

117TH CONGRESS
2D SESSION

H. R. 8235

To amend subchapter IV of chapter 31 of title 40, United States Code, regarding prevalent wage determinations in order to expand access to affordable housing, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2022

Ms. VAN DUYNE (for herself and Mr. ROUZER) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Financial Services, 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 amend subchapter IV of chapter 31 of title 40, United States Code, regarding prevalent wage determinations in order to expand access to affordable 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 “Housing Supply Ex-
5 pansion Act”.

1 **SEC. 2. UPDATES TO WAGE RATE CALCULATIONS.**

2 (a) IN GENERAL.—Section 3142(b) of title 40,
3 United States Code, is amended by inserting “or from geo-
4 graphic groupings other than civil subdivisions of the
5 State (which may include metropolitan statistical areas or
6 other groupings determined appropriate by the Secretary)
7 in which the work is to be performed” after “in which
8 the work is to be performed”.

9 (b) CHANGES TO SURVEY METHODOLOGY.—Section
10 3142 of title 40, United States Code, is amended by add-
11 ing at the end the following:

12 “(f) SURVEY INFORMATION COLLECTION.—By not
13 later than 1 year after the date of enactment of the Hous-
14 ing Supply Expansion Act, the Secretary shall—

15 “(1) review the Secretary’s method of collecting
16 survey information for determining prevailing wages
17 for purposes of subsection (a); and

18 “(2) revise how such survey information is col-
19 lected, following a public notice and opportunity for
20 public comment, by—

21 “(A) including surveys that allow for reli-
22 able and objective sources of data and a defend-
23 able methodology, which may include informa-
24 tion collected through Bureau of Labor Statis-
25 tics surveys; and

1 “(B) improving the percentage of busi-
2 nesses choosing to participate in prevailing
3 wage determination surveys and ensuring pro-
4 portional representation of businesses rep-
5 resented by labor organizations and businesses
6 not represented by labor organizations in the
7 prevailing wage determination surveys that are
8 completed.”.

9 **SEC. 3. MULTIPLE WAGE RATE DETERMINATIONS.**

10 Section 3142 of title 40, United States Code, as
11 amended by section 2, is further amended by adding at
12 the end the following:

13 “(g) FEDERAL HOUSING ACTS.—A determination of
14 prevailing wages by the Secretary of Labor applicable
15 under section 212(a) of the National Housing Act (12
16 U.S.C. 1715c(a)), section 104(b)(1) of the Native Amer-
17 ican Housing Assistance and Self Determination Act of
18 1996 (25 U.S.C. 4114(b)(1)), section 12(a) of the United
19 States Housing Act of 1937 (42 U.S.C. 1437j(a)), or sec-
20 tion 811(j)(5) of the Cranston-Gonzalez National Afford-
21 able Housing Act (42 U.S.C. 8013(j)(5)) shall be limited
22 to 1 wage rate determination under subsection (b) of this
23 section that corresponds to the overall residential char-
24 acter of the project.”.

1 **SEC. 4. DAVIS-BACON MODERNIZATION WORKING GROUP.**

2 (a) DEFINITION.—In this section, the term “Davis-
3 Bacon Modernization Working Group” means the working
4 group established under subsection (b)(1).

5 (b) ESTABLISHMENT.—

6 (1) IN GENERAL.—Not later than 60 days after
7 the date of enactment of this Act, the Secretary of
8 Labor, in consultation with the Secretary of Housing
9 and Urban Development, shall establish within the
10 Department of Labor, a Davis-Bacon Modernization
11 Working Group to recommend the update and mod-
12 ernization of certain requirements under subchapter
13 IV of chapter 31 of title 40, United States Code, as
14 described in subsection (c).

15 (2) DATE OF ESTABLISHMENT.—The Davis-
16 Bacon Modernization Working Group shall be con-
17 sidered established on the date on which a majority
18 of the members of the Davis-Bacon Working Group
19 have been appointed, consistent with subsection (d).

20 (c) DUTIES.—The Davis-Bacon Modernization Work-
21 ing Group shall—

22 (1) recommend whether, and if so by how
23 much, the residential classification can be applied to
24 affordable housing units with 5 stories or more for
25 purposes of prevailing wage determinations under

1 subchapter IV of chapter 31 of title 40, United
2 States Code;

3 (2) develop administrative and legislative rec-
4 ommendations of ways, and for what specific cir-
5 cumstances in which, the prevailing wage rate re-
6 quirements under subchapter IV of chapter 31 of
7 title 40, United States Code, could be waived or
8 streamlined for certain affordable rental Federal
9 Housing Administration new construction projects;
10 and

11 (3) review the potential positive and negative
12 outcomes of directing the Bureau of Labor Statistics
13 to determine prevailing wages (rather than the Sec-
14 retary of Labor under section 3142(b) of title 40,
15 United States Code), in a way that would not rely
16 on the collection of voluntary surveys from busi-
17 nesses but rather on data that is already collected
18 by the Bureau of Labor Statistics.

19 (d) MEMBERS.—

20 (1) IN GENERAL.—The Davis-Bacon Mod-
21 ernization Working Group shall be composed of the
22 following representatives of Federal agencies and
23 relevant non-Federal industry stakeholder organiza-
24 tions:

1 (A) A representative from the Department
2 of Labor, appointed by the Secretary of Labor.

3 (B) A representative from the Department
4 of Housing and Urban Development, appointed
5 by the Secretary of Housing and Urban Devel-
6 opment.

7 (C) A representative of a housing construc-
8 tion industry association, appointed by the Sec-
9 retary of Labor in consultation with the Sec-
10 retary of Housing and Urban Development.

11 (D) A representative of a financial services
12 industry association, appointed by the Secretary
13 of Labor in consultation with the Secretary of
14 Housing and Urban Development.

15 (E) A representative of an affordable hous-
16 ing industry association, appointed by the Sec-
17 retary of Labor in consultation with the Sec-
18 retary of Housing and Urban Development.

19 (F) A representative of a State public
20 housing agency, as defined in section 3 of the
21 United States Housing Act of 1937 (42 U.S.C.
22 1437a), appointed by the Secretary of Labor in
23 consultation with the Secretary of Housing and
24 Urban Development.

1 (G) A representative of a tribally des-
2 gnated housing entity, as defined in section 4
3 of the Native American Housing Assistance and
4 Self-Determination Act of 1996 (25 U.S.C.
5 4103), appointed by the Secretary of Labor in
6 consultation with the Secretary of Housing and
7 Urban Development.

8 (H) A representative of a labor organiza-
9 tion representing the housing construction
10 workforce, appointed by the Secretary of Labor
11 in consultation with the Secretary of Housing
12 and Urban Development.

13 (2) CHAIR.—The representative from the De-
14 partment of Labor appointed under paragraph
15 (1)(A) shall serve as the chair of the Davis-Bacon
16 Modernization Working Group, and that representa-
17 tive shall be responsible for organizing the business
18 of the Davis-Bacon Modernization Working Group.

19 (e) OTHER MATTERS.—

20 (1) NO COMPENSATION.—A member of the
21 Davis-Bacon Modernization Working Group shall
22 serve without compensation.

23 (2) SUPPORT.—The Secretary of Labor may
24 detail an employee of the Department of Labor to
25 assist and support the work of the Davis-Bacon

1 Modernization Working Group, though such a
2 detailee shall not be considered to be a member of
3 the Davis-Bacon Modernization Working Group.

4 (f) REPORT.—

5 (1) REPORTS.—Not later than 1 year after the
6 date on which the Davis-Bacon Modernization Work-
7 ing Group is established, the Davis-Bacon Mod-
8 ernization Working Group shall submit a report con-
9 taining its findings and recommendations under sub-
10 section (c), including recommendations resulting
11 from the review under subsection (c)(3), to the Sec-
12 retary of Labor, the Committee on Health, Edu-
13 cation, Labor, and Pensions of the Senate and the
14 Committee on Education and Labor of the House of
15 Representatives.

16 (2) MAJORITY SUPPORT.—Each recommenda-
17 tion made under paragraph (1) shall be agreed to by
18 a majority of the members of the Davis-Bacon Mod-
19 ernization Working Group.

20 (g) NONAPPLICABILITY OF FACA.—The Federal Ad-
21 visory Committee Act (5 U.S.C. App.) shall not apply to
22 the Davis-Bacon Modernization Working Group.

23 (h) SUNSET.—The Davis-Bacon Modernization
24 Working Group shall terminate on the date the report is
25 completed under subsection (f)(1).

1 **SEC. 5. NATIONAL HOUSING ACT.**

2 Section 212(a) of the National Housing Act (12
3 U.S.C. 1715c(a)) is amended by striking “similar char-
4 acter, as determined by the Secretary of Labor in accord-
5 ance with the Davis-Bacon Act, as amended (40 U.S.C.
6 276a—276a-5)” and inserting “residential character, as
7 determined by the Secretary of Labor in accordance with
8 subchapter IV of chapter 31 of title 40, United States
9 Code, that is applicable at the time the application is
10 filed”.

11 **SEC. 6. HOUSING ACT OF 1959.**

12 Section 202(j)(5)(A) of the Housing Act of 1959 (12
13 U.S.C. 1701q(j)(5)(A)) is amended by striking “similar
14 character, as determined by the Secretary of Labor in ac-
15 cordance with the Act of March 3, 1931 (commonly known
16 as the Davis-Bacon Act)” and inserting “residential char-
17 acter, as determined by the Secretary of Labor in accord-
18 ance with subchapter IV of chapter 31 of title 40, United
19 States Code, that is applicable at the time the application
20 is filed”.

21 **SEC. 7. NATIVE AMERICAN HOUSING ASSISTANCE AND**
22 **SELF-DETERMINATION ACT OF 1996.**

23 Section 104(b)(1) of the Native American Housing
24 Assistance and Self-Determination Act of 1996 (25 U.S.C.
25 4114(b)(1)) is amended by striking “, as predetermined
26 by the Secretary of Labor pursuant to the Act of March

1 3, 1931 (commonly known as the Davis-Bacon Act; chap-
2 ter 411; 46 Stat. 1494; 40 U.S.C. 276a et seq.),” and
3 inserting “for corresponding classes of laborers and me-
4 chanics employed on construction of a residential char-
5 acter, as predetermined by the Secretary of Labor pursu-
6 ant to subchapter IV of chapter 31 of title 40, United
7 States Code, that is applicable at the time the application
8 is filed”.

9 **SEC. 8. CRANSTON-GONZALEZ NATIONAL AFFORDABLE**
10 **HOUSING ACT.**

11 Section 811(j)(5)(A) of the Cranston-Gonzalez Na-
12 tional Affordable Housing Act (42 U.S.C. 8013(j)(5)(A))
13 is amended by striking “similar character, as determined
14 by the Secretary of Labor in accordance with the Act of
15 March 3, 1931 (commonly known as the Davis-Bacon
16 Act)” and inserting “residential character, as determined
17 by the Secretary of Labor in accordance with subchapter
18 IV of chapter 31 of title 40, United States Code, that is
19 applicable at the time the application is filed”.

20 **SEC. 9. UNITED STATES HOUSING ACT OF 1937.**

21 Section 12(a) of the United States Housing Act of
22 1937 (42 U.S.C. 1437j(a)) is amended by striking “, as
23 predetermined by the Secretary of Labor pursuant to the
24 Davis-Bacon Act (49 Stat. 1011)” and inserting “for cor-
25 responding classes of laborers and mechanics employed on

1 construction of a residential character, as predetermined
2 by the Secretary of Labor pursuant to subchapter IV of
3 chapter 31 of title 40, United States Code, that is applica-
4 ble at the time the application is filed”.

○