Section 502(c)(5)(G) of the Housing Act of 1949 is amended by the addition of the following new subparagraph at the end of the subsection:

(iii) the Secretary approves the transfer or sale by the borrower of the housing and related facilities at fair market value, as determined in accordance with paragraph (5)(A)(i), to a non-profit organization or public agency, as defined in subparagraph (5)(B), and the nonprofit organization or public agency agrees to maintain the housing and related facilities in accordance with paragraph (5)(B)(i)(II).

(I) In the event of such transfer or sale, the Secretary shall facilitate the sale or transfer by extending to the nonprofit organization or public agency all the forms of assistance authorized by subparagraph (5)(C) and subject to the limitations set out in subparagraphs (5)(D) and (E).

**Explanation:** Currently, RD cannot extend various forms of assistance to a nonprofit organization or public agency that enter into a transfer agreement with a private owner to transfer a development outside the prepayment process. In order to secure such assistance, the borrower must go through the prepayment process and the nonprofit or public agency must be selected as the organization that makes a bona fide offer. This amendment would enable RD to extend the same forms of assistance through the transfer process as the prepayment process.

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Section 502(c)(5)(C)(i) of the Housing Act of 1949 is amended as follows:

(i) to the extent provided in appropriations acts, make an advance to the nonprofit organization or public agency that enter into a transfer agreement with a private owner to transfer a development outside the prepayment process. In order to secure such assistance, the borrower must go through the prepayment process and the nonprofit or public agency must be selected as the organization that makes a bona fide offer. This amendment would enable RD to extend the same forms of assistance through the transfer process as the prepayment process.

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Section 515 of the Housing Act of 1949 is amended by adding at the end the following section:

**(bb) Maintenance and Release of Use Restrictions**

(1) With respect to any loan made or insured under Section 515 of the Housing Act of 1949 the Secretary may not:

(a) accept payment in response to a notice of acceleration unless the Secretary ensures that the borrower, and successor(s) in interest, are obligated to utilize the assisted housing and related facilities for the purposes specified in Section 515 and in accordance with the terms and conditions of the original loan instruments.
and any applicable regulatory or other agreements in effect at the time of the payment, for a period of not less than the balance of the original full term of the loan.

(b) release the security interest in the property at a foreclosure sale unless, as a condition and term of release, the purchaser agrees to continue to operate the property for a period of not less than the original full term of the loan, in accordance with the terms of the program under which the loan or insurance was provided, and with any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.

(c) sell any property that has come into the possession of the Secretary unless the purchaser agrees to continue to operate the property for a period of not less than the original full term of the loan, in accordance with the terms of the program under which the mortgage insurance or assistance was provided, and with any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of the property coming into the Secretary’s possession.

(2). The conditions and terms of sale set out in paragraph (1) shall not be required and the restrictions on bidders or purchasers shall not apply if prior to the foreclosure sale the Secretary determines that there is no longer a need for such housing and related facilities or that the operation of the housing and related facilities for the purposes specified in Section 515 is no longer financially viable even after forgiveness of the debt and extension of available Rental Assistance. If the Secretary makes such a determination:

(a) the purchaser and successor(s) in interest shall be required to maintain the property in decent, safe and sanitary condition and shall be prohibited from using the property for the purposes of habitation unless the property is in compliance with all local health and safety and building codes.

(b) the defaulting mortgagor, or any principal, successor, affiliate, or assignee thereof shall not be eligible to bid on or acquire the property being sold in a foreclosure sale.

(3). The terms and conditions of payment in response to a notice of acceleration required by paragraph (1) and the conditions and terms of sale required by paragraph (2) shall be evidenced and enforced by a recorded agreement against the property and be enforceable, by the Secretary or current and future tenants of the property as covenants running with the land.

(4). Notwithstanding section 42 USC §1490n, the Secretary shall issue interim final regulations, with a request for comments, to carry out the provisions of paragraphs (1),(2) and (3) not later than 60 days after enactment.

Explanation: Currently, the Secretary takes the position that a payment in response to an acceleration is not a prepayment and that an owner who pays off the loan may retain the property without any use restrictions. The Secretary also takes the position that a foreclosure sale is not
subject to any use restrictions and that buyers, including the current owner, take the property without any restrictions. Moreover, the Secretary frequently bids, at a foreclosure sale, an amount less than what is owed on the mortgage in order to ensure that the property is sold to a third party and taken out of the RD inventory. This amendment precludes the Secretary from accepting a payment in full from the current owner in response to an acceleration and maintains existing restrictions through the acceleration and foreclosure process regardless of who purchases the property. An exception is made to these requirements if the Secretary determines that the property is no longer needed or that operation of the development is no longer viable even after the debt is forgiven and Rental Assistance is made available to the development. Where a development is sold without use restrictions because the property is no longer needed or is not financially viable, the amendment requires the Secretary to place a restriction against the property that requires the new owner to maintain it in accordance with local health and safety and building codes and precludes the owner from using the development for the purposes of habitation if the property is not maintained. Because RD is not likely to enforce these restrictions [similar restrictions apply with respect to disposition of Section 502 single family homes and RD has not enforced them (see, Section 510(e) of the Housing Act of 1949; RD has also not enforced restrictions against owners of Section 515 developments who prepay their loans subject to use restrictions, and, in that case, it has explicitly given residents the right to enforce the restrictions] the amendment places a right of enforcement of the restrictions in the residents of the development as well as RD.

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Substitute the following Subsection (j) to the newly proposed Section 545 of the Housing Act of 1949 and redesignate the existing subsections “(j)” and “(k)” as “(k)” and “(l)”.

(j) Preservation of developments whose owners do not apply to preserve, refinance and revitalize their developments--

(1) The Secretary shall exercise all available authorities, other than foreclosure, to ensure that all Section 515 developments whose owners have not applied to preserve their developments by refinancing and restructuring their loans or who have not qualified for such refinancing and restructuring, are maintained in decent safe and sanitary condition for the balance of the loan terms and that the tenants of such developments are protected against displacement and rent increases. These authorities include the right to take possession of properties, force changes in management or ownership, and make repairs.

(2) The Secretary shall, within 180 days of the passage of this Act, prepare a report to Congress that will address how the Secretary is exercising existing authorities and sets out new authorities that the Secretary needs to ensure that properties that are in the Section 515 inventory whose owners have not applied to preserve their developments by refinancing and restructuring, or who have not qualified for such refinancing and restructuring, are maintained in decent safe and sanitary condition for the balance of the loan terms. The report shall also include: the number of properties and units that have been revitalized and restructured, estimates of the number of
properties and units that will be restructured and refinanced over the next five years, the number of properties and units that are not likely to apply for, or qualify, for refinancing and restructuring, and the number of properties and units that are in financial or other default. The report shall address the Secretary’s existing authorities to take possession, rehabilitate and force a change in management or ownership of developments that are in default or likely to go into default or are not maintained as decent, safe and sanitary housing. The report shall also address authorities that the Secretary needs to ensure the maintenance of these developments and the protection of residents against displacement and rent increases.

**Explanation:** The proposed preservation, revitalization and restructuring bill only deals with developments that are owned by owners that want to participate in the revitalization and restructuring program. It does not address how RD will deal with Section 515 properties whose owners do not want to participate in the program particularly when the properties are not maintained and the owners are in default on their loans (either monetary or nonmonetary). This amendment requires the Secretary to use existing authorities to preserve these developments by taking over the developments, or forcing a change in management or ownership to make repairs and protect residents. This amendment also requires the Secretary to report to Congress as to the magnitude of the problem, the authorities that the Secretary is using to preserve the developments, and suggest any other authorities that the Secretary may need.

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Section 8. Plain English and Translated Notices

The Secretary shall ensure that all notices sent by the Secretary or owners of Section 515 developments to residents of Section 515 developments with respect to a prepayment, foreclosure, preservation of the development or with respect to any other matter are in plain English and, where there are concentrations of non-English speaking residents, that such notices be translated into the language of the residents.

**Explanation:** [This is a new addition to the Rural Preservation Act of 2009]. Current letters and notices sent by RD and owners to residents of Section 515 developments are most often drafted in a manner that is not understandable by residents of the housing. This amendment requires that the notices be sent in plain English and, where appropriate, be sent in the language of the resident.