

110TH CONGRESS  
1ST SESSION

# S. 131

To extend for 5 years the Mark-to-Market program of the Department of Housing and Urban Development.

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IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. ALLARD (for himself and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To extend for 5 years the Mark-to-Market program of the Department of Housing and Urban Development.

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 Act of 2007”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 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. 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—

22 “(i) that is located in a county that  
23 was designated a major disaster area on or  
24 after January 1, 2005, by the President

1           pursuant to title IV of the Robert T. Staf-  
2           ford Disaster Relief and Emergency Assist-  
3           ance Act (42 U.S.C. 5121 et seq.);

4           “(ii) whose owner carried casualty and  
5           liability insurance covering such project in  
6           an amount required by the Secretary;

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

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

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

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

23           Section 579 of the Multifamily Assisted Housing Re-  
24   form and Affordability Act of 1997 (42 U.S.C. 1473f

1 note) is amended by striking “October 1, 2006” each place  
 2 that term appears and inserting “October 1, 2011”.

3 **SEC. 5. EXCEPTION RENTS.**

4 Section 514(g)(2) of the Multifamily Assisted Hous-  
 5 ing Reform and Affordability Act of 1997 (42 U.S.C.  
 6 1473f note) is amended—

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

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

11 **SEC. 6. OTHERWISE ELIGIBLE PROJECTS.**

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

15 “(i) OTHER ELIGIBLE PROJECTS.—

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

1       ner in relation to other alternative preservation op-  
2       tions.

3               “(2) OWNER REQUEST.—

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

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

14               “(3) CANCELLATION.—

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

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

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

24                       “(B) DOCUMENTATION.—If an owner of a  
25       project withdraws such owner’s request and

1           pursues other renewal options under this para-  
 2           graph, such owner shall be entitled to submit  
 3           documentation or other information to replace  
 4           the documentation or other information used  
 5           during processing for mortgage restructuring  
 6           under this subtitle.

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

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

15          (a) MARKET RENT DETERMINATIONS.—Section  
 16          514(g)(1)(B) of the Multifamily Assisted Housing Reform  
 17          and Affordability Act of 1997 (42 U.S.C. 1473f note) is  
 18          amended by striking “determined, are equal” and insert-  
 19          ing the following: “determined—

20                               “(i) with respect to a disaster-dam-  
 21                               aged eligible property, are equal to 100  
 22                               percent of the fair market rents for the rel-  
 23                               evant market area (as such rents were in  
 24                               effect at the time of such disaster; and

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

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

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

12 **SEC. 8. PERIOD OF ELIGIBILITY FOR NONPROFIT DEBT RE-**  
13 **LIEF.**

14           Section 517(a)(5) of the Multifamily Assisted Hous-  
15 ing Reform and Affordability Act of 1997 (42 U.S.C.  
16 1473f note) is amended by adding at the end the following:  
17 “If such purchaser acquires such project subsequent to the  
18 date of recordation of the affordability agreement de-  
19 scribed in section 514(e)(6)—

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

22                                 “(A) 5 years after the date of recordation  
23                                 of the affordability agreement; or

1           “(B) 2 years after the date of enactment  
2           of the Mark-to-Market Extension Act of 2007;  
3           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. EFFECTIVE DATE.**

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

- 11           (1) the date of enactment of this Act; or  
12           (2) September 30, 2007.

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