

118TH CONGRESS
1ST SESSION

H. R. 702

To protect consumers from price gouging of residential rental and sale prices,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2023

Mr. HORSFORD introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect consumers from price gouging of residential rental
and sale prices, 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 “Housing Oversight and
5 Mitigating Exploitation Act of 2023” or the “HOME Act
6 of 2023”.

1 **SEC. 2. UNCONSCIONABLE PRICING OF RESIDENTIAL**
2 **RENTAL AND SALE PRICES DURING EMER-**
3 **GENCIES.**

4 (a) UNCONSCIONABLE PRICING.—

5 (1) IN GENERAL.—It shall be unlawful for any
6 person to rent out a dwelling unit or sell any single-
7 family housing, in an area and during a period of a
8 housing emergency covered by a proclamation issued
9 under paragraph (2), at a price that—

10 (A) is unconscionably excessive; and

11 (B) indicates the lessor or seller is exploit-
12 ing the circumstances related to a housing
13 emergency to increase prices unreasonably.

14 (2) HOUSING EMERGENCY PROCLAMATION.—

15 (A) IN GENERAL.—The President may
16 issue a housing emergency proclamation for any
17 area within the jurisdiction of the United
18 States, during which the prohibition in para-
19 graph (1) shall apply, that includes the geo-
20 graphic area covered and the time period that
21 such proclamation shall be in effect.

22 (B) DURATION.—The proclamation—

23 (i) may not apply for a period of more
24 than 30 consecutive days, but may be re-
25 newed for such consecutive periods, each

1 not to exceed 30 days, as the President de-
2 termines appropriate; and

3 (ii) may include a period of time not
4 to exceed 1 week before a reasonably fore-
5 seeable emergency.

6 (3) FACTORS CONSIDERED.—

7 (A) IN GENERAL.—In determining whether
8 a person has violated paragraph (1), there shall
9 be taken into account, among other factors, the
10 aggravating factors described in subparagraph
11 (B) and the mitigating factor described in sub-
12 paragraph (C).

13 (B) AGGRAVATING FACTORS.—The aggra-
14 vating factors described in this subparagraph
15 are the following:

16 (i) Whether the amount charged by
17 such person grossly exceeds the average
18 price at which the housing unit was offered
19 for rental or sale by such person during—

20 (I) the 30-day period before the
21 date on which the proclamation was
22 issued; or

23 (II) another appropriate bench-
24 mark period, as determined by the
25 Administration.

1 (ii) Whether the amount charged by
2 such person grossly exceeds the price at
3 which the same or a similar housing unit
4 was readily obtainable for rental or pur-
5 chase in the same area from other sellers
6 during the energy emergency period.

7 (C) MITIGATING FACTOR.—The mitigating
8 factor described in this subparagraph is wheth-
9 er the quantity of any housing dwelling units
10 such person made available for rental or sale in
11 an area covered by the proclamation during the
12 30-day period following the date on which the
13 proclamation was issued increased over the
14 quantity such person made available for rental
15 or sale during the 30-day period before the date
16 on which the proclamation was issued, taking
17 into account any usual seasonal demand vari-
18 ation.

19 (b) AFFIRMATIVE DEFENSE.—It shall be an affirma-
20 tive defense in any civil action or administrative action to
21 enforce subsection (a), with respect to the renting out or
22 sale of housing by a person, that the increase in the rental
23 or sale price of such housing reasonably reflects additional
24 costs that were paid, incurred, or reasonably anticipated
25 by such person, or reasonably reflects additional risks

1 taken by such person, to rent or sell such housing unit
2 under the circumstances.

3 (c) RULE OF CONSTRUCTION.—This section may not
4 be construed to cover a transaction on a futures market.

5 (d) ENFORCEMENT.—

6 (1) HUD.—The Secretary of Housing and
7 Urban Development shall enforce violations of sub-
8 section (a) of this section—

9 (A) in the same manner, by the same
10 means, and with the same jurisdiction, powers,
11 and duties as the Federal Trade Commission
12 has under the Federal Trade Commission Act
13 (15 U.S.C. 41 et seq.) with respect to violations
14 of a rule defining an unfair or deceptive act or
15 practice prescribed under section 18(a)(1)(B) of
16 such Act (15 U.S.C. 57a(a)(1)(B)); and

17 (B) as though all applicable terms and pro-
18 visions of the Federal Trade Commission Act
19 were incorporated into and made a part of this
20 section, except that any reference in such terms
21 and provisions to the Commission shall be
22 treated as referring to the Secretary.

23 (2) ENFORCEMENT AT RETAIL LEVEL BY
24 STATE ATTORNEYS GENERAL.—

1 (A) IN GENERAL.—If the chief law en-
2 forcement officer of a State, or an official or
3 agency designated by a State, has reason to be-
4 lieve that any person has violated or is violating
5 subsection (a), the attorney general, official, or
6 agency of the State, in addition to any author-
7 ity it may have to bring an action in State
8 court under its laws, may bring a civil action in
9 any appropriate United States district court or
10 in any other court of competent jurisdiction
11 to—

12 (i) enjoin further such violation by
13 such person;

14 (ii) enforce compliance with such sub-
15 section;

16 (iii) obtain civil penalties; and

17 (iv) obtain damages, restitution, or
18 other compensation on behalf of residents
19 of the State.

20 (B) NOTICE.—The State shall serve writ-
21 ten notice to the Secretary of any civil action
22 under subparagraph (A) before initiating such
23 civil action. The notice shall include a copy of
24 the complaint to be filed to initiate such civil
25 action, except that if it is not feasible for the

1 State to provide such prior notice, the State
2 shall provide such notice immediately upon in-
3 stituting such civil action.

4 (C) AUTHORITY TO INTERVENE.—Upon
5 receipt of the notice required by subparagraph
6 (B), the Secretary may intervene in such civil
7 action and upon intervening—

8 (i) be heard on all matters arising in
9 such civil action; and

10 (ii) file petitions for appeal of a deci-
11 sion in such civil action.

12 (D) CONSTRUCTION.—For purposes of
13 bringing any civil action under subparagraph
14 (A), nothing in this paragraph shall prevent the
15 attorney general of a State from exercising the
16 powers conferred on the attorney general by the
17 laws of such State to conduct investigations or
18 to administer oaths or affirmations or to compel
19 the attendance of witnesses or the production of
20 documentary and other evidence.

21 (E) LIMITATION ON STATE ACTION WHILE
22 FEDERAL ACTION IS PENDING.—If the Sec-
23 retary has instituted a civil action or an admin-
24 istrative action for violation of subsection (a), a
25 State attorney general, or official or agency of

1 a State, may not bring an action under this
2 paragraph during the pendency of that action
3 against any defendant named in the complaint
4 of the Secretary or another agency for any vio-
5 lation of this Act alleged in the complaint.

6 (F) RULE OF CONSTRUCTION.—This para-
7 graph may not be construed to prohibit an au-
8 thorized State official from proceeding in State
9 court to enforce a civil or criminal statute of
10 such State.

11 (e) LOW-INCOME HOUSING ASSISTANCE.—

12 (1) DEPOSIT OF FUNDS.—Amounts collected in
13 any penalty under subsection (d)(1) shall be depos-
14 ited in the Housing Trust Fund established under
15 section 1338 of the Federal Housing Enterprises Fi-
16 nancial Safety and Soundness Act of 1992 (12
17 U.S.C. 4568).

18 (2) USE OF FUNDS.—To the extent provided
19 for in advance in appropriations Acts, the amounts
20 deposited in the Fund shall be used to increase and
21 preserve the supply of rental housing affordable to
22 extremely low- and very low-income families, includ-
23 ing homeless families, in accordance with such sec-
24 tion 1338.

25 (f) EFFECT ON OTHER LAWS.—

1 (1) OTHER AUTHORITY OF FEDERAL HOUSING
2 ADMINISTRATION.—Nothing in this section may be
3 construed to limit the authority of the Secretary
4 under any other provision of law.

5 (2) STATE LAW.—Nothing in this section pre-
6 empts any State law.

7 **SEC. 3. HUD INVESTIGATION AND REPORT ON HOUSING**
8 **PRICES.**

9 (a) INVESTIGATION.—

10 (1) IN GENERAL.—The Secretary shall conduct
11 an investigation to determine if the prices for rental
12 housing units or sale of single-family housing are
13 being manipulated by reducing housing capacity or
14 by any other form of market manipulation or artifi-
15 cially increased by price gouging practices.

16 (2) CONSIDERATION.—In conducting the inves-
17 tigation under paragraph (1), the Secretary may
18 consider the impact of mergers and acquisitions in
19 the real estate industry, including mergers and ac-
20 quisitions involving developers, managers, owners,
21 and investors.

22 (b) REPORT.—

23 (1) IN GENERAL.—Not later than 270 days
24 after the date of the enactment of this Act, the Sec-

1 retary shall submit to the Congress a report on the
2 investigation conducted under subsection (a).

3 (2) CONTENTS.—The report shall include—

4 (A) a long-term strategy for the Depart-
5 ment of Housing and Urban Development and
6 the Congress to address manipulation of rental
7 housing markets and markets for sale of single-
8 family housing, and in preparing the strategy
9 the Secretary shall utilize data on race, gender,
10 and socioeconomic status; and

11 (B) a description and analysis of how non-
12 occupant investors in single-family housing im-
13 pact underserved and minority communities.

14 (c) EXEMPTION FROM PAPERWORK REDUCTION
15 ACT.—Chapter 35 of title 44, United States Code, shall
16 not apply to the collection of information under subsection
17 (a).

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to the Secretary to carry
20 out this section \$1,000,000 for fiscal year 2024.

21 **SEC. 4. HOUSING COST MONITORING AND ENFORCEMENT**

22 **WITHIN HUD.**

23 (a) ESTABLISHMENT OF THE HOUSING MONITORING
24 AND ENFORCEMENT UNIT.—

1 (1) IN GENERAL.—The Secretary shall establish
2 within the Department of Housing and Urban De-
3 velopment the Housing Monitoring and Enforcement
4 Unit (in this section referred to as the “Unit”).

5 (2) DUTIES OF THE UNIT.—

6 (A) PRIMARY RESPONSIBILITY.—The pri-
7 mary responsibility of the Unit shall be to assist
8 the Secretary in protecting the public interest
9 by continuously and comprehensively collecting,
10 monitoring, and analyzing rental housing mar-
11 ket data, data for markets for sale of single-
12 family housing, and data on investor-owned,
13 non-owner occupied housing units, in order to—

14 (i) support transparent and competi-
15 tive market practices;

16 (ii) identify any market manipulation,
17 including by collecting and analyzing data
18 on race, gender, and socioeconomic status,
19 any reporting of false information, any use
20 of market power to disadvantage con-
21 sumers, or any other unfair method of
22 competition; and

23 (iii) facilitate enforcement of penalties
24 against persons in violation of relevant
25 statutory prohibitions.

1 (B) SPECIFIC DUTIES.—In order to carry
2 out the responsibility under subparagraph (A),
3 the Unit shall assist the Secretary in carrying
4 out the following duties:

5 (i) Receiving, compiling, and ana-
6 lyzing relevant buying and selling activity
7 in order to identify and investigate anoma-
8 lous market trends and suspicious behav-
9 ior.

10 (ii) Determining whether excessive
11 concentration or exclusive control of hous-
12 ing-related infrastructure may allow or re-
13 sult in anti-competitive behaviors.

14 (iii) Obtaining a data-sharing agree-
15 ment with State and local jurisdictions,
16 housing agencies, and relevant public and
17 private data sources to receive and archive
18 information on housing purchases by insti-
19 tutional investors within a given area.

20 **SEC. 5. INVESTIGATIONS OF EXCESSIVE HOUSING PUR-**
21 **CHASES.**

22 The Secretary shall monitor purchases of single-fam-
23 ily housing in each housing market area in the United
24 States, as determined by the Secretary, to determine
25 whether any single purchaser of such housing, including

1 any purchaser that is an institutional investor, is pur-
2 chasing an excessive amount of such housing made avail-
3 able for sale in any such market area. If the Secretary
4 determines that any single purchaser has purchased more
5 than 5 percent of the single-family housing made available
6 for sale in any market area over a 3-year period, or if,
7 in aggregate, large institutional investors have purchased
8 more than 25 percent of the single-family housing made
9 available for sale in any market area over a 1-year period,
10 the Secretary shall conduct an investigation to determine
11 the purposes of and circumstances involved in such pur-
12 chases, including price gouging, market manipulation, and
13 unfair investment practices that drive homeowners out of
14 the market.

15 **SEC. 6. IDENTIFICATION OF UNFAIR SCREENING PRAC-**
16 **TICES.**

17 The Secretary, the Federal Trade Commission, and
18 the Bureau of Consumer Financial Protection shall joint-
19 ly—

20 (1) carry out a program to collect information
21 to identify practices that unfairly prevent applicants
22 and tenants of rental housing from accessing or
23 staying in housing, including the establishment and
24 use of tenant/applicant background checks, the use
25 of algorithms in tenant screenings, the provision of

1 adverse action notices by landlords and property
2 management companies, and the use of information
3 regarding tenant income sources; and

4 (2) submit a report to the Congress annually
5 describing the information collected under the pro-
6 gram carried out pursuant to paragraph (1).

7 **SEC. 7. LIMITATION ON FANNIE MAE AND FREDDIE MAC IN-**
8 **VESTMENTS.**

9 Subpart A of part 2 of subtitle A of the Federal
10 Housing Enterprises Financial Safety and Soundness Act
11 of 1992 (12 U.S.C. 4541 et seq.) is amended by adding
12 at the end the following new section:

13 **“SEC. 1329. LIMITATION ON ENTERPRISE INVESTMENTS.**

14 “The Director shall, by regulations issued after notice
15 and opportunity for interested parties to comment at a
16 public hearing, establish standards and criteria for the
17 purchase by the enterprises of mortgages on multifamily
18 rental housing as the Director considers necessary to en-
19 sure basic renter protections and prevent egregious rent
20 increases for tenants in such housing.”.

21 **SEC. 8. REVIEW OF ANTI-COMPETITIVE BEHAVIORS.**

22 The Attorney General of the United States and the
23 Federal Trade Commission shall jointly conduct a review
24 to identify any anti-competitive behaviors in the single-
25 family home and residential rental markets, including

1 anti-competitive information sharing, and not later than
2 the expiration of the 12-month period beginning on the
3 date of the enactment of this Act shall submit a report
4 to the Congress setting forth the findings of such review.

5 **SEC. 9. DEFINITIONS.**

6 For purposes of this Act, the following definitions
7 shall apply:

8 (1) SECRETARY.—Except where specified other-
9 wise, the term “Secretary” means the Secretary of
10 Housing and Urban Development.

11 (2) SINGLE-FAMILY HOUSING.—The term “sin-
12 gle-family housing” means a residence consisting of
13 1 to 4 dwelling units, but does not include a dwelling
14 unit in a condominium or cooperative housing
15 project.

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