety and security in public and assisted housing and ineligibility of drug criminals, illegal drug users, alcohol abusers, and dangerous sex offenders, preferences for elderly and disabled residents, and ineligibility of persons convicted of methamphetamine offenses.”.

Page 37, after line 7, insert the following:

“(3) CONSISTENT OCCUPANCY STANDARDS FOR DISPLACED FAMILIES.—Notwithstanding paragraph (2), any household who oc-

cupied a dwelling unit in public housing subject to a revitalization plan of a public housing agency and that was displaced as a result of the revitalization shall be subject, for purposes of occupancy in replacement housing provided pursuant to subsection (j) under the replacement plan that is owned or managed, or assisted, by the agency, only to policies, practices, standards, criteria, and requirements regarding continued occupancy in such original public housing (and not to initial occupancy).”.

Page 38, line 7, after the period insert the following: “Such benchmarks shall include completion of the provision of all replacement dwelling units provided pursuant to the requirements of subsection (j)”.

Page 39, after line 5, insert the following:

“(D) project delays and cost increases due to shortages in labor and materials as a direct result of location in an area that is subject to a declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster and Emergency Assistance Act, except that an extension of the period for compliance with performance benchmarks pursuant to this subparagraph shall not be for a period longer than 12 months;”.

Page 39, line 6, strike “(D)” and insert “(E)”.

Page 39, line 7, strike “(E)” and insert “(F)”.

Page 39, line 9, strike “(F)” and insert “(G)”.

Strike line 17 on page 39 and all that follows through “(2) URA.—” on page 40, line 1, and insert the following:

“(p) APPLICABILITY OF UNIFORM RELOCATION ACT.—”.

Page 42, lines 17 and 18, strike “10 percent or more of the funds” and insert “20 percent or more of the total amount of HOPE VI grant amounts provided under this section”.

Page 44, after line 18, insert the following:

SEC. 16. EXTENSION OF AVAILABILITY OF FUNDS FOR REVITALIZATION PLANS DELAYED BY HURRICANES.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not, before October 1, 2009, recapture any portion of a grant made to a public housing agency to carry out a revitalization plan under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) if the public housing agency has suffered, as a direct result of Hurricane Katrina, Wilma, or Rita of 2005—

(1) project delays; and

(2) cost increases due to shortages in labor and materials.

Page 44, line 19, strike “sec. 16.” and insert “sec. 17.”.

Page 45, after line 2, insert the following:

SEC. 18. NON-CITIZEN ELIGIBILITY RESTRICTIONS.

No person not lawfully permitted to be in or remain in the United States is eligible for housing assistance under this Act or the amendments made by this Act. Nothing in this Act or the amendments made by this Act alters the rules under section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. §1436a).

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NEUGEBAUER OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 9, line 4, before the period insert “FOR OCCUPIED UNITS”.
 Page 9, line 11, after the comma insert “occupied”.
 Page 26, line 9, before the period insert “FOR OCCUPIED UNITS”.
 Page 26, line 14, strike “in existence” insert “occupied”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MAHONEY OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 5, strike lines 8 through 23, and insert the following:

SEC. 5. MAIN STREET PROJECTS GRANTS.

Section 24 is amended—

- (1) by redesignating subsection (n) as subsection (y);
- (2) in subsection (l), by striking “subsection (n)” each place such term appears and inserting “subsection (y)”; and
- (3) in subsection (m)(3), by striking “subsection (n)” and inserting “subsection (y)”.

Page 40, strike lines 19 and 20 and insert the following:

- (1) in paragraph (4), by striking “and” at the end;
- (2) by redesignating paragraph (5) as paragraph (6); and
- (3) by inserting after paragraph (4) the following new paragraph:

Page 40, line 21, strike “(4)” and insert “(5)”.

Page 44, line 21, strike “by adding at the end” and inserting “by inserting before subsection (y) (as so redesignated by section 5(1) of this Act)”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SESSIONS OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike line 18 on page 4 and all that follows through page 5, line

7.
 Page 16, lines 20 through 22, strike “, as amended by the preceding provisions of this Act, is further” and insert “is”.

Page 16, line 24, strike “(5)” and insert “(4)”.

Page 17, line 9, strike “(6)” and insert “(5)”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LEE OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 40, line 4, strike the quotation marks and the second period.

Page 40, after line 4, insert the following:

“(3) PUBLIC HOUSING AND SECTION 8 EVICTION PROVISIONS.—

In the case of any public housing or housing assisted under section 8, for which assistance is provided at any time pursuant to a grant for a revitalization plan under this section, the provisions of paragraph (6) of section 6(l) and clause (iii) of section 8(d)(1)(B), respectively, shall apply, except that any criminal or drug-related criminal activity referred to in the matter preceding subparagraph (A) of such paragraph or in the matter

preceding subclause (I) of such clause, respectively, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy of the tenant if—

“(A) the tenant is an elderly person (as such term is defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q)) or a person with disabilities (as such term is defined in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)), and

“(B) the tenant did not know and should not have known of the activity or the tenant or member of household was the victim of the criminal activity;”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KING OF IOWA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 44, line 2, before the closing quotation marks insert the following: “None of the funds authorized to be appropriated under this paragraph may used to pay wages in compliance with subchapter IV of chapter 31 of title 40, United States Code.”.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAPITO OF WEST VIRGINIA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 10, strike lines 13 through 16.

Page 14, strike “non-mandatory” in lines 5 and 6 and all that follows through line 14, and insert the following: “components of the green building rating system, standard, or code determined by the Secretary pursuant to subsection (1)(3); and”.

Strike line 16 on page 14 and all that follows through page 15, line 5, and insert the following: “construction, complies with the components of the green building rating system, standard, or code determined by the Secretary pursuant to subsection (1)(3).”.

Page 32, line 13, strike “REQUIREMENT”.

Strike line 14 on page 32 and all that follows through page 34, line 9.

Page 34, line 10, strike “(2)” and insert “(1)”.

Page 34, line 13, strike “proposed”.

Page 34, strike lines 15 through 18, and insert “this section is carried out in accordance with the terms included in the approved plan pursuant to section (e)(2)(C)(xii)”.

Page 35, after line 5, insert the following:

“(2) IDENTIFICATION OF GREEN BUILDINGS RATING SYSTEM, STANDARD, OR CODE.—

“(A) IN GENERAL.—For purposes of this section, the Secretary shall identify a rating system, standard, or code for green buildings that the Secretary determines to be a comprehensive and environmentally-sound approach to development of green buildings.

“(B) CRITERIA.—In identifying the green building rating system, standard, or code under this paragraph, the Secretary shall take into consideration—

“(i) the impact of the cost of the enhanced building quality rating systems, standards, or codes on the number of affordable housing units;

“(ii) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this subsection;

“(iii) the ability of the applicable developer of the rating system, standard, or code to collect and reflect public comment;

“(iv) the ability of the rating system, standard, or code to be developed and revised through a consensus-based process;

“(v) an evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

“(I) efficient and sustainable use of land, water, energy, and other natural resources;

“(II) use of renewable energy sources;

“(III) improved indoor environmental quality through enhanced indoor air quality, day lighting, pollutant source control, and use of low-emission materials and building system controls; and

“(IV) such other criteria as the Secretary determines to be appropriate; and

“(vi) whether the rating system, standard, or code is accredited by a national standards developing organization.

“(C) 5-YEAR EVALUATION.—At least once every five years, the Secretary shall conduct a study to evaluate and compare available third-party green building rating systems, standards, and codes, taking into account the criteria specified in subparagraph (B).”.

Page 35, lines 9 through 11, strike “national Green Communities criteria checklist and LEED rating systems” and insert “green building rating system, standard, or code”.

Page 35, line 13, strike “checklist and systems” and insert “system, standard, or code”.

Page 35, strike “the national” in line 20 and all that follows through line 24, and insert the following: “any rating system, standard, or code that the Secretary has determined to be appropriate pursuant to paragraph (3).”.