

116TH CONGRESS
1ST SESSION

S. 2076

To reform the screening and eviction policies for Federal housing assistance in order to provide fair access to housing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 10, 2019

Ms. HARRIS (for herself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To reform the screening and eviction policies for Federal housing assistance in order to provide fair access to housing, 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.**

4 This Act may be cited as the “Fair Chance at Hous-
5 ing Act of 2019”.

6 **SEC. 2. DATA COLLECTION; COMPLIANCE; DEFINITIONS.**

7 Subtitle F of the Quality Housing and Work Respon-
8 sibility Act of 1998 (42 U.S.C. 13661 et seq.) is amend-
9 ed—

1 (1) in section 578(c) (42 U.S.C. 13663(c)), by
 2 striking “section 579(a)(2)” and inserting “section
 3 579B(3)”;

4 (2) by redesignating section 579 as section
 5 579B;

6 (3) by inserting after section 578 (42 U.S.C.
 7 13663) the following:

8 **“SEC. 579. DATA COLLECTION.**

9 “(a) APPLICATIONS.—

10 “(1) IN GENERAL.—The Secretary shall require
 11 each public housing agency and owner to submit a
 12 report to the Secretary on an annual basis that con-
 13 tains the following information for the preceding 12-
 14 month reporting period:

15 “(A) The number of applications for ad-
 16 mission to federally assisted housing or a feder-
 17 ally assisted housing program reviewed by the
 18 public housing agency, including by the review
 19 panel of the public housing agency, or owner.

20 “(B) The number of applications for ad-
 21 mission to federally assisted housing or a feder-
 22 ally assisted housing program reviewed by the
 23 public housing agency, including by the review
 24 panel of the public housing agency, or owner for
 25 covered criminal conduct.

1 “(C) The number of denials of applications
2 for admission to federally assisted housing or a
3 federally assisted housing program rendered by
4 the public housing agency or owner on the basis
5 of covered criminal conduct.

6 “(D) The number of denials described in
7 subparagraph (C) pursuant to which the appli-
8 cant filed a request for informal review.

9 “(E) The number of denials described in
10 subparagraph (C) that were overturned fol-
11 lowing informal review.

12 “(F) The information required under sub-
13 paragraphs (A) through (E) disaggregated by
14 the race of the applicant, the ethnicity of the
15 applicant, the sex of the applicant, and whether
16 the applicant had a disability as defined by sec-
17 tion 504 of the Rehabilitation Act of 1973 (29
18 U.S.C. 794).

19 “(2) CONFIDENTIALITY.—The information col-
20 lected pursuant to paragraph (1) shall be subject to
21 the same confidentiality requirements of section
22 576(b)(2)(F) that are applicable to information
23 gathered in the process of screening for criminal
24 convictions.

1 “(b) TERMINATIONS.—The Secretary shall require
2 each public housing agency and owner to submit a report
3 to the Secretary on an annual basis that contains the fol-
4 lowing information for the preceding 12-month reporting
5 period:

6 “(1) The number of terminations of tenancy
7 and terminations of assistance initiated by the public
8 housing agency or owner.

9 “(2) The number of terminations of tenancy
10 and terminations of assistance rendered by the pub-
11 lic housing agency or owner on the basis of covered
12 criminal activity.

13 “(3) For each termination of tenancy or assist-
14 ance based on covered criminal conduct, the specific
15 type or types of covered criminal conduct involved,
16 including the disposition of any criminal charges
17 against the tenant or participant.

18 “(4) The information required under para-
19 graphs (1) through (3) disaggregated by the race of
20 the applicant, the ethnicity of the applicant, the sex
21 of the applicant, and whether the applicant had a
22 disability as defined by section 504 of the Rehabili-
23 tation Act of 1973 (29 U.S.C. 794).”;

24 (4) by inserting after section 579, as added by
25 paragraph (3), the following:

1 **“SEC. 579A. COMPLIANCE.**

2 “A public housing agency or owner of federally as-
 3 sisted housing, as applicable, shall be solely responsible for
 4 compliance with the requirements of this subtitle, notwith-
 5 standing the use of any third party for such purposes. In
 6 a case of failure of a public housing agency or owner to
 7 comply with the requirements of this subtitle, the Sec-
 8 retary may withhold funds made available for the federally
 9 assisted housing program under which the failure to com-
 10 ply occurred from the agency or owner.”; and

11 (5) in section 579B, as so redesignated—

12 (A) by striking “(a) DEFINITIONS.—”;

13 (B) by striking paragraph (1) and insert-
 14 ing the following:

15 “(1) CONVICTION.—

16 “(A) IN GENERAL.—The term ‘conviction’
 17 means judgment of guilt or nolo contendere or
 18 any disposition arising therefrom.

19 “(B) EXCLUSIONS.—Such term does not
 20 include—

21 “(i) an arrest or any disposition there-
 22 from that did not result in a conviction;

23 “(ii) any criminal disposition for an
 24 offense committed prior to the defendant’s
 25 18th birthday;

1 “(iii) a conviction that has been ex-
 2 punged, sealed, or subject to similar judi-
 3 cial relief;

4 “(iv) a disposition received through
 5 successful completion of diversion, deferred
 6 adjudication, deferred entry of judgment,
 7 drug court, or similar judicial program
 8 under State law; or

9 “(v) any other criminal disposition not
 10 deemed a conviction under State or Fed-
 11 eral law.”;

12 (C) by redesignating paragraphs (2) and
 13 (3) as paragraphs (3) and (4), respectively;

14 (D) by inserting after paragraph (1) the
 15 following:

16 “(2) COVERED CRIMINAL CONDUCT.—

17 “(A) ADMISSION TO FEDERALLY ASSISTED
 18 HOUSING.—

19 “(i) IN GENERAL.—The term ‘covered
 20 criminal conduct’ means, with respect to
 21 admission to federally assisted housing,
 22 criminal conduct—

23 “(I) for which the applicant or a
 24 member of the household of the appli-
 25 cant has been convicted of a felony

1 under State or Federal criminal law;
 2 and

3 “(II) that threatens the health or
 4 safety of other tenants, the employees,
 5 or the owner or public housing agen-
 6 cy.

7 “(ii) EXCLUSIONS.—Notwithstanding
 8 any other provision of law, such term does
 9 not include, with respect to admission to
 10 federally assisted housing—

11 “(I) a conviction for a drug of-
 12 fense for which the person served a
 13 sentence of less than 10 years;

14 “(II) an offense or offenses re-
 15 lated to fees or back payments associ-
 16 ated with incarceration;

17 “(III) any other legal financial
 18 obligation; or

19 “(IV) a conviction for which the
 20 person was sentenced only to proba-
 21 tion.

22 “(B) TERMINATION OF TENANCY OR AS-
 23 SISTANCE.—

24 “(i) IN GENERAL.—The term ‘covered
 25 criminal conduct’—

1 “(I) means, with respect to ter-
 2 mination of tenancy or assistance,
 3 criminal conduct committed by the
 4 tenant or any member of the house-
 5 hold of the tenant while receiving
 6 Federal housing assistance, that
 7 threatens the health or safety of other
 8 tenants, the employees, or the owner
 9 or public housing agency; and

10 “(II) includes criminal conduct
 11 described in section 16(f)(1) of the
 12 United States Housing Act of 1937
 13 (42 U.S.C. 1437n(f)(1)).

14 “(ii) EXCLUSIONS.—Such term does
 15 not include, with respect to termination of
 16 tenancy or assistance—

17 “(I) a misdemeanor;

18 “(II) an arrest for an offense for
 19 which the applicant was not subse-
 20 quently adjudicated or convicted;

21 “(III) any juvenile adjudication
 22 or conviction, including convictions
 23 where a juvenile was tried as an adult;

1 “(IV) a conviction that has been
2 expunged, sealed, or subject to similar
3 judicial relief under State law;

4 “(V) criminal citations or infrac-
5 tions regardless of classification;

6 “(VI) non-criminal citations;

7 “(VII) a disposition received
8 through successful completion of di-
9 version, deferred adjudication, de-
10 ferred entry of judgment, drug court,
11 or similar judicial program under
12 State law;

13 “(VIII) a conviction for which
14 the person was sentenced only to pro-
15 bation;

16 “(IX) an offense or offenses re-
17 lated to fees or back payments associ-
18 ated with incarceration;

19 “(X) child support payments or
20 back pay associated with barriers, in-
21 cluding incarceration, homelessness,
22 unemployment, or disability; or

23 “(XI) disciplinary infractions
24 committed by elementary or secondary
25 school students, or school related

1 issues that are not criminal in nature,
 2 but may have led to justice involve-
 3 ment.”;

4 (E) in paragraph (3), as so redesignated—

5 (i) in subparagraph (G), by inserting
 6 “or” after the semicolon at the end;

7 (ii) in subparagraph (H), by striking
 8 “; or” and inserting a period; and

9 (iii) by striking subparagraph (I); and

10 (F) in paragraph (4), as so redesignated,
 11 by adding after the period at the end the fol-
 12 lowing: “For purposes of sections 576 and 577,
 13 such term does not include an owner of feder-
 14 ally assisted housing described in paragraph
 15 (3)(B).”.

16 **SEC. 3. SCREENING OF APPLICANTS FOR FEDERALLY AS-**
 17 **SISTED HOUSING.**

18 (a) SCREENING OF APPLICANTS.—Section 576 of the
 19 Quality Housing and Work Responsibility Act of 1998 (42
 20 U.S.C. 13661) is amended to read as follows:

21 **“SEC. 576. SCREENING OF APPLICANTS FOR FEDERALLY**
 22 **ASSISTED HOUSING.**

23 “(a) AUTHORITY TO DENY ADMISSION FOR CRIMI-
 24 NAL CONDUCT.—Except as otherwise provided by this sec-
 25 tion and in addition to any other authority to screen appli-

1 cants, in selecting among applicants for admission to fed-
 2 erally assisted housing or a federally assisted housing pro-
 3 gram, including persons seeking to join a household cur-
 4 rently receiving Federal housing assistance, a public hous-
 5 ing agency or owner of such housing (as applicable) may
 6 deny an applicant admission to the program or to federally
 7 assisted housing based on any criminal conduct only if the
 8 agency or owner determines, based on an individualized
 9 review of the totality of the circumstances, that the appli-
 10 cant or any member of the household of the applicant was
 11 engaged in covered criminal conduct, within a reasonable
 12 period of time preceding the date on which the applicant
 13 household would otherwise be admitted to the federally as-
 14 sisted housing or to the program.

15 “(b) INDIVIDUALIZED REVIEW OF THE TOTALITY OF
 16 THE CIRCUMSTANCES.—

17 “(1) REQUIREMENT.—Before denying admis-
 18 sion to an applicant pursuant to subsection (a), a
 19 public housing agency or owner of federally assisted
 20 housing shall conduct an individualized review of the
 21 totality of the circumstances regarding the criminal
 22 conduct at issue.

23 “(2) REVIEW PANEL FOR PUBLIC HOUSING AND
 24 TENANT-BASED RENTAL ASSISTANCE APPLICANTS.—

25 “(A) IN GENERAL.—

1 “(i) GUIDANCE FOR REVIEW
 2 PANEL.—The Secretary shall issue guid-
 3 ance requiring each public housing agency
 4 to establish a review panel to conduct the
 5 individualized review required under para-
 6 graph (1) with respect to applications for
 7 federally assisted housing specified in sub-
 8 paragraphs (A) and (B) of section
 9 579B(3).

10 “(ii) MITIGATING EVIDENCE.—An ap-
 11 plicant may present mitigating evidence for
 12 the review panel to determine whether the
 13 applicant should be admitted.

14 “(B) MEMBERSHIP.—Each review panel
 15 described in this paragraph shall include not
 16 less than 1 resident representative.

17 “(C) NOTICE.—Applicants shall be notified
 18 in writing of their panel review not less than 14
 19 days before date of the review, and notice shall
 20 be provided in accordance with subsection (c).

21 “(D) CONVICTION INFORMATION.—

22 “(i) IN GENERAL.—A public housing
 23 agency shall produce a detailed criminal
 24 conviction report to be used by the review
 25 panel in the review process.

1 “(ii) CORRECTION OF ERRORS.—If an
2 applicant identifies an error on the crimi-
3 nal conviction report used by the review
4 panel, the applicant shall have the oppor-
5 tunity to defer his or her application prior
6 to panel review to correct the report.

7 “(iii) SHARING.—A report described
8 in this subparagraph shall be shared only
9 with the applicant and members of the re-
10 view panel.

11 “(E) BURDEN OF PROOF.—A public hous-
12 ing agency may not deny admission to an appli-
13 cant unless the agency determines, by a prepon-
14 derance of the evidence, that the criminal con-
15 duct of the applicant renders the applicant unfit
16 for housing.

17 “(F) CONFIDENTIALITY.—

18 “(i) REQUIREMENT.—All information
19 gathered in the process of screening for
20 criminal convictions shall be kept confiden-
21 tial and shall not be released unless the
22 applicant agrees in writing or the release
23 of the information is otherwise required by
24 law.

1 “(ii) POLICY.—Public housing agen-
2 cies shall establish a formal confidentiality
3 policy with respect to screening for crimi-
4 nal convictions.

5 “(G) DECISION-MAKING PROCESS.—A re-
6 view panel described in this paragraph shall—

7 “(i) review the circumstances of an
8 applicant and other available information,
9 including any information the applicant
10 chooses to bring to the attention of the re-
11 view panel; and

12 “(ii) not later than 7 days after the
13 date on which the review begins, the review
14 panel shall review all relevant information
15 and determine whether, by a preponder-
16 ance of the evidence, the criminal record of
17 the applicant renders the applicant unfit
18 for housing.

19 “(H) APPEALS.—

20 “(i) IN GENERAL.—Each applicant
21 shall have a right to appeal a decision by
22 a review panel under this paragraph to
23 deny admission to housing, in accordance
24 with any applicable regulations.

1 “(ii) APPEAL.—An applicant shall
2 have 14 days to appeal the determination
3 made under subparagraph (G)(ii) and a re-
4 quest for such an appeal shall be made in
5 writing.

6 “(iii) HEARING.—Pursuant to a re-
7 quest made under clause (ii), the public
8 housing agency shall hold an informal
9 hearing and decide whether to uphold the
10 initial determination within 7 days after
11 the hearing.

12 “(iv) RESERVATION OF ASSIST-
13 ANCE.—The public housing agency shall
14 hold the dwelling unit open or shall reserve
15 the assistance under the federally assisted
16 housing program, as the case may be, dur-
17 ing the entire time of the appeals process
18 under this subparagraph.

19 “(3) NON-DISCRIMINATION.—When conducting
20 an individualized review under this section, a public
21 housing agency or owner of federally assisted hous-
22 ing shall comply with applicable civil rights require-
23 ments under the Fair Housing Act (42 U.S.C. 3601
24 et seq.), title VI of the Civil Rights Act of 1964 (42
25 U.S.C. 2000d et seq.), section 504 of the Rehabilita-

tion Act of 1973 (29 U.S.C. 794), and titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq., 12181 et seq.).

“(4) REVIEW FACTORS.—In conducting the reviews required under paragraph (1), the public housing agency or owner shall consider the following factors holistically, such that no single factor is dispositive:

“(A) SEVERITY.—The severity of the criminal offense or offenses committed.

“(B) TIME ELAPSED.—The amount of time elapsed since the criminal offense or offenses were committed.

“(C) EVIDENCE OF REHABILITATION.—Evidence of rehabilitation, including—

“(i) the satisfactory compliance of a person with all terms and conditions of parole or probation, provided that the failure of the person to pay fines, fees, and restitution shall not be considered noncompliance with terms and conditions of parole or probation;

“(ii) educational attainment or vocational or professional training, or employ-

1 ment since conviction, including training
2 received or employment while incarcerated;

3 “(iii) completion of or active partici-
4 pation in rehabilitative treatment, includ-
5 ing alcohol or drug treatment;

6 “(iv) letters of recommendation from
7 community organizations, counselors, case
8 managers, teachers, community leaders,
9 parole officers, and probation officers who
10 have observed the person;

11 “(v) the familial relationship of a per-
12 son with a person who may be currently
13 residing in the dwelling unit in federally
14 assisted housing that the applicant is ap-
15 plying for residence in; or

16 “(vi) the age of the person at the time
17 of the conviction.

18 “(D) REDUCTION IN SENTENCE.—Whether
19 the applicant received a reduced sentence for
20 the criminal offense or offenses committed.

21 “(E) NATURE OF OFFENSE.—The nature
22 of the criminal offense, which shall include the
23 following:

1 “(i) OFFENSES RELATED TO AN INDIVIDUAL’S DISABILITY STATUS.—Whether
 2 the criminal offense or offenses—
 3

4 “(I) were committed by a member of the household who is an individual with disabilities who is entitled
 5 to a reasonable accommodation under
 6 the Fair Housing Act (42 U.S.C.
 7 3601 et seq.) or section 504 of the
 8 Rehabilitation Act of 1974 (29 U.S.C.
 9 794); and
 10

11 “(II) are related to or resulted
 12 from a symptom of a disability of the
 13 member of the household who committed the criminal offense or offenses.
 14
 15
 16

17 “(ii) PROXIMITY TO ASSISTED HOUSING.—Whether the criminal offense or offenses occurred on or near the federally assisted housing to which the application of
 18 the applicant relates, if applicable.
 19
 20
 21

22 “(iii) OFFENSES RELATED TO AN INDIVIDUAL’S STATUS AS A VICTIM OF DOMESTIC VIOLENCE.—Whether the criminal
 23 offense or offenses committed arose from
 24
 25

1 the status of a member of the household as
2 a victim of domestic violence, dating vio-
3 lence, sexual assault, or stalking, as those
4 terms are defined in section 40002 of the
5 Violence Against Women Act of 1994 (34
6 U.S.C. 12291).

7 “(F) OTHER MITIGATING INFORMATION.—

8 Any other mitigating information provided by
9 the applicant, or provided on behalf of the ap-
10 plicant, including any information regarding the
11 rehabilitation or good conduct of the member of
12 the household who committed the criminal of-
13 fense or offenses.

14 “(5) GUIDANCE.—The Secretary shall issue

15 guidance for public housing agencies and owners to
16 implement the requirement to conduct individualized
17 reviews in accordance with this section.

18 “(c) NOTICES.—The Secretary shall require each

19 public housing agency and owner of federally assisted
20 housing to provide—

21 “(1) to each new applicant and each applicant

22 upon selection from the wait list for admission to
23 federally assisted housing or to a federally assisted
24 housing program, at the time of application and se-
25 lection from the wait list, written notice of the policy

1 of the agency or owner pursuant to this subtitle or
2 any other provision of law regarding denial of admis-
3 sion for criminal conduct, which shall include—

4 “(A) notice of the authority under sub-
5 section (a) to deny admission based on covered
6 criminal conduct and notice of the specific rea-
7 sonable time period to which such authority ap-
8 plies;

9 “(B) notice of the requirement under sub-
10 section (b) to consider the totality of the cir-
11 cumstances and the right under subsection
12 (b)(4) to present mitigating evidence; and

13 “(C) when applicable—

14 “(i) a criminal conviction report that
15 the public housing agency plans to provide
16 to the review panel to be used in the indi-
17 vidualized review of the applicant or a
18 member of the household of the applicant;
19 and

20 “(ii) notice of right of a tenant to ap-
21 pear at the review panel and correct inac-
22 curacies in his or her criminal conviction
23 report; and

1 “(2) to an applicant, upon denial of an applica-
 2 tion for admission to federally assisted housing or to
 3 a federally assisted housing program—

4 “(A) written notice of—

5 “(i) the reason for the denial, includ-
 6 ing the specific criminal conduct on which
 7 the denial is based; and

8 “(ii) the actions that the applicant
 9 may take to appeal the denial; and

10 “(B) a copy of any documents that the
 11 public housing agency or owner used to support
 12 its determination of criminal conduct.

13 “(d) OPPORTUNITY TO REMOVE CULPABLE HOUSE-
 14 HOLD MEMBER.—

15 “(1) IN GENERAL.—In the case of any covered
 16 criminal conduct described in subsection (a) war-
 17 ranting denial of admission to federally assisted
 18 housing, the public housing agency or owner shall,
 19 before denying admission to the entire applicant
 20 household, provide the applicant household with the
 21 option of removing from the household the member
 22 or members who would be cause for the denial in
 23 order for the remainder of the household to be eligi-
 24 ble for admission, and may only deny admission if

1 the applicant household refuses to exercise that op-
2 tion.

3 “(2) NOTICE.—A public housing agency or
4 owner shall provide the applicant household with
5 written notice of the option required under para-
6 graph (1) within a reasonable time before notice of
7 an adverse action relating to covered criminal con-
8 duct described in subsection (a).

9 “(e) PROHIBITION ON DRUG AND ALCOHOL TEST-
10 ING.—Notwithstanding any other provision of law, a pub-
11 lic housing agency or owner of federally assisted housing
12 may not require drug or alcohol testing of any applicant
13 for admission to federally assisted housing or a federally
14 assisted housing program as a condition of that housing
15 assistance.

16 “(f) COMPLIANCE WITH LIMITED ENGLISH PRO-
17 FICIENCY REQUIREMENTS.—Any notice required under
18 this section to be provided to an applicant or applicant
19 household shall be provided in multiple languages, con-
20 sistent with guidance issued by the Secretary in accord-
21 ance with Executive Order 13166 (42 U.S.C. 2000d–1
22 note; relating to access to services for persons with limited
23 English proficiency).”.

24 (b) GUIDANCE.—Not later than 180 days after the
25 date of enactment of this Act, the Secretary of Housing

1 and Urban Development, after consultation with the At-
 2 torney General and an opportunity for public comment on
 3 the proposed guidance, shall issue the following guidance:

4 (1) INDIVIDUALIZED REVIEWS REGARDING THE
 5 TOTALITY OF THE CIRCUMSTANCES.—Guidance re-
 6 quired under paragraph (5) of section 576(b) of the
 7 Quality Housing and Work Responsibility Act of
 8 1998 (42 U.S.C. 13661(b)), as amended by sub-
 9 section (a) of this section, regarding reviews re-
 10 quired under paragraph (1) of such section 576(b).

11 (2) MODEL NOTICE TO APPLICANTS.—Guidance
 12 setting forth model notification forms for use by
 13 public housing agencies and owners of federally as-
 14 sisted housing in meeting the requirements of sub-
 15 section (c) of section 576 of the Quality Housing
 16 and Work Responsibility Act of 1998 (42 U.S.C.
 17 13661), as added by subsection (b) of this section.

18 **SEC. 4. REQUIREMENTS FOR TERMINATION OF TENANCY**
 19 **AND ASSISTANCE FOR COVERED CRIMINAL**
 20 **CONDUCT BY TENANTS OF FEDERALLY AS-**
 21 **SISTED HOUSING.**

22 (a) REQUIREMENTS FOR TERMINATION.—Section
 23 577 of the Quality Housing and Work Responsibility Act
 24 of 1998 (42 U.S.C. 13662) is amended to read as follows:

1 **“SEC. 577. REQUIREMENTS FOR TERMINATION OF TEN-**
2 **ANCY AND ASSISTANCE FOR COVERED CRIMI-**
3 **NAL CONDUCT BY TENANTS OF FEDERALLY**
4 **ASSISTED HOUSING.**

5 “(a) **AUTHORITY TO TERMINATE FOR CRIMINAL**
6 **CONDUCT.**—A public housing agency or owner of federally
7 assisted housing may not terminate the tenancy of any
8 tenant of federally assisted housing, or assistance for a
9 household under any federally assisted housing program,
10 based on any criminal conduct unless the agency or owner,
11 as applicable, determines in accordance with this section
12 that the conduct is covered criminal conduct, as defined
13 in section 579B.

14 “(b) **INDIVIDUALIZED REVIEW OF THE TOTALITY OF**
15 **THE CIRCUMSTANCES.**—

16 “(1) **REQUIREMENT.**—In determining whether
17 to terminate tenancy or assistance to any household
18 based on covered criminal conduct by a household
19 member or any guest or other person under the con-
20 trol of a household member, a public housing agency
21 or an owner of federally assisted housing shall con-
22 duct an individualized review of the totality of the
23 circumstances regarding the criminal conduct at
24 issue, taking into consideration the need of the
25 household for housing and the health and safety of
26 the community.

1 “(2) MITIGATING FACTORS.—In conducting re-
2 views required under paragraph (1), a public hous-
3 ing agency or owner shall consider all factors pre-
4 sented, including all of the factors specified in sec-
5 tion 576(b)(4), as appropriate, except that, for pur-
6 poses of this paragraph—

7 “(A) subparagraph (C)(v) of such section
8 shall be applied by substituting ‘a member of
9 the household’ for ‘the applicant’; and

10 “(B) subparagraph (E)(ii) of such section
11 shall be applied by substituting ‘in which the
12 household resides’ for ‘to which the application
13 of the applicant relates (if applicable)’.

14 “(3) NONDISCRIMINATION.—When conducting
15 an individualized review under this section, a public
16 housing agency or owner of federally assisted hous-
17 ing shall comply with applicable civil rights require-
18 ments under the Fair Housing Act (42 U.S.C. 3601
19 et seq.), title VI of the Civil Rights Act of 1964 (42
20 U.S.C. 2000d et seq.), section 504 of the Rehabilita-
21 tion Act of 1973 (29 U.S.C. 794), and titles II and
22 III of the Americans with Disabilities Act of 1990
23 (42 U.S.C. 12131 et seq., 12181 et seq.).

1 “(4) INVESTIGATIONS AND EVIDENCE PRE-
2 SENTED BY PUBLIC HOUSING AGENCY OR OWNER OF
3 FEDERALLY ASSISTED HOUSING.—

4 “(A) FORCED ENTRY.—If conducting an
5 investigation into alleged criminal conduct com-
6 mitted by a tenant or member of household of
7 the tenant, the public housing agency or owner
8 of federally assisted housing may not enter the
9 rental property unless entry is authorized by
10 the tenant or a member of the household of the
11 tenant.

12 “(B) EVIDENCE PRESENTED BY PUBLIC
13 HOUSING AGENCY OR OWNER OF FEDERALLY
14 ASSISTED HOUSING.—If presenting evidence
15 during the individualized review to demonstrate
16 that a household member or any guest or other
17 person under the control of a household mem-
18 ber engaged in covered criminal conduct, the
19 public housing agency or owner of federally as-
20 sisted housing may only present substantiated
21 evidence.

22 “(5) GUIDANCE.—The Secretary shall issue
23 guidance for public housing agencies and owners to
24 implement the requirement to conduct individualized
25 reviews in accordance with this subsection.

1 “(c) OPTION TO REMOVE CULPABLE HOUSEHOLD
2 MEMBER.—

3 “(1) IN GENERAL.—In the case of any covered
4 criminal conduct warranting termination of tenancy
5 or assistance, the public housing agency or owner—

6 “(A) shall, before proceeding with eviction
7 or termination proceedings against the entire
8 tenant household, provide the tenant with the
9 option of removing from the household the
10 member that is culpable for the conduct that
11 warrants the termination in order for the re-
12 mainder of the household to continue to reside
13 in the assisted unit; and

14 “(B) may only proceed with eviction pro-
15 ceedings if the tenant refuses to exercise the op-
16 tion described in subparagraph (A).

17 “(2) LEASE OR VOUCHER BIFURCATION.—A
18 public housing agency or owner or manager of feder-
19 ally assisted housing may bifurcate a lease for the
20 housing or voucher in order to evict, remove, or ter-
21 minate assistance to any individual who is a tenant
22 or lawful occupant of the housing and who engages
23 in covered criminal conduct without evicting, remov-
24 ing, terminating assistance to, or otherwise penal-

1 izing other household members who are tenants or
2 lawful occupants of the housing.

3 “(3) EFFECT OF EVICTION ON OTHER TEN-
4 ANTS.—

5 “(A) IN GENERAL.—If a public housing
6 agency or owner or manager of federally as-
7 sisted housing evicts, removes, or terminates as-
8 sistance to an individual under paragraph (2),
9 and the individual is the sole tenant eligible to
10 receive assistance under a federally assisted
11 housing program, the public housing agency or
12 owner or manager of the federally assisted
13 housing shall provide any remaining tenant an
14 opportunity to establish eligibility for the feder-
15 ally assisted housing.

16 “(B) EXTENSION.—If a tenant described
17 in subparagraph (A) cannot establish eligibility,
18 the public housing agency or owner or manager
19 of the housing shall provide the tenant a rea-
20 sonable time of not less than 120 days, as de-
21 termined by the Secretary, to find new housing
22 or to establish eligibility for housing under an-
23 other Federal housing program.

24 “(4) AVAILABILITY OF REMEDIES.—Paragraphs
25 (1), (2), and (3) shall not supersede any protections

1 or remedies available under the Violence Against
2 Women Act of 1994 (34 U.S.C. 12291 et seq.).

3 “(d) PROHIBITION ON DRUG AND ALCOHOL TEST-
4 ING.—Notwithstanding any other provision of law, a pub-
5 lic housing agency or owner of federally assisted housing
6 may not require drug or alcohol testing of any tenant of
7 federally assisted housing or member of the household of
8 the tenant as a condition of tenancy in that housing or
9 continued receipt of that assistance.”.

10 (b) EFFECTIVE DATE.—Section 577 of the Quality
11 Housing and Work Responsibility Act of 1998, as amend-
12 ed by subsection (a) of this section, shall take effect and
13 apply on the date of enactment of this Act.

14 **SEC. 5. EVICTION STANDARDS, LEASE TERMS, AND OTHER**
15 **LIMITATIONS FOR PUBLIC HOUSING.**

16 Section 6 of the United States Housing Act of 1937
17 (42 U.S.C. 1437d) is amended—

18 (1) in subsection (k), by striking the matter fol-
19 lowing paragraph (6);

20 (2) in subsection (l)—

21 (A) in paragraph (5), by inserting “, sub-
22 ject to paragraph (6)” before the semicolon at
23 the end;

24 (B) by striking paragraph (6) and insert-
25 ing the following:

1 “(6) provide that the public housing agency
 2 may not terminate the tenancy based on any crimi-
 3 nal conduct unless the agency determines, in accord-
 4 ance with section 577 of the Quality Housing and
 5 Work Responsibility Act of 1998 (42 U.S.C. 13662),
 6 that the conduct is covered criminal conduct (as de-
 7 fined in section 579B of such Act);”;

8 (C) in the second paragraph designated as
 9 paragraph (7) (relating to occupancy in viola-
 10 tion of section 576(b) of the Quality Housing
 11 and Work Responsibility Act of 1998; as added
 12 by section 575(b)(4) of such Act (Public Law
 13 105–276; 112 Stat. 2635))—

14 (i) by striking “any occupancy in vio-
 15 lation of section 576(b) of the Quality
 16 Housing and Work Responsibility Act of
 17 1998 (relating to ineligibility of illegal
 18 drug users and alcohol abusers) or”;

19 (ii) by striking “(relating to termi-
 20 nation of tenancy and assistance for illegal
 21 drug users and alcohol abusers)”;

22 (iii) by redesignating such paragraph
 23 as paragraph (8); and

24 (D) in paragraph (9)—

1 (i) in subparagraph (A), by striking “;
2 or” at the end and inserting a period;

3 (ii) by striking “if such tenant—” in
4 the matter preceding subparagraph (A)
5 and all that follows through “(A) is flee-
6 ing” and inserting “if such tenant is flee-
7 ing”; and

8 (iii) by striking paragraph (2);
9 (3) in subsection (t)—

10 (A) in the subsection heading, by striking
11 “OBTAINING” and inserting “PROHIBITION ON
12 OBTAINING”;

13 (B) by striking paragraphs (1), (2), and
14 (3) and inserting the following:

15 “(1) PROHIBITION.—

16 “(A) IN GENERAL.—A public housing
17 agency—

18 “(i) may not require a person who ap-
19 plies for admission to public housing to
20 provide consent that authorizes the agency
21 to receive information from a drug abuse
22 treatment facility that is related to—

23 “(I) whether the applicant is cur-
24 rently engaging in the illegal use of a
25 controlled substance; or

1 “(II) the progress of the appli-
2 cant in rehabilitation; and

3 “(ii) and may not request an appli-
4 cant to provide the consent described in
5 clause (i).

6 “(B) WRITTEN CONSENT.—An applicant
7 may voluntarily provide the information de-
8 scribed in subparagraph (A), provide signed
9 written consent for the agency to receive that
10 information, or provide signed written consent
11 for a drug abuse treatment facility to provide
12 that information to an a public housing agency,
13 for purposes of an individualized review under
14 section 576(b) of the Quality Housing and
15 Work Responsibility Act of 1998 (42 U.S.C.
16 13661(b)), and an agency provided with that
17 information shall consider the information in
18 conducting the individualized review.

19 “(C) RULE OF CONSTRUCTION.—Nothing
20 in this paragraph may be construed to penalize
21 or to authorize any penalty for an applicant for
22 not providing the information or consent de-
23 scribed in this paragraph.

24 “(2) EXPIRATION OF WRITTEN CONSENT.—An
25 applicant’s signed written consent provided pursuant

1 to paragraph (1) shall expire automatically after the
 2 public housing agency has made a final decision to
 3 either approve or deny the application of the appli-
 4 cant for admittance to public housing.”;

5 (C) by striking paragraph (6); and

6 (D) by redesignating paragraphs (4), (5),
 7 (7), and (8) as paragraphs (3), (4), (5), and
 8 (6), respectively; and

9 (4) by adding at the end the following:

10 “(u) VISITATION RIGHTS.—A public housing agency
 11 may prohibit visitation of a public housing dwelling unit
 12 by a non-tenant on the basis of criminal conduct by the
 13 non-tenant only if—

14 “(1) the conduct is covered criminal conduct, as
 15 defined in section 579B of the Quality Housing and
 16 Work Responsibility Act of 1998;

17 “(2) the agency has thoroughly considered—

18 “(A) all mitigating factors, including the
 19 same factors with respect to the non-tenant as
 20 are required under subsection section 576(b) of
 21 such Act (42 U.S.C. 13661(b)) to be considered
 22 with respect to an applicant for federally as-
 23 sisted housing; and

1 “(B) the familial relationship between the
2 tenant and the non-tenant as mitigating fac-
3 tors;

4 “(3) in the case of any prohibition of visitation
5 by a non-tenant, the agency provides the tenant and
6 non-tenant involved with an opportunity, not less
7 frequently than annually, to request a redetermina-
8 tion with respect to the prohibition at which the ten-
9 ant and non-tenant may present any new mitigating
10 evidence;

11 “(4) the agency has provided the non-tenant
12 with written notice of the decision of the agency to
13 prohibit visitation, that—

14 “(A) includes statements identifying the
15 basis for prohibition and setting forth the right
16 of the non-tenant to present mitigating factors
17 to overturn the decision of the agency; and

18 “(B) is provided in multiple languages,
19 consistent with guidance issued by the Sec-
20 retary in accordance with Executive Order
21 13166 (42 U.S.C. 2000d–1 note; relating to ac-
22 cess to services for persons with limited English
23 proficiency); and

24 “(5) the prohibition ends after a period of time
25 that does not exceed 3 years.

1 “(v) SCREENING AND EVICTION POLICIES FOR PRI-
2 VATELY MANAGED PUBLIC HOUSING AND HOUSING
3 FUNDED UNDER CERTAIN DEMONSTRATION PRO-
4 GRAMS.—Notwithstanding any other provision of law, in-
5 cluding subtitle F of the Quality Housing and Work Re-
6 sponsibility Act of 1998 (42 U.S.C. 13661 et seq.), in the
7 case of any public housing dwelling units or projects that
8 are managed by an entity other than the public housing
9 agency that owns the units or project, any units or
10 projects subject to the Moving to Work demonstration pro-
11 gram authorized under section 204 of the Departments
12 of Veterans Affairs and Housing and Urban Development
13 and Independent Agencies Appropriations Act, 1996
14 (Public Law 104–134; 110 Stat. 1321–281), and any
15 units with assistance converted under the Rental Assist-
16 ance Demonstration program authorized under title II of
17 the Transportation, Housing and Urban Development,
18 and Related Agencies Appropriations Act, 2012 (division
19 C of Public Law 112–55; 125 Stat. 673), those units and
20 projects shall be subject to the screening and eviction poli-
21 cies established pursuant to this section and subtitle F of
22 the Quality Housing and Work Responsibility Act of 1998
23 (42 U.S.C. 13661 et seq.) by the agency that owns the
24 units or projects.”.

1 **SEC. 6. TERMINATION OF TENANCY AND TENANT SELEC-**
 2 **TION UNDER SECTION 8 RENTAL ASSISTANCE**
 3 **PROGRAM.**

4 Section 8 of the United States Housing Act of 1937
 5 (42 U.S.C. 1437f) is amended—

6 (1) in subsection (d)(1)(B)—

7 (A) in clause (ii), by inserting “, subject to
 8 clause (iii)” before the semicolon at the end;
 9 and

10 (B) by striking clause (iii) and inserting
 11 the following:

12 “(iii) during the term of the lease, the owner
 13 may not terminate the tenancy based on any crimi-
 14 nal conduct unless the owner determines, in accord-
 15 ance with section 577 of the Quality Housing and
 16 Work Responsibility Act of 1998 (42 U.S.C. 13662),
 17 that the conduct is covered criminal conduct (as de-
 18 fined in section 579B of such Act);”;

19 (2) in subsection (o)(6)(B)—

20 (A) by striking “(B) SELECTION OF TEN-
 21 ANTS.—Each” and inserting the following:

22 “(B) SELECTION OF TENANTS.—

23 “(i) FUNCTION OF OWNER.—Each”;

24 (B) in clause (i), as so designated—

25 (i) by striking “dwelling unit)” and
 26 inserting “dwelling unit”; and

(ii) by inserting after “shall be the function of the owner.” the following: “Any owner that screens applicants based on the criminal background of the applicant or any member of the applicant household, or other permissible grounds for denial under subtitle F of title V of the Quality Housing and Work Responsibility Act of 1998 (42 U.S.C. 13661 et seq.) or this section, shall provide each applicant, at the time of application, written notice that the owner is conducting the screening, which notice shall be provided in multiple languages, consistent with guidance issued by the Secretary in accordance with Executive Order 13166 (42 U.S.C. 2000d–1 note; relating to access to services for persons with limited English proficiency).”;

(C) by striking “In addition” and inserting the following:

“(ii) SCREENING.—In addition”;

(D) in clause (ii), as so designated, by inserting before the period at the end the following: “, except that a public housing agency may not elect to screen applicants for the pro-

gram based on criminal conduct. The preceding sentence may not be construed to limit or affect the authority of a public housing agency under section 576 of the Quality Housing and Work Responsibility Act of 1998 (42 U.S.C. 13661)”; and

(E) by adding at the end the following:

“(iii) EXISTING ASSISTED FAMILIES.—Previously assisted or subsidized families being provided with tenant protection assistance authorized by law (including tenant protection vouchers, enhanced vouchers under subsection (t), or project-based vouchers under subsection (o)(13)), families who are porting their vouchers to a new jurisdiction, and assisted families who are moving to redeveloped public housing (including any units with assistance converted under the Rental Assistance Demonstration program authorized under title II of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2012 (division C of Public Law 112–55; 125 Stat. 673)), shall not be considered new applicants under

1 this paragraph and shall not be subject to
 2 elective re-screening by a public housing
 3 agency.”; and

4 (3) in subsection (q)(2)(B), by inserting before
 5 the semicolon the following: “, except that persons
 6 who have exited a jail or prison shall be considered,
 7 for purposes of this subparagraph, to be experi-
 8 encing difficulty in obtaining appropriate housing
 9 under the programs as determined by the Sec-
 10 retary”.

11 **SEC. 7. SCREENING AND TERMINATION OF TENANCY IN**
 12 **RURAL HOUSING PROGRAMS.**

13 (a) COVERED RURAL HOUSING PROGRAMS.—In this
 14 section, the term “covered rural housing programs”
 15 means—

16 (1) the program under section 515 of the Hous-
 17 ing Act of 1949 (42 U.S.C. 1485) for rural rental
 18 and cooperative housing;

19 (2) the loan and grant programs under sections
 20 514 and 516 of such Act (42 U.S.C. 1484, 1486)
 21 for farm labor housing;

22 (3) the program under section 533 of such Act
 23 (42 U.S.C. 1490m) for housing preservation grants;

1 (4) the program under section 538 of such Act
2 (42 U.S.C. 1490p-2) for loan guarantees for multi-
3 family rural rental housing;

4 (5) the program under section 521(a) of such
5 Act (42 U.S.C. 1490a) for rural housing rental as-
6 sistance; and

7 (6) the program under section 542 of such Act
8 (42 U.S.C. 1490r) for rural housing rental voucher
9 assistance.

10 (b) REGULATIONS.—The Secretary of Agriculture
11 shall—

12 (1) revise the regulations of the Secretary of
13 Agriculture regarding screening of applicants for ad-
14 mission to housing assisted, and for housing assist-
15 ance, under the covered rural housing programs to
16 provide that those regulations are substantially simi-
17 lar to the regulations of the Secretary of Housing
18 and Urban Development relating to screening of ap-
19 plicants for admission to federally assisted housing
20 and to federally assisted housing programs, pursu-
21 ant to the United States Housing Act of 1937 (42
22 U.S.C. 1437 et seq.), subtitle F of the Quality
23 Housing and Work Responsibility Act of 1998 (42
24 U.S.C. 13661 et seq.), and any other applicable
25 laws; and

1 (2) revise the regulations of the Secretary of
 2 Agriculture regarding termination of tenancy in
 3 housing assisted, and termination of housing assist-
 4 ance, under the covered rural housing programs to
 5 provide that those regulations are substantially simi-
 6 lar to the regulations of the Secretary of Housing
 7 and Urban Development relating to termination of
 8 tenancy in federally assisted housing, and termi-
 9 nation of housing assistance, pursuant to the United
 10 States Housing Act of 1937 (42 U.S.C. 1437 et
 11 seq.), subtitle F of the Quality Housing and Work
 12 Responsibility Act of 1998 (42 U.S.C. 13661 et
 13 seq.), and any other applicable laws.

14 (c) **TIMING; CONSULTATION.**—The Secretary of Agri-
 15 culture shall issue the revised regulations required under
 16 subsection (b)—

17 (1) after consultation with the Secretary of
 18 Housing and Urban Development; and

19 (2) not later than 180 days after the date de-
 20 scribed in section 10.

21 **SEC. 8. NO INTERFERENCE WITH STATE OR LOCAL REGU-**
 22 **LATORY AUTHORITY.**

23 This Act and the amendments made by this Act may
 24 not be construed to preempt any State or local regulations

1 or requirements that do not prevent the application of the
2 provisions of this Act or such amendments.

3 **SEC. 9. REGULATIONS.**

4 Not later than 1 year after the date of enactment
5 of this Act, the Secretary of Housing and Urban Develop-
6 ment shall issue any regulations necessary to carry out
7 the amendments made by sections 2 through 6 of this Act
8 (other than the amendment made by section 2(4)).

9 **SEC. 10. EFFECTIVE DATE.**

10 Except as specifically provided otherwise in this Act,
11 the amendments made by this Act shall be made on, and
12 shall apply beginning upon, the effective date of the regu-
13 lations issued pursuant to section 9.

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