

119TH CONGRESS
2D SESSION

S. _____

To amend the Sherman Act to prohibit certain entities from purchasing residential real estate, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HAWLEY (for himself and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Sherman Act to prohibit certain entities from purchasing residential real estate, 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 “Homes for American
5 Families Act”.

6 **SEC. 2. AMENDMENT.**

7 (a) IN GENERAL.—The Sherman Act (15 U.S.C. 1
8 et seq.) is amended by adding at the end the following:

1 **“SEC. 9. RESIDENTIAL REAL ESTATE CONTRACTS IN RE-**
2 **STRAINT OF TRADE.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) COVERED ENTITY.—

5 “(A) IN GENERAL.—The term ‘covered en-
6 tity’ means—

7 “(i) real estate investment trust;

8 “(ii) an insurance company; or

9 “(iii) an investment company or pri-
10 vate fund—

11 “(I) with assets under manage-
12 ment of not less than \$150,000,000;

13 or

14 “(II) that is directly or indirectly
15 owned or controlled by a person that
16 directly or indirectly owns or controls
17 1 or more investment companies or
18 private funds with total assets under
19 management of not less than
20 \$150,000,000.

21 “(B) AGGREGATION RULES.—For purposes
22 of determining the assets under management of
23 an entity under subparagraph (A)(iii), all per-
24 sons which are treated as a single employer
25 under subsection (b) or (c) of section 414 of the
26 Internal Revenue Code of 1986 shall be treated

1 as one entity. For purposes of this subsection,
2 in applying section 414(b) of such Code, section
3 1563 of such Code shall be applied without re-
4 gard to subsection (b)(2) thereof.

5 “(2) INSURANCE COMPANY.—The term ‘insur-
6 ance company’ has the meaning given the term in
7 section 2(a) of the Investment Company Act of 1940
8 (15 U.S.C. 80a–2(a)).

9 “(3) INVESTMENT COMPANY.—The term ‘in-
10 vestment company’ has the meaning given the term
11 in section 3 of the Investment Company Act of 1940
12 (15 U.S.C. 80a–3).

13 “(4) PRIVATE FUND.—The term ‘private fund’
14 means a corporation that would be considered an in-
15 vestment company under section 3 of the Investment
16 Company Act of 1940 (15 U.S.C. 80a–3) but for the
17 application of paragraph (1) or (7) of subsection (c)
18 of such section 3.

19 “(5) REAL ESTATE INVESTMENT TRUST.—The
20 term ‘real estate investment trust’ has the meaning
21 given the term in section 856 of the Internal Rev-
22 enue Code of 1986.

23 “(6) RESIDENTIAL REAL ESTATE.—The term
24 ‘residential real estate’ means—

25 “(A) a single-family home;

1 “(B) a condominium;

2 “(C) a townhouse; and

3 “(D) any land that has been zoned by a
4 local government for the development of a prop-
5 erty described in subparagraphs (A) through
6 (C).

7 “(b) CONTRACTS IN RESTRAINT OF TRADE.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (2), any purchase by a covered entity of resi-
10 dential real estate shall be deemed a contract in re-
11 straint of trade in violation of section 1, except that
12 the violation shall be civil only and no criminal pen-
13 alty under that section, including a term of impris-
14 onment, shall apply.

15 “(2) EXCEPTIONS.—Paragraph (1) shall not
16 apply to a homebuilder, developer, or redeveloper if
17 the units of residential real estate are being or have
18 been constructed for ownership by a person or entity
19 that is not prohibited from purchasing residential
20 real estate under this subsection.

21 “(3) APPLICATION.—Paragraph (1) shall only
22 apply to the purchase of residential real estate on or
23 after the date of enactment of this section.

24 “(c) PRIORITIZED ANTITRUST SCRUTINY AND EN-
25 FORCEMENT.—The Assistant Attorney General in charge

1 of the Antitrust Division of the Department of Justice
2 shall prioritize the review of purchases of residential real
3 estate by a covered entity for anti-competitive effects and
4 prioritize enforcement of antitrust laws, as appropriate,
5 against coordinated vacancy, pricing strategies, and other
6 anticompetitive practices by covered entities in local resi-
7 dential real estate markets.”.

8 (b) EFFECTIVE DATE.—This Act and the amend-
9 ments made by this Act shall take effect on the date that
10 is 90 days after the date of enactment of this Act.