TESTIMONY OF DEPUTY ASSISTANT SECRETARY FOR MULTIFAMILY HOUSING
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HEARING ON H.R. 4868,
THE HOUSING PRESERVATION AND TENANT PROTECTION ACT OF 2010
BEFORE THE HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY
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Good morning Chairwoman Waters, Ranking Member Capito and distinguished members of the Committee. Thank you for the opportunity to testify on behalf of the Department today on the Housing Preservation and Tenant Protection Act of 2010.

Chairwoman Waters, I would first like to express my gratitude on behalf of the Department for your tireless leadership on the issue of affordable housing preservation. With the introduction of this legislation, we have the opportunity to move forward together to safeguard affordable shelter for our families and neighbors in need, and to improve and revitalize multifamily properties that anchor our communities
HUD is proud to provide project-based rental assistance to more than 1.4 million households throughout the country. We value our partnerships with private owners of the thousands of assisted properties across our portfolio. Through these partnerships, we are able to offer safe, decent and affordable shelter.

However, despite the dedication of so many of our partners these housing resources are at risk. We are deeply concerned about ongoing loss of long-term affordability in these properties. Today, more than 1,700 properties nationwide are financed with HUD direct or insured mortgages that will mature within five years. These properties offer affordable housing to nearly 200,000 families through an array of HUD rental assistance programs. HUD maintains the affordability of these properties through recorded use agreements. When the mortgages mature or expire, so will the HUD affordability use restrictions. Without the presence of such restrictions, owners will have more incentives – and face more market pressure—to opt out of Section 8 HAP contracts. For those properties with Project Based Rental Assistance, current tenants would be protected through the provision of enhanced vouchers. Our concern is for the current tenants, of course, but also for the long term affordability of these properties. Unless we take action, these affordable units will be lost to future generations.

Built some 30 or 40 years ago, many of these aging properties have deferred maintenance or obsolete systems and are in need of refurbishment and significant upgrading. Some are at risk of default or foreclosure, casualties of the down economy.

In order to break free of HUD regulatory oversight and/or to capture some equity, some owners continue to opt-out of Section 8 assistance and sell their properties to private entities. Some 335,000 apartments receive Section 8 assistance that will expire within one year unless owners make the choice to renew assistance contracts. Owners have opted out of more than 550 Section 8 contracts in the last five years, stripping rental assistance from over 9,000 units

In any scenario when the Section 8 assistance is lost and affordability restrictions expire, the loss reverberates across our communities; as you know, HUD offers no new project-based rental assistance to replace such lost Section 8 units (but does protect the assisted tenants).
That's why HUD supports the fundamental principles of this bill. With some refinements, we believe this legislation will provide HUD with additional tools to facilitate the preservation work that can renew and protect our multifamily properties.

Red tape should never stand in the way of an owner making a choice to be a good steward of an affordable property. The Department applauds the bill's focus on streamlining regulatory requirements. Sections 110, 111, 201, and 204 allow owners to use project resources to improve their properties and leverage state, local and private financing.

Section 110 gives HUD the authority to assign, forgive or defer flexible subsidy loans for preservation refinances or acquisitions. Section 111 enables owners to tap residual receipts accounts to fund needed capital improvements or facilitate a preservation purchase. Section 204 allows the Department to approve Section 8 rents at post-rehab levels, which we know from experience can be used by owners to finance repairs. Section 201 would facilitate the transfer of a Section 8 contract from one building to another, protecting rental assistance as a property enters obsolescence. And while some of these measures are already underway or could be achieved administratively by HUD, the clear direction that the bill provides is welcome. Together, these sections make preservation deals more viable.

We also support the principle of helping move at-risk, preservation-worthy properties into the hands of preservation purchasers. Section 106 of the bill, the Preservation Exchange Program, provides incentives to owners that agree to sell their properties to purchasers that will maintain long-term affordability. Regulatory waivers, streamlined processing, and use of project resources can be powerful incentives and we believe many owners will take advantage of this opportunity.

Section 504 of the bill, meanwhile, provides nonprofit owners with an incentive to sell their properties to preservation purchasers and capture the equity from the sale. The Department has long restricted nonprofit owners from realizing equity from the sale or transfer of a property. Many nonprofit-owned properties have maturing mortgages. Upon maturity, the HUD affordability restrictions will be lost. Section 504 will provide these nonprofits with an incentive to complete preservation transactions now, while we can still safeguard the affordability. We believe Section 106 and Section 504 are good voluntary incentive programs that will be attractive to property owners.

We believe strongly in the power of information. Our partners – owners, tenant organizations, potential purchasers, public and private lenders – are committed to preservation, but their actions are limited by the lack of current, reliable information on the federally-assisted housing stock. We support the bill's focus on building awareness on the rights and responsibilities of project tenants, owners and potential purchasers.

In concept, the Department is supportive of the Section 514 tenant outreach and education program. It is critical that residents have awareness of their rights and have a say in the preservation of their own homes. In this spirit, we have already drafted a new tenant outreach program that we call the Tenant Resource Network, or TRN. This program harnesses limited resources to engage tenants in properties at greatest risk. We believe the TRN program is a strong model that includes a cost-sharing partnership with the Corporation for National and Community Service (also known as VISTA) without requiring the Department to transfer funds directly to VISTA as detailed in Section 514. We would be happy to share further details on TRN with the Committee.

Finally, we commend the Committee for drafting Section 601 of the bill, which would create a Preservation Database. Such a clearinghouse of information – capturing data on HUD mortgages, project based assistance, Low Income Housing Tax Credit properties and other federal assistance – is long overdue. The Department is now taking steps to launch a preservation database which we think will serve our partners well.

While we support the policies I've mentioned here along with many others, we believe that together we can make several provisions more targeted and efficient. For example, Title V of the bill expands Mark-to-Market rent restructuring and budget-based rent increases to a much broader universe of properties. While these programs can be effective preservation tools, this dramatic expansion may not be the best strategy to leverage scarce resources to preserve those properties most at-risk.

Title VII, which makes modifications to the Section 202 Housing for the Elderly and Section 811 Housing for the Disabled programs, takes important steps towards modernizing these programs although we still see a need for further changes. Indeed, stakeholder meetings are currently underway at HUD to review possible strategies for revising these programs. So while we generally support the many of the modifications to Section 202 and Section 811 that Title VII provides, we see some opportunities to build off this proposal going forward.

Last June, Secretary Donovan came before you to speak of the Department's commitment to serve as a leader and a partner in preserving critical housing resources. He noted that, too often, HUD policies and practices get in the way of preservation efforts rather than supporting them. I am pleased that we have begun to make the kinds of administrative changes that can fundamentally shift this relationship. In fact, we are moving forward on a number of regulatory changes included in the legislation we are discussing today. For example, we are in the process of rewriting the Section 8 renewal guide to allow owners to secure new financing using "post-rehab" section 8 rents, particularly for properties with Low Income Housing Tax Credits, which allows HUD subsidies to be leveraged with private debt and equity.

Additionally, HUD proposes to launch an ambitious, multi-year effort called the Transforming Rental Assistance (TRA) initiative, which would simplify HUD’s complex regulations, help address the capital repair backlog, provide mobility to subsidized families and move HUD's rental housing programs into the housing market mainstream, as well as, help preserve the nation’s assisted housing stock.

This initiative is anchored by four guiding principles:

First, that the complexity of HUD's programs is part of the problem - and we must streamline and simplify our programs so that they are less costly to operate and easier to use at the local level. Ultimately, TRA is intended to move properties assisted under these various programs toward a more unified funding approach, governed by an integrated, coherent set of rules and regulations that better aligns with the requirements of other of federal, state, local and private sector financing streams.

Second, that the key to meeting the long-term capital needs of HUD's public and assisted housing lies in shifting from the federal capital and operating subsidy funding structure we have today—which exists in a parallel universe to the rest of the housing finance world—to a federal operating subsidy that leverages capital from other sources.

Third, that bringing market investment to all of our rental programs will also bring market discipline that drives fundamental reforms. Only when our programs are truly open to private capital will we be able to attract the mix of incomes and uses and stakeholders necessary to create the sustainable, vibrant communities we need.

And fourth, that we must combine the best features of our tenant-based and project-based programs to encourage resident choice and mobility. TRA reflects HUD's commitment to complementing tenant mobility with the benefits that a reliable, property-based, long term rental assistance subsidy can have for neighborhood revitalization efforts and as a platform for delivering social services. And in a world where the old city/suburb stereotypes are breaking down, and our metropolitan areas are emerging as engines of innovation and economic growth, we have to ensure our rental assistance programs keep up.

The Administration will soon transmit proposed legislation to this committee to authorize the long-term property-based rental assistance contracts, with a resident mobility feature. The Administration looks forward to working with Congress to finalize this vital legislation.

Thank you again for your hard work to preserve our affordable housing stock. We look forward to working with you on some refinements to this bill; but note that this legislation represents tremendous progress for those of us committed to providing affordable homes to future generations.