

[H.R. 2482, Preservation Enhancement and Savings Opportunity Act of 2015](#)

FLOOR SITUATION

On Tuesday, July 14, 2015, the House will consider [H.R. 2482](#), *the Preservation Enhancement and Savings Opportunity Act of 2015*, under suspension of the rules. H.R. 2482 was introduced on May 20, 2015 by Rep. Erik Paulsen (R-MN) and was referred to the Committee on Financial Services.

SUMMARY

H.R. 2482 amends the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) to allow owners (including nonprofits) of HUD federally-subsidized multifamily developments access to remaining profits after all operating expenses and maintenance costs while ensuring long-term affordability and compliance with HUD standards.

The bill entitles the owner of a property subject to a plan of action or use agreement to distribute:

- annually all surplus cash generated by the property, but only if the owner is in material compliance with the use agreement including compliance with prevailing physical condition standards established by the Secretary; and,
- any funds accumulated in a residual receipts account, but only if the owner is in material compliance with such use agreement and has completed, or set aside sufficient funds for completion of, any capital repairs identified by the most recent third party capital needs assessment.

The bill also requires an owner distributing any such amounts to:

- continue to operate the property in accordance with the affordability requirements of its use agreement for its remaining useful life;
- continue to renew or extend any project-based rental assistance contract for at least 20 years, as required by the property's plan of action; and,
- have the option to extend the contract to a 20-year term, if he or she has an existing multi-year project-based rental assistance contract for less than 20 years.

The bill also specifies that neither LIHPRHA, nor any plan of action or use agreement implementing it, shall restrict an owner from obtaining a new loan or refinancing an existing loan secured by a low-income housing project, or from distributing the proceeds of such a loan, except that, in conjunction with such refinancing:

- the owner shall provide for adequate rehabilitation pursuant to a capital needs assessment to ensure long-term sustainability of the property satisfactory to the lender or bond issuance agency;
- any resulting budget-based rent increase shall include debt service on the new financing, commercially reasonable debt service coverage, and replacement reserves as required by the lender; and,
- rent increases for units not covered by a project-based rental subsidy contract or tenant-based rental subsidy shall be limited to 10 percent, except that any tenant occupying a dwelling unit at the time of the refinancing may not be required to pay for rent and utilities, for the duration of such tenancy, an amount that exceeds the greater of 30 percent of the tenant's income or the amount paid by the tenant for rent and utilities immediately before such refinancing. This rental provision does not apply with respect to any tenant who does not provide the owner with proof of income.

The bill also requires the HUD Secretary to issue any guidance necessary to carry out the amendments made to LIHPRHA by the bill not later than 120 days after enactment.

BACKGROUND

The Low-Income Housing Preservation and Resident Homeownership Act of 1990 is an example of a HUD-administered program designed to preserve affordable assisted housing. The term assisted housing preservation refers to efforts to “maintain the affordability of rental properties financed or subsidized by the Department of Housing and Urban Development (HUD) but owned by private for-profit or nonprofit organizations.”¹

Congress enacted the Emergency Low-Income Housing Preservation Act (ELIHPA) in 1987 to stop the loss of affordable housing units. Among its provisions, the law “prevented owners from prepaying their mortgages in many circumstances, and was described by some as a moratorium on mortgage prepayment.”² The law allowed the prepayment of the mortgage, along with the termination of affordability restrictions, only if certain conditions were met.

LIHPRHA superseded ELIHPA and “covered the same types of housing developments and, like ELIHPA, limited the occasions on which owners could prepay their mortgages and terminate affordability restrictions, and it also provided incentives for building owners to offer affordable housing. However, LIHPRHA differed from ELIHPA by providing owners with a third potential option: selling their properties to qualified purchasers under certain circumstances.”³ The law also included requirements that owners notify HUD, state or local governments, and residents of their intent.

H.R. 2482 removes certain limitations under LIHPRHA and provides the ownership entity of a HUD insured, multifamily mortgage the ability to access its own funds to address tax liabilities or other

¹ See CRS Report—“[Preservation of HUD-Assisted Housing](#),” January 6, 2012 at Summary.

² Id. at 20.

³ Id. at 21.

expenses while ensuring continued preservation and adherence to the properties' use agreements. HUD has administratively removed limitations on distributions where it had the authority to do so for the past 15 years, but has concluded that it lacks this authority with the LIHPRHA portfolio.

COST

A Congressional Budget Office (CBO) cost estimate is currently unavailable.

STAFF CONTACT

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee by email or at 5-0190.