



Strengthening Neighborhoods.
Improving Lives.

Council of Large Public Housing Authorities

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Housing Opportunity Through Modernization Act of 2016

SECTION-BY-SECTION SUMMARY - SELECTIONS

(Revised)

SECTION 1: SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Housing Opportunity Through Modernization Act of 2016”.

TITLE I—SECTION 8 RENTAL ASSISTANCE AND PUBLIC HOUSING

Section 101: Inspection of Dwelling Units

Amends the inspection requirements for the Housing Choice Voucher Program (Section 8). Requires that a public housing agency (PHA) must inspect units before any assistance payment is made under a housing assistance payment contract to determine compliance with housing quality standards (HQS). A PHA may allow a family to occupy a unit in advance of inspection if in the previous 24 months the property meets the requirements of an inspection that qualifies as an “alternative inspection” where it has been determined to meet housing quality and safety standards under a federal housing program that is at least as stringent as the voucher program’s HQS. The inspection standard gives PHAs discretion to make initial subsidy payments to owners when a unit does not pass the initial inspection, so long as the failure resulted from a “non-life threatening condition.”

For life-threatening conditions, an owner given written notice has up to 24 hours to make corrections, or assistance payments may be withheld. For non-life-threatening conditions, an owner has 30 days to bring the unit into compliance. If defects are not corrected within 30 days of initial occupancy, a PHA may withhold assistance until the deficiencies have been corrected. After correction, a PHA may recommence payments and use any payments withheld to make assistance payments relating to the period during which payments were withheld.

It allows for withholding of assistance for a unit in noncompliance with inspection standards for up to 60 days, after the initial cure period of at least 30 days. Authorizes PHAs to assist tenants with relocation should their current unit fail to meet housing standards, and allows PHAs to use withheld funds to pay a security deposit for a new unit.

Section 102: Income Reviews

Income Reviews

Annual recertification of income under public housing and Section 8 is required except for families on fixed incomes. Reduces the frequency of interim re-certifications by creating a minimum threshold of a 10 percent change in adjusted income. Includes a safe harbor provision allowing PHAs and owners to rely on determinations of income made for other federal means-tested programs, thereby eliminating duplicative verification efforts by multiple agencies for the same family. Requires HUD to establish an electronic mechanism for disclosing income verification information to housing authorities and to allow housing authorities to have access to the “Do Not Pay” system consistent with other means-tested programs.

Adjusted Income

Increases the annual standard deduction for an elderly or disabled family to \$525 and the deduction for minors, students and persons with disabilities to \$480. Both standard deductions must be adjusted for inflation in future years. Limits the deduction for medical, attendant care and auxiliary aid expenses to expenses exceeding 10 percent of income. Includes an update to the calculation of income for veterans receiving deferred disability benefits or payments of pension for necessary aid and attendant costs.

Allows child care deduction for reasonable expenses necessary to enable a member of the family to be employed or to further their education. Requires HUD to provide—by regulation promulgated in consultation with stakeholders and HHS—hardship exemptions for families demonstrating an inability to pay rent because of financial hardship. Requires HUD to conduct a study to determine the impacts of the decreased deductions on rents paid by elderly and disabled individuals and families assisted under Section 8 rental assistance and housing programs.

Impact on Public Housing Revenues

If changes in income reviews, adjustments and deductions create a material and disproportionate reduction in PHAs rental income during the first year of implementation, HUD may make adjustments in the formula income for the year the PHAs experienced the reduction. HUD is to report to Congress on the impact of implementation of the changes for the first two years. If the report identifies a material reduction in the net income of PHAs nationwide, or a material increase in costs of funding the voucher or project-based assistance program, HUD shall recommend legislative changes to reduce or eliminate the reduction.

Section 103: Limitation on Public Housing Tenancy for Over-Income Families

Limits tenancy by public housing residents with incomes above 120% of area median income for two consecutive years. Housing authorities must charge the over-income tenants an amount equal to the sum of the monthly rent of the applicable FMR, or the monthly subsidy amounts of the operating and capital fund; or terminate tenancy within six months of income certification. Housing authorities with 250 or less units are exempt. Housing authorities must report to HUD annually on the number of over-income families residing in their units and the number of families on their waiting lists. HUD is to make this information publically available.

Section 104: Limitation on Eligibility for Assistance Based on Assets

Updates existing statute to more accurately reflect the household income, assets controlled by the household, and eligibility criteria used for participation in housing assistance programs. Also establishes an asset limitation for programs, and defines net family assets and specifies certain exclusions. Makes voucher applicants and current tenants or participants ineligible for rental assistance if they have more than \$100,000 in net assets or have a “present ownership interest” in a home that is a suitable residence for the family for which they have a legal right to reside and a legal authority to sell. Victims of domestic violence or individuals using housing assistance for homeownership opportunities are exempt from these limitations. PHAs may adopt policies modifying asset limitations for public housing tenants. Beginning in 2018, requires housing authorities and owners to require applicants or rental assistance recipients to allow housing authorities to verify their financial information through credit reporting agencies and other financial institutions.

Section 105: Units Owned by Public Housing Agencies

Provides a statutory definition for PHA-owned units to avoid conflicts of interest when a PHA both owns the unit and administers the subsidy. Clarifies that to qualify as a PHA-owned unit, the PHA must either directly own the unit or must participate as the controlling entity of the owner, and would exclude instances where the PHA only holds an indirect or non-controlling interest and exercises no control over the owner of the unit.

Section 106: PHA Project-Based Assistance

Percentage Limitation: Authorizes a PHA to project-base up to 20 percent of its authorized voucher allocation rather than 20 percent of its voucher funding. The authorized number of vouchers is more stable, and will allow some PHAs to project-base more of their vouchers than the current law funding measure. The amendment of subparagraph (B) also exempts PBVs used to preserve units previously subject to federally required rent restrictions or receiving another type of federal long-term housing subsidy from the limitation, and enables a PHA to provide up to an additional 10 percent of its authorized vouchers to create units targeting homeless individuals and families, veterans, or households with persons who are elderly or have disabilities; or units in areas where vouchers are difficult to use due to market conditions.

Income Mixing: Allows a PHA to provide PBV assistance to properties where the assistance does not exceed 25 percent of the units in a project or 25 units, whichever is greater. (Current law does not include the 25 unit measure.) This would enable PHAs in both rural communities and other lower-density areas to create small affordable rental apartment buildings. Further, in areas where vouchers are difficult to use, or in census tracts with a poverty rate of 20 percent or lower, PHAs may provide project-based assistance to up to 40 percent of units in a project. The limitations on the share of units in a project that may have project-based assistance only apply to newly assisted properties. Units of project-based assistance that are attached to units previously subject to federally required rent restrictions or receiving other project-based assistance are exempted from these caps, as well as units that are exclusively made available to elderly households or households eligible for available supportive services.

Contract Terms: Extends the permissible term of PBV contracts and extensions from 15 to 20 years, and requires PHAs in the event of insufficient funding to prioritize payments for units subject to a PBV contract if other cost-saving measures are available. Enables a PHA and private owner to add eligible units to a PBV contract without competitive process and to agree on additional conditions, subject to statutory limitations, or to enter into a PBV contract after construction has begun provided that the owner demonstrates compliance with applicable requirements prior to execution of a HAP Contract. Further, this section would extend tenant based assistance for households to continue to reside in the property or to choose to move in the event the PBV contract is not extended or is terminated.

Rent Adjustments: The amendment to this subparagraph allows PHAs and owners to agree to limit the amount of a requested rent increase to the operating cost adjustment factor (OCAF) permitted for most properties with section 8 contracts with HUD, and similarly allows owners limited to annual OCAF increases to request an additional adjustment periodically up to the reasonable rent for the units. This change enables private owners to receive adequate rent to cover operating expenses of a property and remain financially stable while at the same time giving PHAs more predictability about the subsidy costs of long-term contracts in a property and saving subsidy costs in areas where changes in operating costs are less than increases in market rents.

Site-based Waiting Lists: The amendment allows PHAs to continue to manage waiting lists for PBV units or to permit site-specific waiting lists managed by owners, in which case residents may place their names on waiting lists for particular properties at the PHA or by contacting the property manager. This gives eligible households more choices to determine where they want to live based on the types of services available at the property, the location of a property, or other factors, enables owners to fill units more quickly by eliminating delays due to reliance on referrals of applicants by PHAs, and reduces administrative burdens for PHAs.

Redevelopment of PHA Owned Property: Allows a PHA to provide PBV assistance to improve, develop or replace a public housing property or property that it controls or has an ownership interest in without having to use a competitive process, so long as it notifies residents and the public through its annual plan.

Project-basing of Special Purpose Vouchers: Clarifies that PHAs may project-base HUD Veterans Affairs Supportive Housing (HUD-VASH) and Family Unification Program (FUP) vouchers under the same policies and procedures applicable to general purpose vouchers. This change will facilitate the use of these vouchers — which provide stable affordable homes for homeless veterans and families involved with the child welfare system

Section 107: Establishment of Fair Market Rent

This amendment mandates that Fair Market rentals for an area be published at least annually on HUD's website. A notice that FMRs are being published will be published in the Federal Register, with a comment period allowing PHAs and other interested parties to comment on the FMRs and request a reevaluation, if needed. Any changes to the methodology for calculating FMRs will also be published by notice in the Federal Register and subject to public comments.

Payment Standard: Clarifies that when there is a reduction in the fair market rent, no PHA will be required to reduce the payment standard applied to a family continuing to live in assisted housing at the time FMR was reduced. PHAs are allowed to request exceptions.

Section 108: Prohibition on Utility Reimbursement; Collection of Utility Data

Use of Data: Data on utility consumption and costs in local areas should be regularly published. Although the amendment specifies that data should be collected in a cost efficient way, this change could introduce additional administrative costs for HUD.

Section 109: Public Housing and Capital Operating Funds

Establishment of Replacement Reserves: Allows PHAs to flexibly use up to 20 percent of Capital Funds for capital fund activities, if the capital fund plan allows for such use. Also allows PHAs to establish a replacement reserve for capital activities. No minimum transfer of funds is required, though HUD may establish a maximum reserve level which may be based upon the size of the portfolio. Housing authorities may not hold in reserve more than the amount needed to satisfy the anticipated capital needs in its Capital Fund 5-Year Action Plan or comparable plan. The amendment allows housing authorities to transfer up to 20 percent of Operating Funds into its replacement reserve.

Section 110: Expansion of Family Unification Program

New provision that extends the eligibility period of FUP from 18 to 36 months; and lowers the eligible age to 16 or 17 for youth who have left foster care if the service provider signs the unit lease and provides on-site supportive services.

Section 111: Public Housing Heating Guidelines

Requires HUD to publish model guidelines for minimum heating requirements for units operated by public housing agencies receiving federal assistance.

Section 114: Exception To Public Housing Agency Resident Board Member Requirement

Makes permanent the exception to public housing agency resident board member requirement. This exception has been included in the last several annual appropriations funding bills.

TITLE IV—HOUSING REFORMS FOR THE HOMELESS AND FOR VETERANS

Section 402: Inclusion of Public Housing Agencies and Local Redevelopment Authorities in Emergency Solutions Grants

Allows housing authorities and redevelopment agencies as recipients from local governments of McKinney-Vento Homeless Assistance funds.

Section 403: Special Assistant for Veterans Affairs in the Department of Housing and Urban Development.

Establishes a Special Assistant for Veterans Affairs in the Office of the Secretary reporting directly to the Secretary. Requires HUD to collaborate with the Department of Veterans Affairs on how to better coordinate and improve veterans housing services.

TITLE VI—REPORTS

Section 601: Report On Interagency Family Economic Empowerment Strategies

Directs HUD to work with the Secretary of Labor to produce an annual report on interagency strategies to strengthen family economic empowerment by linking housing with essential supportive services such as employment counseling and training, financial growth, childcare, transportation, meals, youth recreational activities and other supportive services.

TITLE VII—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Section 701: Formula and Terms for Allocations to Prevent Homelessness for Individuals Living with HIV or AIDS

Updates and modernizes HUD's funding formula for the Housing Opportunities for Persons With AIDS (HOPWA) program so that funding is distributed to jurisdictions based on living cases of HIV/AIDS.