

118TH CONGRESS
1ST SESSION

S. 1682

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 SENATE OF THE UNITED STATES

MAY 18, 2023

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

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”.

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

7 (a) IN GENERAL.—Section 3142(b) of title 40,
8 United States Code, is amended by inserting “or from geo-

1 graphic groupings other than civil subdivisions of the
2 State (which may include metropolitan statistical areas or
3 other groupings determined appropriate by the Sec-
4 retary)” after “in which the work is to be performed”.

5 (b) CHANGES TO SURVEY METHODOLOGY.—Section
6 3142 of title 40, United States Code, is amended by add-
7 ing at the end the following:

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

11 “(1) review the Secretary’s method of collecting
12 survey information for determining prevailing wages
13 for purposes of subsection (a); and

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

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

22 “(B) improving the percentage of busi-
23 nesses choosing to participate in prevailing
24 wage determination surveys and ensuring pro-
25 portional representation of businesses rep-

1 resented by labor organizations and businesses
2 not represented by labor organizations in the
3 prevailing wage determination surveys that are
4 completed.”.

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

6 Section 3142 of title 40, United States Code, as
7 amended by section 2, is further amended by adding at
8 the end the following:

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

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

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

25 (b) ESTABLISHMENT.—

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

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

16 (c) DUTIES.—The Davis-Bacon Modernization Work-
17 ing Group shall—

18 (1) recommend whether, and if so by how
19 much, the residential classification can be applied to
20 affordable housing units with 5 stories or more for
21 purposes of prevailing wage determinations under
22 subchapter IV of chapter 31 of title 40, United
23 States Code;

24 (2) develop administrative and legislative rec-
25 ommendations of ways, and for what specific cir-

1 cumstances in which, the prevailing wage rate re-
2 quirements under subchapter IV of chapter 31 of
3 title 40, United States Code, could be waived or
4 streamlined for certain affordable rental Federal
5 Housing Administration new construction projects;
6 and

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

15 (d) MEMBERS.—

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

21 (A) A representative from the Department
22 of Labor, appointed by the Secretary of Labor.

23 (B) A representative from the Department
24 of Housing and Urban Development, appointed

1 by the Secretary of Housing and Urban Devel-
2 opment.

3 (C) A representative of a housing construc-
4 tion industry association, appointed by the Sec-
5 retary of Labor in consultation with the Sec-
6 retary of Housing and Urban Development.

7 (D) A representative of a financial services
8 industry association, appointed by the Secretary
9 of Labor in consultation with the Secretary of
10 Housing and Urban Development.

11 (E) A representative of an affordable hous-
12 ing industry association, appointed by the Sec-
13 retary of Labor in consultation with the Sec-
14 retary of Housing and Urban Development.

15 (F) A representative of a State public
16 housing agency, as defined in section 3 of the
17 United States Housing Act of 1937 (42 U.S.C.
18 1437a), appointed by the Secretary of Labor in
19 consultation with the Secretary of Housing and
20 Urban Development.

21 (G) A representative of a tribally des-
22 igned housing entity, as defined in section 4
23 of the Native American Housing Assistance and
24 Self-Determination Act of 1996 (25 U.S.C.
25 4103), appointed by the Secretary of Labor in

1 consultation with the Secretary of Housing and
2 Urban Development.

3 (H) A representative of a labor organiza-
4 tion representing the housing construction
5 workforce, appointed by the Secretary of Labor
6 in consultation with the Secretary of Housing
7 and Urban Development.

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

14 (e) OTHER MATTERS.—

15 (1) NO COMPENSATION.—A member of the
16 Davis-Bacon Modernization Working Group shall
17 serve without compensation.

18 (2) SUPPORT.—The Secretary of Labor may
19 detail an employee of the Department of Labor to
20 assist and support the work of the Davis-Bacon
21 Modernization Working Group, though such a
22 detailee shall not be considered to be a member of
23 the Davis-Bacon Modernization Working Group.

24 (f) REPORT.—

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

12 (2) MAJORITY SUPPORT.—Each recommenda-
13 tion made under paragraph (1) shall be agreed to by
14 a majority of the members of the Davis-Bacon Mod-
15 ernization Working Group.

16 (g) NONAPPLICABILITY OF FACA.—Chapter 10 of
17 title 5, United States Code, shall not apply to the Davis-
18 Bacon Modernization Working Group.

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

22 **SEC. 5. NATIONAL HOUSING ACT.**

23 Section 212(a) of the National Housing Act (12
24 U.S.C. 1715c(a)) is amended by striking “similar char-
25 acter, as determined by the Secretary of Labor in accord-

1 ance with the Davis-Bacon Act, as amended (40 U.S.C.
2 276a—276a-5)” and inserting “residential character, as
3 determined by the Secretary of Labor in accordance with
4 subchapter IV of chapter 31 of title 40, United States
5 Code, that is applicable at the time the application is
6 filed”.

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

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

17 **SEC. 7. NATIVE AMERICAN HOUSING ASSISTANCE AND**
18 **SELF-DETERMINATION ACT OF 1996.**

19 Section 104(b)(1) of the Native American Housing
20 Assistance and Self-Determination Act of 1996 (25 U.S.C.
21 4114(b)(1)) is amended by striking “, as predetermined
22 by the Secretary of Labor pursuant to the Act of March
23 3, 1931 (commonly known as the Davis-Bacon Act; chap-
24 ter 411; 46 Stat. 1494; 40 U.S.C. 276a et seq.),” and
25 inserting “for corresponding classes of laborers and me-

1 chanics employed on construction of a residential char-
2 acter, as predetermined by the Secretary of Labor pursu-
3 ant to subchapter IV of chapter 31 of title 40, United
4 States Code, that is applicable at the time the application
5 is filed”.

6 **SEC. 8. CRANSTON-GONZALEZ NATIONAL AFFORDABLE**
7 **HOUSING ACT.**

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

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

18 Section 12(a) of the United States Housing Act of
19 1937 (42 U.S.C. 1437j(a)) is amended by striking “, as
20 predetermined by the Secretary of Labor pursuant to the
21 Davis-Bacon Act (49 Stat. 1011)” and inserting “for cor-
22 responding classes of laborers and mechanics employed on
23 construction of a residential character, as predetermined
24 by the Secretary of Labor pursuant to subchapter IV of

1 chapter 31 of title 40, United States Code, that is applica-
2 ble at the time the application is filed”.

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